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H. R. 6358

To examine, label, and communicate adverse human biological effects associated with exposure to electromagnetic fields from cell phones and other wireless devices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2012

Mr. KUCINICH (for himself, Ms. PINGREE of Maine, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To examine, label, and communicate adverse human biological effects associated with exposure to electromagnetic fields from cell phones and other wireless devices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cell Phone Right to Know Act''.

SEC. 2. RESEARCH PROGRAM.

(a) IN GENERAL.—The Director and the Administrator, acting jointly, shall conduct or support a com-

prehensive research program to determine whether exposure to electromagnetic fields from mobile communication devices causes adverse biological effects in humans, including especially vulnerable subpopulations such as children, pregnant women, those with compromised immune systems and hypersensitivity reactions, men and women of reproductive age, and the elderly.

(b) SPECIFIC REQUIREMENTS.—With respect to the possible adverse biological effects in humans from exposure to electromagnetic fields from mobile communication devices, the program under subsection (a) shall provide for—

(1) the collection, compilation, publication, and dissemination of scientifically valid information;

(2) research on mechanisms by which such electromagnetic fields interact with human biological systems; and

(3) epidemiological research.

(c) DISSEMINATION.—

(1) PUBLIC ACCESSIBILITY.—The Director and the Administrator, acting jointly, shall ensure that information and research results under such program are regularly made widely available to the general public.

(2) REPORTS TO CONGRESS.—On the date that is 4 years after the date of enactment of this Act and on the date that is 8 years after the date of enactment of this Act, the Director and the Administrator, acting jointly, shall transmit to Congress a report containing the findings and conclusions of the research program under subsection (a).

(d) WORKSHOP.—

(1) IN GENERAL.—The Director and the Administrator, acting jointly, shall convene a workshop to assist in the development of a plan for the research to be carried out under such program.

(2) PARTICIPANTS.—Participants in the workshop shall include government employees, representatives of public interest groups, and representatives from the scientific community with expertise relevant to health issues or other adverse biological effects in humans potentially associated with the exposure to electromagnetic fields from mobile communication devices.

(e) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—The Director and the Administrator—

(A) may not delegate any responsibility under this section to an officer or employee

with any significant conflict of interest relative to research or activities under this section;

(B) shall require, as a condition on receipt of assistance for research under this section, an assurance that any person given responsibility to carry out such research will not have any significant conflict of interest relative to such research; and

(C) may not, with respect to any such person, waive subparagraph (A) or (B) in any case or grant an exemption under section 208(b) of title 18, United States Code.

(2) RELATION TO OTHER PROVISIONS.—The requirements of paragraph (1) are in addition to the prohibition in section 208(a) of title 18, United States Code, and any other prohibition or requirement in Federal law relating to conflicts of interest.

(3) STATUS OF RESEARCHERS.—Any person who is not a Federal Government employee who performs research under the program in subsection (a) shall be considered a special government employee for the purpose of conflict of interest rules, including section 208 of title 18, United States Code.

(f) CLARIFICATION OF RESEARCHER ACCESS TO INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall promulgate regulations to allow a subscriber to access personally or to give consent to allow researchers with institutional review board approval to access specific usage data required to investigate the link between electromagnetic radiation exposure and potential adverse biological effects in humans.

(2) TIME FOR REPLY.—Such regulations shall provide that a company regulated by the Commission from whom a subscriber or a researcher, with the consent of an individual subscriber, requests data in accordance with such regulations shall—

(A) respond to and provide such data within 30 business days; or

(B) be fined not more than $10,000 per account per day following such 30-day period in accordance with the Communications Act of 1934.

(3) DATA PROVIDED.—The regulations shall provide that, of the data described in paragraph (1), all relevant data shall be accessible, including the following:

(A) With respect to the individual subscriber, usage data including the following:

(i) The date and time the call or data session began and ended.

(ii) The outgoing and incoming phone number.

(iii) The carrier modulation, such as GSM, CDMA, UMTS, W–CDMA, or LTE.

(iv) The frequency band.

(v) The subscriber location.

(vi) The number of base stations used.

(vii) The amount and rate of data transmitted and received.

(viii) The form of data usage, such as text messaging or other data transmission.

(B) With respect to the base stations used by each individual subscriber:

(i) All base stations used in the call or data session.

(ii) The base station identifiers.

(iii) The date of installation.

(iv) The maximum, the average, the total, and the effective radiated power.

(v) The frequencies and modulation.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director and the Administrator a total of $50,000,000 per year for the first 7 fiscal years that begin after the date of the enactment of this Act to carry out this section.

SEC. 3. MAXIMUM EXPOSURE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator shall promulgate regulations establishing maximum exposure level goals and maximum exposure levels for exposure to electromagnetic fields generated by mobile communication devices.

(2) GOALS AND LEVELS.—

(A) MAXIMUM EXPOSURE LEVEL GOAL.—A maximum exposure level goal established under paragraph (1) shall be set at the level—

(i) at which no known or anticipated adverse human biological effects occur; and

(ii) which allows an adequate margin of safety.

(B) MAXIMUM EXPOSURE LEVEL.—

(i) IN GENERAL.—A maximum exposure level established under paragraph (1) shall specify a maximum exposure level

which is as close to the maximum exposure level goal as feasible.

(ii) SPECIFICATION.—In deriving the maximum exposure levels and maximum exposure level goals, the Administrator may not rely on any human behavior modification, including an expectation of holding the mobile communication device a specified distance away from the head or body.

(3) REPRODUCIBILITY.—In promulgating regulations under paragraph (1), the Administrator shall ensure that any method of measurement of a maximum exposure level goal or a maximum exposure level is reproducible by an independent third party.

(4) INITIAL GOAL AND LEVEL; PERIODIC REVIEW.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate final regulations under paragraph (1) establishing initial maximum exposure level goals and maximum exposure levels. Not later than every 2 years thereafter, the Administrator shall—

(A) review each maximum exposure level goal and maximum exposure level established

under paragraph (1), taking into consideration advances in science and technology;

(B) publish a determination on whether the goal or level should be revised under such paragraph; and

(C) as appropriate, revise the goal or level.

(5) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Administrator shall consider and account for—

(A) whether any research relied upon by the Administrator was funded by an entity whose profitability could be affected by the outcome;

(B) health outcomes, biological effects, and mechanisms, including—

(i) sleep disturbance;

(ii) depression;

(iii) tremors;

(iv) headache;

(v) dizziness;

(vi) fatigue;

(vii) irritability;

(viii) loss of memory;

(ix) loss of appetite;

(x) nausea;

(xi) visual disturbances;

(xii) hearing loss and tinnitus;

(xiii) increases in stress proteins;

(xiv) immune systems alterations;

(xv) cancers and tumors, including brain tumors and acoustic neuromas, parotid gland tumors, eye cancer, testicular cancer, breast cancer, head or neck melanoma, lymphoma, and leukemia;

(xvi) reproductive system effects;

(xvii) DNA breaks;

(xviii) blood brain barrier leakage; and

(xix) free radical formation;

(C) concerns raised by the Federal Radio Frequency Interagency Working Group in its letter dated June 17, 1999, and its subsequent letter dated July 16, 2003, about the existing exposure standard;

(D) vulnerable subpopulations, including children, pregnant women, those with compromised immune systems and hypersensitivity reactions, men and women of reproductive age, and the elderly;

(E) non-thermal mechanisms of effects, including low-intensity modulated fields;

(F) multiple exposures in indoor and outdoor environments;

(G) measurements of exposure and dose including specific absorption rate;

(H) exposure to extremely low frequency and static electromagnetic fields;

(I) dose-response and non-dose-response analytic models;

(J) the practice of averaging exposures over a period of time which masks peak exposures that may cause adverse biological effects;

(K) individual behaviors that lengthen, intensify, or otherwise modify exposure in a way that increases exposure or spreads exposure to different parts of the body;

(L) the rapidly changing nature of usage of electromagnetic field emitting products, including trends towards products that increase duration of exposure, such as a wearable mobile communication device;

(M) effects of low intensity radiofrequency electromagnetic fields;

(N) effects of modulation of signal, pulse, frequency, amplitude, and power;

(O) effects of different signaling characteristics, such as phased array exposure;

(P) effects of changes reflected in electroencephalographies that could lead to seizures or mood alterations;

(Q) effects of exposure to multiple frequencies of radiofrequency electromagnetic fields;

(R) effects of extremely low frequency-modulated electromagnetic fields; and

(S) effects of chronic exposure to radiofrequency electromagnetic fields.

(6) INTERAGENCY ADVISORY COMMITTEE.—The Administrator shall—

(A) establish an interagency advisory committee of individuals who are officers or employees of Federal departments and agencies; and

(B) consult with the committee in establishing maximum exposure level goals and maximum exposure levels under paragraph (1), including with respect to selecting a unit of measurement.

(b) IMPLEMENTATION BY FCC.—The Federal Communications Commission shall implement and enforce the standards adopted under subsection (a) as if the standards

were promulgated by the Commission under the authority of the Communications Act of 1934.

(c) CONFLICTS OF INTEREST.—

(1) PROHIBITION.—An officer or employee of the Federal Government may not participate in establishing a maximum exposure level goal or maximum exposure level under subsection (a), may not serve as a member of the interagency advisory committee established under subsection (a)(6), and may not participate personally and substantially in the implementation or enforcement of a maximum exposure level goal or maximum exposure level under subsection (b), if such person is in violation of section 208 of title 18, United States Code.

(2) PENALTY.—A violation of paragraph (1) shall be treated as a violation of section 208(a) of title 18, United States Code.

(3) NO EXEMPTIONS.—An exemption under section 208(b) of title 18, United States Code, may not be granted to an officer or employee described in paragraph (1).

(4) RELATION TO OTHER PROVISIONS.—The prohibition of paragraph (1) is in addition to the prohibition in section 208(a) of title 18, United

States Code, and any other prohibition or requirement in Federal law relating to conflicts of interest.

SEC. 4. EXPOSURE STANDARD LABELING.

The Commissioner shall promulgate regulations to provide for labeling of mobile communication devices as set forth in this section. Such labeling shall include the exposure rating of the device, the maximum allowable exposure level, and the maximum allowable exposure goal—

(1) in a manner that is readily accessible upon regular use of the device;

(2) at any point of sale in a store in the United States;

(3) at any point of sale on a Web site engaging in commerce in the United States; and

(4) on the outside packaging and in the instruction manual.

SEC. 5. REINVIGORATING AMERICAN RESEARCH IN ELECTROMAGNETIC RADIATION AND HEALTH.

(a) IN GENERAL.—The Secretary shall expand and intensify the activities of the Department of Health and Human Services to train, and support the training of, scientists in the field of examining the relationship between electromagnetic fields and human health. In carrying out this subsection, the Secretary shall—

(1) increase the number and size of grants to institutions for such training; and

(2) increase the number of career development awards for such training for health professionals who intend to build careers in pediatric basic and clinical research, including pediatric pharmacological research.

(b) NATIONAL RESEARCH SERVICE AWARDS.—Section 487 of the Public Health Service Act (42 U.S.C. 288; relating to Ruth L. Kirschstein National Research Service Awards) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking ''and'' at the end;

(B) in clause (iv), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(v) research in the field of examining the relationship between electromagnetic fields and human health at public entities and private nonprofit academic institutions.''; and

(2) by adding at the end the following:

''(d) There are authorized to be appropriated $15,000,000 for fiscal year 2013 and each subsequent fiscal year for research under subsection (a)(1)(A)(v). The

amounts authorized to be appropriated under the preceding sentence are in addition to any other amounts authorized to be appropriated to carry out this section.''.

(c) LOAN REPAYMENT PROGRAM.—Part G of title IV of the Public Health Service Act (42 U.S.C. 288 et seq.) is amended—

(1) by redesignating the second section 487F (42 U.S.C. 288–6) as section 487G; and

(2) by inserting after section 487G, as so redesignated, the following:

''SEC. 487H. LOAN REPAYMENT PROGRAM FOR RESEARCHERS IN THE FIELD OF EXAMINING THE RELATIONSHIP BETWEEN ELECTROMAGNETIC FIELDS AND HUMAN HEALTH.

''(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, shall establish a program to enter into contracts with qualified individuals under which such individuals agree to conduct research in the field of examining the relationship between electromagnetic fields and human health, in consideration of the Federal Government agreeing to repay, for each year of service conducting such research, not more than $35,000 of the principal and interest of the graduate educational loans of such individuals.

"(b) APPLICATION OF PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall, except as inconsistent with subsection (a) of this section, apply to the program established under subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

"(c) DEFINITION.—To be qualified to receive a contract under subsection (a), an individual shall agree to conduct the research at a public or private nonprofit entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated $10,000,000 for fiscal year 2013 and each subsequent fiscal year.".

SEC. 6. CLARIFICATION OF LOCAL CONTROL RELATED TO HUMAN HEALTH.

Section 332(c)(7)(B)(iv) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)(iv)) is amended by striking "radio frequency emissions" and inserting "radiofrequency emissions, excluding the adverse human health effects of emissions of radiofrequency electromagnetic fields,".

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMISSIONER.—The ''Commissioner'' means the Commissioner of Food and Drugs.

(3) DIRECTOR.—The term ''Director'' means the Director of the National Institute of Environmental Health Sciences.

(4) MOBILE COMMUNICATION DEVICE.—The term ''mobile communication device'' means a device defined as a portable device in section 2.1093(b) of title 47, Code of Federal Regulations, and any transmissions from such device.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

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