

113TH CONGRESS
1ST SESSION

S. _____

To reduce sports-related concussions in youth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. UDALL of New Mexico (for himself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To reduce sports-related concussions in youth, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Youth Sports Concus-
5 sion Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) scientific advancements and a greater un-
9 derstanding of the issues that affect the health and

1 safety of young athletes are key to reducing sports-
2 related concussions in youth;

3 (2) the National Academies should complete,
4 and make available to the public, its report on
5 sports-related concussions in youth not later than
6 January 31, 2014;

7 (3) the Consumer Product Safety Commission
8 should review the National Academies' report for
9 any matter that may impact products under the
10 Commission's jurisdiction;

11 (4) if protective equipment manufacturers
12 choose to adopt voluntary consumer product safety
13 standards based on the National Academies' report
14 and any related Consumer Product Safety Commis-
15 sion recommendations, the voluntary standards
16 should include mechanisms to ensure substantial
17 compliance by covered entities; and

18 (5) the Federal Trade Commission should re-
19 view the National Academies' report for any matter
20 that may inform efforts to protect consumers from
21 unfair or deceptive practices in or affecting com-
22 merce.

1 **SEC. 3. THE NATIONAL ACADEMIES' REPORT ON SPORTS-**
2 **RELATED CONCUSSIONS IN YOUTH.**

3 (a) REVIEW.—The Consumer Product Safety Com-
4 mission—

5 (1) shall review the National Academies' report
6 on sports-related concussion in youth not later than
7 5 months after the completion of such report; and

8 (2) may make recommendations to protective
9 equipment manufacturers regarding whether vol-
10 untary standards should be adopted—

11 (A) to reduce the risk of sports-related in-
12 jury for youth athletes wearing protective
13 equipment;

14 (B) to improve the safety of reconditioned
15 protective equipment; and

16 (C) to modify protective equipment warn-
17 ing labels.

18 (b) SAFETY STANDARDS.—

19 (1) LEAD TIME FOR A VOLUNTARY STAND-
20 ARD.—If, not later than 1 year after the completion
21 of the National Academies' report, no voluntary
22 standard is adopted based on the National Acad-
23 emies' report and any related Consumer Product
24 Safety Commission recommendations, the Consumer
25 Product Safety Commission may initiate a pro-
26 ceeding to promulgate a consumer product safety

1 rule in accordance with section 553 of title 5, United
2 States Code.

3 (2) NET EFFECT.—A rule issued under this
4 subsection must have the net effect of improving
5 safety.

6 (3) CONFORMITY WITH EXISTING LAW.—A rule
7 issued under this subsection shall be considered a
8 consumer product safety standard issued by the
9 Commission under section 9 of the Consumer Prod-
10 uct Safety Act (15 U.S.C. 2058).

11 **SEC. 4. FALSE OR MISLEADING CLAIMS WITH RESPECT TO**
12 **ATHLETIC SPORTING ACTIVITY EQUIPMENT.**

13 (a) UNLAWFUL ACTIVITY.—It is unlawful for any
14 person to sell, or offer for sale, in interstate commerce,
15 or import into the United States for the purpose of selling
16 or offering for sale, any item or equipment intended, de-
17 signed, or offered for use by an individual engaged in any
18 athletic sporting activity, whether professional or amateur,
19 for which the seller or importer, or any person acting on
20 behalf of the seller or importer, makes any false or mis-
21 leading claim with respect to the safety benefits of such
22 item.

23 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
24 SION.—

1 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
2 TICES.—A violation of subsection (a) shall be treated
3 as a violation of a rule under section 18 of the Fed-
4 eral Trade Commission Act (15 U.S.C. 57a) regard-
5 ing unfair or deceptive acts or practices.

6 (2) POWERS OF FEDERAL TRADE COMMIS-
7 SION.—

8 (A) IN GENERAL.—The Federal Trade
9 Commission shall enforce this section in the
10 same manner, by the same means, and with the
11 same jurisdiction, powers, and duties as though
12 all applicable terms and provisions of the Fed-
13 eral Trade Commission Act (15 U.S.C. 41 et
14 seq.) were incorporated into and made a part of
15 this section.

16 (B) REGULATIONS.—Notwithstanding any
17 other provision of law, the Federal Trade Com-
18 mission may promulgate under section 553 of
19 title 5, United States Code, such regulations as
20 the Commission considers necessary or appro-
21 priate to carry out this section.

22 (C) PRIVILEGES AND IMMUNITIES.—Any
23 person who violates subsection (a) shall be sub-
24 ject to the penalties and entitled to the privi-
25 leges and immunities provided in the Federal

1 Trade Commission Act as though all applicable
2 terms and provisions of the Federal Trade
3 Commission Act (15 U.S.C. 41 et seq.) were in-
4 corporated and made part of this section.

5 (D) AUTHORITY PRESERVED.—Nothing in
6 this section shall be construed to limit the au-
7 thority of the Federal Trade Commission under
8 any other provision of law.

9 (c) ENFORCEMENT BY STATES.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (4), in any case in which the attorney general
12 of a State has reason to believe that an interest of
13 the residents of the State has been or is threatened
14 or adversely affected by any person who violates sub-
15 section (a), the attorney general of the State, as
16 *parens patriae*, may bring a civil action on behalf of
17 the residents of the State in an appropriate district
18 court of the United States to obtain appropriate in-
19 junctive relief.

20 (2) RIGHTS OF FEDERAL TRADE COMMIS-
21 SION.—

22 (A) NOTICE TO FEDERAL TRADE COMMIS-
23 SION.—

24 (i) IN GENERAL.—Except as provided
25 in clause (iii), the attorney general of a

1 State shall notify the Federal Trade Com-
2 mission in writing that the attorney gen-
3 eral intends to bring a civil action under
4 paragraph (1) before initiating the civil ac-
5 tion.

6 (ii) CONTENTS.—The notification re-
7 quired by clause (i) with respect to a civil
8 action shall include a copy of the complaint
9 to be filed to initiate the civil action.

10 (iii) EXCEPTION.—If it is not feasible
11 for the attorney general of a State to pro-
12 vide the notification required by clause (i)
13 before initiating a civil action under para-
14 graph (1), the attorney general shall notify
15 the Federal Trade Commission imme-
16 diately upon instituting the civil action.

17 (B) INTERVENTION BY FEDERAL TRADE
18 COMMISSION.—The Federal Trade Commission
19 may—

20 (i) intervene in any civil action
21 brought by the attorney general of a State
22 under paragraph (1); and

23 (ii) upon intervening—

24 (I) be heard on all matters aris-
25 ing in the civil action; and

1 (II) file petitions for appeal.

2 (3) INVESTIGATORY POWERS.—Nothing in this
3 subsection shall be construed to prevent the attorney
4 general of a State from exercising the powers conferred on the attorney general by the laws of the
5 State to conduct investigations, to administer oaths
6 or affirmations, or to compel the attendance of witnesses or the production of documentary or other
7 evidence.
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10 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
11 COMMISSION.—If the Federal Trade Commission institutes a civil action or an administrative action
12 with respect to a violation of subsection (a) or a rule promulgated under subsection (b)(2)(B) the attorney
13 general of a State may not, during the pendency of that action, bring a civil action under paragraph (1)
14 against any defendant named in the complaint of the Commission for the violation with respect to which
15 the Commission instituted such action.
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20 (5) VENUE; SERVICE OF PROCESS.—

21 (A) VENUE.—Any action brought under
22 paragraph (1) may be brought in any district
23 court of the United States that meets applicable
24 requirements relating to venue under section
25 1391 of title 28, United States Code.

1 (B) SERVICE OF PROCESS.—In an action
2 brought under paragraph (1), process may be
3 served in any district in which the defendant—

4 (i) is an inhabitant; or

5 (ii) may be found.

6 (6) ACTIONS BY OTHER STATE OFFICIALS.—

7 (A) IN GENERAL.—In addition to a civil
8 actions brought by attorneys general under
9 paragraph (1), any other officer of a State who
10 is authorized by the State to do so may bring
11 a civil action under paragraph (1), subject to
12 the same requirements and limitations that
13 apply under this subsection to civil actions
14 brought by attorneys general.

15 (B) SAVINGS PROVISION.—Nothing in this
16 subsection may be construed to prohibit an au-
17 thorized official of a State from initiating or
18 continuing any proceeding in a court of the
19 State for a violation of any civil or criminal law
20 of the State.