

114TH CONGRESS
2D SESSION

S. 2508

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2016

Mr. UDALL (for himself, Mr. BLUMENTHAL, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) Scientific advancements and a greater un-
10 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 issued a report in
4 2013 finding limited evidence that current helmet
5 designs reduce the risk of sports-related concussions
6 and no evidence that mouthguards or facial protec-
7 tion reduce concussion risk, and recommending that
8 the National Institutes of Health and the Depart-
9 ment of Defense fund research on biomechanical fac-
10 tors that influence injury risk in youth.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that—

13 (1) the Consumer Product Safety Commission
14 should review the National Academies’ report and
15 future research in this area, including research as
16 recommended by the National Academies, for any
17 matter that may impact products under the Com-
18 mission’s jurisdiction;

19 (2) if protective equipment manufacturers
20 choose to adopt voluntary consumer product safety
21 standards, the voluntary standards should include
22 mechanisms to ensure substantial compliance by cov-
23 ered entities; and

24 (3) the Federal Trade Commission should re-
25 view the National Academies’ report and future re-

1 search in this area, including research as rec-
2 ommended by the National Academies, for any mat-
3 ter that may inform efforts to protect consumers
4 from unfair or deceptive practices in or affecting
5 commerce.

6 **SEC. 3. FALSE OR MISLEADING CLAIMS WITH RESPECT TO**
7 **ATHLETIC SPORTING ACTIVITY EQUIPMENT.**

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

17 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
18 SION.—

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

24 (2) POWERS OF FEDERAL TRADE COMMIS-
25 SION.—

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

9 (B) REGULATIONS.—Notwithstanding any
10 other provision of law, the Federal Trade Com-
11 mission may promulgate under section 553 of
12 title 5, United States Code, such regulations as
13 the Commission considers necessary or appro-
14 priate to carry out this section.

15 (C) PRIVILEGES AND IMMUNITIES.—Any
16 person who violates subsection (a) shall be sub-
17 ject to the penalties and entitled to the privi-
18 leges and immunities provided in the Federal
19 Trade Commission Act as though all applicable
20 terms and provisions of the Federal Trade
21 Commission Act (15 U.S.C. 41 et seq.) were in-
22 corporated and made part of this section.

23 (D) AUTHORITY PRESERVED.—Nothing in
24 this section shall be construed to limit the au-

1 thority of the Federal Trade Commission under
2 any other provision of law.

3 (c) ENFORCEMENT BY STATES.—

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

14 (2) RIGHTS OF FEDERAL TRADE COMMIS-
15 SION.—

16 (A) NOTICE TO FEDERAL TRADE COMMIS-
17 SION.—

18 (i) IN GENERAL.—Except as provided
19 in clause (iii), the attorney general of a
20 State shall notify the Federal Trade Com-
21 mission in writing that the attorney gen-
22 eral intends to bring a civil action under
23 paragraph (1) before initiating the civil ac-
24 tion.

1 (ii) CONTENTS.—The notification re-
2 quired by clause (i) with respect to a civil
3 action shall include a copy of the complaint
4 to be filed to initiate the civil action.

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

12 (B) INTERVENTION BY FEDERAL TRADE
13 COMMISSION.—The Federal Trade Commission
14 may—

15 (i) intervene in any civil action
16 brought by the attorney general of a State
17 under paragraph (1); and

18 (ii) upon intervening—

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

21 (II) file petitions for appeal.

22 (3) INVESTIGATORY POWERS.—Nothing in this
23 subsection shall be construed to prevent the attorney
24 general of a State from exercising the powers con-
25 ferred on the attorney general by the laws of the

1 State to conduct investigations, to administer oaths
2 or affirmations, or to compel the attendance of wit-
3 nesses or the production of documentary or other
4 evidence.

5 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
6 COMMISSION.—If the Federal Trade Commission in-
7 stitutes a civil action or an administrative action
8 with respect to a violation of subsection (a) or a rule
9 promulgated under subsection (b)(2)(B) the attorney
10 general of a State may not, during the pendency of
11 that action, bring a civil action under paragraph (1)
12 against any defendant named in the complaint of the
13 Commission for the violation with respect to which
14 the Commission instituted such action.

15 (5) VENUE; SERVICE OF PROCESS.—

16 (A) VENUE.—Any action brought under
17 paragraph (1) may be brought in any district
18 court of the United States that meets applicable
19 requirements relating to venue under section
20 1391 of title 28, United States Code.

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

24 (i) is an inhabitant; or

25 (ii) may be found.

1 (6) ACTIONS BY OTHER STATE OFFICIALS.—In
2 addition to civil actions brought by attorneys general
3 under paragraph (1), any other consumer protection
4 officer of a State who is authorized by the State to
5 do so may bring a civil action under paragraph (1),
6 subject to the same requirements and limitations
7 that apply under this subsection to civil actions
8 brought by attorneys general.

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