

103D CONGRESS
1ST SESSION

S. 68

To amend the Federal Food, Drug, and Cosmetic Act to prevent misleading advertising of the health benefits of foods.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. METZENBAUM introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to prevent misleading advertising of the health benefits of foods.

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 “Food and Drug Ad-
5 ministration Nutrition Advertising Act of 1993”.

6 **SEC. 2. MISLEADING FOOD ADVERTISEMENTS.**

7 (a) REQUIREMENTS.—Section 403 of the Federal
8 Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amend-
9 ed by adding at the end the following new paragraph:

1 “(s) Except as provided in clauses (A) through (C)
2 of paragraph (r)(5), if it is a food intended for human
3 consumption that is offered for sale, and the advertising
4 for the food—

5 “(1) makes a claim, expressly or by implication,
6 of the type described in paragraph (r)(1)(A), unless
7 the claim is in accordance with regulations promul-
8 gated by the Secretary that are consistent with regu-
9 lations issued by the Secretary to implement para-
10 graph (r)(2);

11 “(2) makes a claim, expressly or by implication,
12 of the type described in paragraph (r)(1)(B), unless
13 the claim is in accordance with regulations promul-
14 gated by the Secretary that are consistent with regu-
15 lations issued by the Secretary to implement sub-
16 paragraph (3) or (5)(D) of paragraph (r);

17 “(3) makes a claim, expressly or by implication
18 of the type described in clause (A) or (B) of para-
19 graph (r)(1), unless the claim is in accordance with
20 regulations promulgated by the Secretary that are
21 consistent with regulations issued by the Secretary
22 to implement subparagraph (1) or (2) of paragraph
23 (q); or

1 “(4) fails to include clearly and conspicuously
2 the following statement: ‘See product label for com-
3 plete nutrition information.’”.

4 (b) REGULATIONS.—

5 (1) IN GENERAL.—

6 (A) PROPOSED REGULATIONS.—Not later
7 than 6 months after the date of enactment of
8 this Act, the Secretary of Health and Human
9 Services shall issue proposed regulations to im-
10 plement section 403(s) of the Federal Food,
11 Drug, and Cosmetic Act.

12 (B) FINAL REGULATIONS.—Not later than
13 12 months after the date of enactment of this
14 Act, the Secretary of Health and Human Serv-
15 ices shall issue final regulations to implement
16 section 403(s) of the Federal Food, Drug, and
17 Cosmetic Act.

18 (2) PROPOSED REGULATIONS CONSIDERED TO
19 BE FINAL.—If the Secretary of Health and Human
20 Services fails to issue final regulations under para-
21 graph (1)(B) upon the expiration of 12 months after
22 the date of enactment of this Act, the proposed reg-
23 ulations issued in accordance with paragraph (1)(A)
24 shall be considered to be the final regulations upon
25 the expiration of such 12 months. The Secretary of

1 Health and Human Services shall promptly publish
2 in the Federal Register notice of the new status of
3 the proposed regulations.

4 **SEC. 3. EFFECTIVE DATE.**

5 The amendment made by section 2(a) shall take ef-
6 fect 15 months after the date of enactment of this Act.

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