

105TH CONGRESS
1ST SESSION

H. R. 1979

To require health warnings to be included in alcoholic beverage advertisements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 1997

Mr. KENNEDY of Massachusetts introduced the following bill; which was referred to the Committee on Commerce

A BILL

To require health warnings to be included in alcoholic beverage advertisements, 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 “Sensible Advertising
5 and Family Education Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Alcohol is by far the drug most widely used
9 and abused by young people in the United States
10 today, even though it is illegal for youths under the

1 age of 21 to purchase alcohol in all 50 of the States
2 and the District of Columbia.

3 (2) According to the National Institute on Alco-
4 hol Abuse and Alcoholism, an estimated 18,000,000
5 persons in the United States who are 18 or older
6 currently experience problems as a result of alcohol
7 use. An estimated 4,500,000 young people are de-
8 pendent on alcohol or are problem drinkers.

9 (3) According to the 1996 National Institute on
10 Drug Abuse survey of high school students and
11 young adults (entitled “Monitoring the Future”), 79
12 percent of high school seniors, 72 percent of tenth
13 graders, and 55 percent of eighth graders had used
14 alcohol at least once. Thirty percent of high school
15 seniors, 25 percent of tenth graders, and 16 percent
16 of eighth graders had experienced a “binge” of 5 or
17 more drinks in a row within the past 2 weeks.
18 Among college students, 88 percent reported having
19 used alcohol and 40 percent reported occasions of
20 binge drinking, including 31 percent of the females
21 and 52 percent of the males.

22 (4) The average age at which young people
23 begin drinking is 13. By age 13, approximately 30
24 percent of boys and 22 percent of girls classify
25 themselves as drinkers. According to the 1996

1 “Monitoring the Future” survey, 27 percent re-
2 ported having been drunk by eighth grade, 49 per-
3 cent by tenth grade, and 62 percent by twelfth
4 grade. Studies demonstrate that the use of alcohol
5 before the age of 15 appears to be one of the predic-
6 tors of later heavy alcohol and other drug use.

7 (5) According to a national survey on youth and
8 alcohol (Inspector General of the Department of
9 Health and Human Services, 1991), the average
10 binge drinker is a 16-year-old male in the tenth
11 grade who was 12 years old when he took his first
12 drink.

13 (6) Young people are not well informed about
14 the hazards of alcohol use. More than one quarter
15 of high school seniors do not view taking one or two
16 drinks nearly every day as entailing great risk. Ap-
17 proximately 45 percent of eighth graders, 47 percent
18 of tenth graders, and 53 percent of twelfth graders
19 do not perceive having 5 or more drinks once or
20 twice a weekend as entailing a great risk (1995
21 “Monitoring the Future” survey). More than 2.6
22 million students do not know a person can die from
23 an overdose of alcohol. A projected 259,000 students
24 think that wine coolers or beer cannot get a person
25 drunk, make a person sick, or do as much harm as

1 other alcoholic beverages (Inspector General of the
2 Department of Health and Human Services, 1991).

3 (7) According to Healthy People 2000, the Na-
4 tional Health Promotion and Disease Prevention Ob-
5 jectives—

6 (A) nearly one-half of all deaths from
7 motor vehicle crashes are alcohol-related;

8 (B) alcohol is implicated in nearly one-half
9 of all fatal intentional injuries such as suicides
10 and homicides; and

11 (C) victims are intoxicated in approxi-
12 mately one-third of all homicides, drownings,
13 and boating deaths.

14 (8) An estimated 25 percent of all hospitalized
15 persons have alcohol-related problems.

16 (9) Alcohol in combination with other drugs is
17 the leading cause of emergency room drug abuse epi-
18 sodes.

19 (10) In 1995, chronic liver disease, including
20 cirrhosis, was the 11th leading cause of death in the
21 United States. Of 41,000 deaths attributed to liver
22 disease in the United States, 46 percent diagnosti-
23 cally were associated with alcohol. Heavy alcohol use
24 is considered the most important risk factor for
25 chronic liver disease. Even among liver disease

1 deaths not coded as alcohol-related, approximately
2 50 percent are thought to be due to alcohol use.

3 (11) Between 5 and 24 percent of hypertension
4 cases are associated with alcohol. Many cases diag-
5 nosed as essential hypertension (high blood pressure
6 having no known causes) may actually have chronic
7 alcohol ingestion as their cause.

8 (12) Alcohol abuse is strongly associated with
9 increased risk of cancer, especially cancer of the
10 liver, esophagus, nasopharynx, and larynx. Alcohol is
11 also associated with dietary deficiency that may in-
12 crease cancer risk.

13 (13) Treatment costs for fetal alcohol syndrome
14 (referred to in this paragraph as “FAS”) and other
15 alcohol-related birth defects in the United States are
16 estimated at nearly a third of a billion dollars. FAS
17 is one of the top 3 known causes of birth defects
18 with accompanying mental retardation and the only
19 known preventable cause among the top three.
20 Among children born to women who drink heavily,
21 the incidence of FAS may be as high as 25 per
22 1,000 live births. Among children born to other
23 women, the FAS incidence is between 1 to 3 infants
24 with the syndrome per 1,000 live births. The inci-

1 dence of other alcohol-related birth defects is esti-
2 mated to be 3 times greater than that of FAS.

3 (14) The alcoholic-beverage industry spends ap-
4 proximately \$2,000,000,000 each year on advertising
5 and promotions in the United States.

6 (15) Alcohol advertising, especially in the
7 broadcast media, represents the single greatest
8 source of alcohol education for persons in the United
9 States. According to a 1990 study of 10- to 13-year-
10 olds, funded by the American Automobile Associa-
11 tion Foundation for Traffic Safety, there is a rela-
12 tionship between exposure and attention by an indi-
13 vidual to beer advertising and expectations that the
14 individual drink as an adult.

15 (16) A major 1981 federally funded study
16 found a significant relationship between—

17 (A) exposure of individuals to alcoholic-
18 beverage advertising as youth; and

19 (B) drinking behaviors and attitudes of the
20 individuals that can lead to certain forms of
21 problem drinking.

22 (17) According to the Department of Health
23 and Human Services, sponsorships and promotions
24 on college campuses by alcohol producers and the

1 use of celebrities and youth-oriented musical groups
2 in advertising create a pro-drinking environment.

3 (18) Over 80 percent of 2,000 adults surveyed
4 in 1988 for the Bureau of Alcohol, Tobacco and
5 Firearms by the Opinion Research Corporation be-
6 lieve that alcohol advertising influences underage
7 youth to drink alcoholic beverages. The survey also
8 found that the general public feels that the young
9 people of the United States constitute the group that
10 is most at risk from drinking alcoholic beverages.

11 (19) The 1988 Surgeon General's Workshop on
12 Drunk Driving has recommended—

13 (A) that the level of alcoholic-beverage ad-
14 vertising be matched with an equal number of
15 pro-health and pro-safety messages; and

16 (B) the inclusion of health warning mes-
17 sages in all alcohol advertising.

18 (20) The National Commission on Drug-Free
19 Schools' September 1990 Final Report, "Toward a
20 Drug-Free Generation: A Nation's Responsibility"
21 recommends that Congress—

22 (A) require additional health and safety
23 messages on all alcohol products and advertis-
24 ing for the products; and

1 (B) consider enacting a ban on advertising
2 and promotion of alcohol if alcohol advertising
3 still targets youth and glamorizes alcohol use
4 two years following the publication of the re-
5 port.

6 (21) Over two-thirds of persons surveyed
7 in a 1989 Wall Street Journal poll favor requir-
8 ing warnings about the dangers of drinking
9 both on alcoholic-beverage containers and in al-
10 cohol advertisements. Nearly three-fourths of
11 persons surveyed in a 1990 Gallup Poll favor
12 requiring health warning messages in alcohol
13 advertising.

14 **SEC. 3. HEALTH WARNINGS.**

15 (a) IN GENERAL.—On and after the expiration of the
16 6-month period following the date of enactment of this
17 Act, it shall be an unfair or deceptive act or practice under
18 section 6 of the Federal Trade Commission Act for any
19 person to—

20 (1) advertise or cause to be advertised through
21 magazines, newspapers, brochures, and promotional
22 displays within the United States any alcoholic bev-
23 erage unless the advertising bears, in accordance
24 with requirements of section 3(a), one of the follow-
25 ing health warnings:

1 SURGEON GENERAL'S WARNING: If you
2 are pregnant, don't drink. Drinking alcohol
3 during pregnancy may cause mental retardation
4 and other birth defects. If you are pregnant and
5 can't stop drinking, call (insert appropriate toll
6 free number).

7 SURGEON GENERAL'S WARNING: Alcohol
8 is a drug and may be addictive. If you know
9 someone who has an alcohol or other drug prob-
10 lem or has trouble controlling their drinking,
11 call (insert appropriate toll free number).

12 SURGEON GENERAL'S WARNING: Drive
13 sober. If you don't, you could lose your driver's
14 license or even your life. Alcohol impairs your
15 ability to drive a car or operate machinery. If
16 you or people you love drink and drive, call (in-
17 sert appropriate toll free number).

18 SURGEON GENERAL'S WARNING: Don't
19 mix alcohol with over-the-counter, prescription,
20 or illicit drugs. For more information call (in-
21 sert appropriate toll free number).

22 SURGEON GENERAL'S WARNING: If you
23 drink too much alcohol too fast, you can die
24 from alcohol poisoning. To find out more about

1 alcohol poisoning call (insert appropriate toll
2 free number).

3 SURGEON GENERAL'S WARNING: Drink-
4 ing increases your risks of high blood pressure,
5 liver disease, and cancer. The more you drink,
6 the more likely it is that you will have such
7 health problems. To find out how to prevent
8 getting such health problems call (insert appro-
9 priate toll free number)., or

10 (2) advertise or cause to be advertised through
11 radio, television broadcasting (including cable broad-
12 casting and paid per view or subscription television),
13 or other electronic means any alcoholic beverage un-
14 less the advertising includes, in accordance with re-
15 quirements of section 3(b), one of the following
16 health warnings:

17 SURGEON GENERAL'S WARNING: If you
18 are pregnant, don't drink alcohol. Alcohol may
19 cause mental retardation and other birth de-
20 fects.

21 SURGEON GENERAL'S WARNING: Alcohol
22 is a drug and may be addictive.

23 SURGEON GENERAL'S WARNING: Drive
24 sober. If you don't, you could lose your driver's
25 license or even your life.

1 SURGEON GENERAL'S WARNING: Don't
2 mix alcohol with over-the-counter, prescription,
3 or illicit drugs.

4 SURGEON GENERAL'S WARNING: If you
5 drink too much alcohol too fast, you can die of
6 alcohol poisoning.

7 SURGEON GENERAL'S WARNING: Drink-
8 ing too much alcohol increases your risk of high
9 blood pressure, liver disease, and cancer.

10 (b) TOLL FREE NUMBERS.—The Secretary of Health
11 and Human Services shall be responsible for establishing
12 and maintaining the toll free numbers referred to in the
13 health warnings required by subsection (a)(1). The Sec-
14 retary shall report to Congress annually on the number
15 of calls received using those numbers.

16 **SEC. 4. REQUIREMENTS.**

17 (a) IN GENERAL.—The health warnings required for
18 alcoholic beverage advertisements by section 3(a)(1)
19 shall—

20 (1) be located in a conspicuous and prominent
21 place on each such advertisement, as determined by
22 the Secretary of Health and Human Services in reg-
23 ulations to take effect no later than 6 months after
24 the date of the enactment of this Act,

1 (2) shall require that all the regulations issued
2 by the Secretary under paragraph (1) shall require
3 that all letters in such health warnings appear in
4 conspicuous and legible type that is not script or
5 italic and that such health warnings be in contrast
6 by typography, layout, and color with all other print-
7 ed material in the advertisement, be surrounded by
8 typographic lines that form a box, and, on an appro-
9 priate visual medium, appear on the front of an ad-
10 vertisement as indicated by labeling of the manufac-
11 turer or importer, and

12 (3) be rotated in an alternating sequence on
13 each advertisement of a brand style in accordance
14 with a plan submitted by such manufacturer or im-
15 porter to the Secretary.

16 The Secretary shall approve a plan submitted under para-
17 graph (3) by a manufacturer or importer that assures that
18 each sequence of the same or substantially similar adver-
19 tisement for a brand style has displayed upon it an equal
20 distribution of each health warning at the same time. If
21 an application is approved by the Secretary, the rotation
22 shall apply with respect to the applicant during the one-
23 year period beginning on the date of the application ap-
24 proval.

25 (b) RADIO AND TELEVISION.—

1 (1) WARNINGS.—The health warnings required
2 for alcoholic beverage advertisements placed on radio
3 or television broadcasting by section 2(a)(2) shall—

4 (A) be included in a conspicuous and
5 prominent manner in such advertisement, as
6 determined by the Secretary of Health and
7 Human Services in regulations to take effect
8 not later than 6 months after the date of the
9 enactment of this Act, and

10 (B) be rotated in an alternating sequence
11 on each such advertisement of a brand style in
12 accordance with a plan submitted by such man-
13 ufacturer or importer to the Secretary.

14 The Secretary shall approve a plan submitted under
15 subparagraph (B) by a manufacturer or importer
16 that assures that an equal distribution of each of the
17 health warnings is displayed on each sequence of the
18 same or substantially similar advertisement for a
19 brand style at the same time. If an application is ap-
20 proved by the Secretary, the rotation shall apply
21 with respect to the applicant during the one-year pe-
22 riod beginning on the date of the application ap-
23 proval.

24 (2) REGULATIONS.—The regulations issued by
25 the Secretary under paragraph (1) shall require—

1 (A) that such health warnings be read as
2 part of an alcoholic beverage advertisement in
3 an audible and deliberate manner and in a
4 length of time that allows for a clear under-
5 standing of the health warning message by the
6 intended audience, and

7 (B) that for television a graphic represen-
8 tation of such health warning be included after
9 each advertisement, that all letters in such
10 health warning appear in conspicuous and leg-
11 ible type that is not script or italic, that such
12 health warning be surrounded by typographic
13 lines that form a box, and that such health
14 warning appear in the same length of time si-
15 multaneously with the reading of the message
16 required by subparagraph (A).

17 **SEC. 5. DEFINITIONS.**

18 As used in this Act—

19 (1) the term “alcoholic beverage” includes any
20 beverage which contains not less than one-half of
21 one percent of alcohol by volume and is intended for
22 human consumption,

23 (2) the term “person” includes a State, a State
24 agency, or an officer or employee of a State or State
25 agency, and

1 (3) the term “State” includes—

2 (A) any political subdivision of a State,

3 (B) the District of Columbia,

4 (C) the Commonwealth of Puerto Rico,

5 (D) the Commonwealth of the Northern
6 Mariana Islands,

7 (E) Guam,

8 (F) the Virgin Islands,

9 (G) American Samoa,

10 (H) Wake Island,

11 (I) the Midway Islands,

12 (J) Kingman Reef, and

13 (K) Johnston Island.

14 **SEC. 6. REPORT TO CONGRESS.**

15 (a) INVESTIGATION.—Not earlier than 2 years after
16 the date of the enactment of this Act, the Secretary of
17 Health and Human Services shall conduct an appropriate
18 investigation and consult with the Surgeon General to de-
19 termine whether available scientific information would jus-
20 tify a change in, an addition to, or deletion of, a health
21 warning set forth in section 3.

22 (b) REPORT.—If the Secretary of Health and Human
23 Services finds that available scientific information would
24 justify the change, addition, or deletion described in sub-

1 section (a), the Secretary shall promptly submit a report
2 to the appropriate committees of Congress containing—
3 (1) the information; and
4 (2) specific recommendations for such amend-
5 ments to this Act as the Secretary determines to be
6 appropriate and in the public interest.

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