

105TH CONGRESS
1ST SESSION

H. R. 1292

To amend the Communications Act of 1934 to authorize the establishment of a voluntary broadcasting code for alcohol advertising, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1997

Mr. KENNEDY of Massachusetts (for himself, Mr. HANSEN, Mr. HINCHEY, Mr. MORAN of Virginia, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Communications Act of 1934 to authorize the establishment of a voluntary broadcasting code for alcohol advertising, 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 “Voluntary Alcohol Ad-
5 vertising Standards for Children Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Television advertising influences children's
2 perception of the values and behavior that are com-
3 mon and acceptable in society.

4 (2) Television station operators and cable tele-
5 vision system operators should follow practices in
6 connection with the advertising of alcoholic bev-
7 erages that take into consideration that television
8 broadcast and cable advertising have established a
9 uniquely pervasive presence in the lives of American
10 children.

11 (3) The average American child is exposed to
12 25 hours of television each week and some children
13 are exposed to as much as 11 hours of television a
14 day.

15 (4) In 1995, alcohol producers, led by brewers,
16 spent \$682,600,000 advertising their products in the
17 broadcast media. Much of that advertising appeared
18 on sports programming, in prime time, or at other
19 times when substantial numbers of underage persons
20 were in the viewing and listening audience. Many of
21 the themes used in the ads—humor, parties, athletic
22 pursuits—have great appeal for young people. The
23 most popular beer ads use animated characters, ani-
24 mals, or music which also amuse and attract chil-
25 dren and teens.

1 (5) The current advertising codes of brewers
2 and distillers, even when observed by industry mem-
3 bers, provide inadequate standards to restrain most
4 of the current advertising messages that reach
5 young people and teach them to drink. These codes
6 are unenforceable, do not apply to all alcohol compa-
7 nies, and institutionalize, rather than restrict, adver-
8 tising practices that subject young people to mas-
9 sive, continuous, and persuasive inducements to
10 drink. Although individual broadcast networks and
11 independent stations have adopted standards govern-
12 ing the acceptance of advertising for alcoholic bev-
13 erages, those standards lack uniformity, do not
14 apply to all broadcasters, nor do they help shield
15 large audiences of underage persons from alcohol
16 promotions.

17 (6) Alcohol producers claim to have no interest
18 in attracting underage persons, for whom the pur-
19 chase and use of their products are illegal. The de-
20 velopment of voluntary broadcast industry alcohol
21 advertising standards to protect children would avoid
22 broader government restrictions on alcohol advertis-
23 ing and permit alcohol producers to continue to le-
24 gitimately promote their products to adult consum-
25 ers. Therefore, enforceable voluntary broadcast

1 standards provide a minimally restrictive, necessary
2 condition on alcohol producer marketing activities,
3 one that is consistent with their business missions
4 and social responsibility.

5 **SEC. 3. ESTABLISHMENT AND IMPLEMENTATION OF TELE-**
6 **VISION ADVERTISING CODES.**

7 Part I of title III of the Communications Act of 1934
8 (47 U.S.C. 301 et seq.) is amended by adding at the end
9 the following new section:

10 **“SEC. 337. ESTABLISHMENT AND IMPLEMENTATION OF**
11 **TELEVISION ADVERTISING CODES.**

12 “(a) **AUTHORITY TO PRESCRIBE STANDARDS.**—Ex-
13 cept as otherwise provided by this section, the Commission
14 shall prescribe, on the basis of recommendations from an
15 advisory committee established by the Commission, a code
16 of conduct that limits the exposure and appeal to minors
17 of alcoholic beverage advertisements in video program-
18 ming, taking into consideration the content, frequency,
19 timing, and program placement of such ads, as well as
20 the role of public information messages about the risks
21 of alcohol use by minors.

22 “(b) **ADVISORY COMMITTEE REQUIREMENTS.**—In es-
23 tablishing an advisory committee for purposes of sub-
24 section (a) of this section, the Commission shall—

1 “(1) ensure that such committee is composed of
2 parents, television broadcasters, cable operators, ap-
3 propriate public interest groups, and other interested
4 individuals from the private sector and is fairly bal-
5 anced in terms of political affiliation, the points of
6 view represented, and the functions to be performed
7 by the committee;

8 “(2) provide to the committee such staff and
9 resources as may be necessary to permit it to per-
10 form its functions efficiently and promptly; and

11 “(3) require the committee to submit a final re-
12 port of its recommendations within one year after
13 the date of the appointment of the initial members.

14 “(c) ANTITRUST EXEMPTION.—

15 “(1) EXEMPTION.—The antitrust laws shall not
16 apply to any joint discussion, consideration, review,
17 action, or agreement by or among persons in the tel-
18 evision industry for the purpose of, and limited to,
19 developing and disseminating a voluntary code de-
20 signed to limit the exposure and appeal to minors of
21 alcoholic beverage advertisements in video program-
22 ming.

23 “(2) LIMITATIONS.—The exemption provided in
24 paragraph (1)—

1 “(A) shall not apply to any joint discus-
2 sion, consideration, review, action, or agreement
3 which results in a boycott of any person; and

4 “(B) shall apply only to any joint discus-
5 sion, consideration, review, action, or agreement
6 engaged in only during the 1-year period begin-
7 ning on the date of the enactment of this sec-
8 tion.

9 “(d) ENFORCEMENT OF CODES BY FORFEITURE
10 PENALTIES.—For the purposes of sections 503 and 504
11 of this Act, any advertising code established pursuant to
12 subsection (a) or (c) of this section shall be considered
13 to be a regulation prescribed by the Commission pursuant
14 to this Act.

15 “(e) APPLICABILITY OF REQUIREMENT FOR COMMIS-
16 SION TO PRESCRIBE CODE.—The requirement of sub-
17 section (a) shall take effect 1 year after the date of enact-
18 ment of this section, but only if the Commission deter-
19 mines, in consultation with appropriate public interest
20 groups and interested individuals from the private sector,
21 that—

22 “(1) persons in the television industry have not,
23 by such date, established and implemented a vol-
24 untary code of conduct that limits the exposure and
25 appeal to minors of alcoholic beverage advertise-

1 ments in video programming, taking into consider-
2 ation the content, frequency, timing, and program
3 placement of such ads, as well as the role of public
4 information messages about the risks of alcohol used
5 by minors; and

6 “(2) such code is acceptable to the Commission.

7 “(f) ANNUAL REPORT.—The Commission shall in-
8 clude in each annual report pursuant to section 4(k) of
9 this Act submitted after the date of enactment of this sec-
10 tion an assessment of the extent to which a code estab-
11 lished under subsection (a) or (c) of this section has been
12 successfully implemented, and is rigorously complied with,
13 by distributors of video programming.

14 “(g) DEFINITIONS.—For purposes of this section:

15 “(1) The term ‘antitrust laws’ has the meaning
16 given it in subsection (a) of the first section of the
17 Clayton Act (15 U.S.C. 12(a)), except that such
18 term includes section 5 of the Federal Trade Com-
19 mission Act (15 U.S.C. 45) to the extent that such
20 section 5 applies to unfair methods of competition.

21 “(2) The term ‘person in the television indus-
22 try’ means a television network, any entity which
23 produces programming (including theatrical motion
24 pictures) for telecasting or telecasts programming,
25 the National Cable Television Association, the Asso-

1 ciation of Independent Television Stations, Incor-
2 porated, the National Association of Broadcasters,
3 the Motion Picture Association of America, the Com-
4 munity Antenna Television Association, and each of
5 the networks' affiliate organizations, and shall in-
6 clude any individual acting on behalf of such person.

7 “(3) The term ‘video programming’ has the
8 meaning provided in section 602 of this Act.”.

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