

106TH CONGRESS  
1ST SESSION

# S. 431

To amend the Alcoholic Beverage Labeling Act of 1988 to grant authority to the Secretary of Health and Human Services to carry out the Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 1999

Mr. THURMOND introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Alcoholic Beverage Labeling Act of 1988 to grant authority to the Secretary of Health and Human Services to carry out the Act, 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 “Alcoholic Beverage La-  
5       beling Act of 1999”.

1 **SEC. 2. AUTHORITY OF SECRETARY OF HEALTH AND**  
2 **HUMAN SERVICES.**

3 Section 203(9) of the Alcoholic Beverage Labeling  
4 Act of 1988 (27 U.S.C. 214(9)) is amended by striking  
5 “Secretary of the Treasury” and inserting “Secretary of  
6 Health and Human Services”.

7 **SEC. 3. TRANSFER OF FUNCTIONS AND SAVINGS PROVI-**  
8 **SIONS.**

9 (a) DEFINITIONS.—For purposes of this section, un-  
10 less otherwise provided or indicated by the context—

11 (1) the term “Federal agency” has the meaning  
12 given the term “agency” by section 551(1) of title  
13 5, United States Code;

14 (2) the term “function” means any duty, obli-  
15 gation, power, authority, responsibility, right, privi-  
16 lege, activity, or program; and

17 (3) the term “office” includes any office, ad-  
18 ministration, agency, institute, unit, organizational  
19 entity, or component thereof.

20 (b) TRANSFER OF FUNCTIONS.—There are trans-  
21 ferred to the Department of Health and Human Services  
22 all functions that the Secretary of the Treasury exercised  
23 before the effective date of this section (including all relat-  
24 ed functions of any officer or employee of the Department  
25 of the Treasury) relating to the Alcoholic Beverage Label-  
26 ing Act of 1988 (27 U.S.C. 213 et seq.).

1       (c) DETERMINATIONS OF CERTAIN FUNCTIONS BY  
2 THE OFFICE OF MANAGEMENT AND BUDGET.—If nec-  
3 essary, the Office of Management and Budget shall make  
4 any determination of the functions that are transferred  
5 under subsection (b).

6       (d) TRANSFER AND ALLOCATIONS OF APPROPRIA-  
7 TIONS AND PERSONNEL.—Except as otherwise provided  
8 in this section, the personnel employed in connection with,  
9 and the assets, liabilities, grants, contracts, property,  
10 records, and unexpended balances of appropriations, au-  
11 thorizations, allocations, and other funds employed, used,  
12 held, arising from, available to, or to be made available  
13 in connection with the functions transferred by this sec-  
14 tion, subject to section 1531 of title 31, United States  
15 Code, shall be transferred to the Department of Health  
16 and Human Services. Unexpended funds transferred pur-  
17 suant to this subsection shall be used only for the purposes  
18 for which the funds were originally authorized and appro-  
19 priated.

20       (e) INCIDENTAL TRANSFERS.—The Director of the  
21 Office of Management and Budget, at such time or times  
22 as the Director shall provide, may make such determina-  
23 tions as may be necessary with regard to the functions  
24 transferred by this section, and make such additional inci-  
25 dental dispositions of personnel, assets, liabilities, grants,

1 contracts, property, records, and unexpended balances of  
2 appropriations, authorizations, allocations, and other  
3 funds employed, used, held, arising from, available to, or  
4 to be made available in connection with such functions,  
5 as may be necessary to carry out this section. The Direc-  
6 tor of the Office of Management and Budget shall provide  
7 for the termination of the affairs of all entities terminated  
8 by this section and for such further measures and disposi-  
9 tions as may be necessary to effectuate the objectives of  
10 this section.

11 (f) EFFECT ON PERSONNEL.—

12 (1) IN GENERAL.—Except as otherwise pro-  
13 vided by this section, the transfer pursuant to this  
14 section of full-time personnel (except special Govern-  
15 ment employees) and part-time personnel holding  
16 permanent positions shall not cause any such em-  
17 ployee to be separated or reduced in grade or com-  
18 pensation for 1 year after the date of transfer of  
19 such employee under this section.

20 (2) EXECUTIVE SCHEDULE POSITIONS.—Except  
21 as otherwise provided in this section, any person  
22 who, on the day before the effective date of this sec-  
23 tion, held a position compensated in accordance with  
24 the Executive Schedule prescribed in chapter 53 of  
25 title 5, United States Code, and who, without a

1 break in service, is appointed in the Department of  
2 Health and Human Services to a position having du-  
3 ties comparable to the duties performed immediately  
4 before such appointment shall continue to be com-  
5 pensated in such new position at not less than the  
6 rate provided for such previous position, for the du-  
7 ration of the service of such person in such new po-  
8 sition.

9 (3) TERMINATION OF CERTAIN POSITIONS.—  
10 Positions whose incumbents are appointed by the  
11 President, by and with the advice and consent of the  
12 Senate, the functions of which are transferred by  
13 this section, shall terminate on the effective date of  
14 this section.

15 (g) SAVINGS PROVISIONS.—

16 (1) CONTINUING EFFECT OF LEGAL DOCU-  
17 MENTS.—All orders, determinations, rules, regula-  
18 tions, permits, agreements, grants, contracts, certifi-  
19 cates, licenses, registrations, privileges, and other  
20 administrative actions—

21 (A) that have been issued, made, granted,  
22 or allowed to become effective by the President,  
23 any Federal agency or official of a Federal  
24 agency, or by a court of competent jurisdiction,

1 in the performance of functions that are trans-  
 2 ferred under this section; and

3 (B) that were in effect before the effective  
 4 date of this section, or were final before the ef-  
 5 fective date of this section and are to become  
 6 effective on or after the effective date of this  
 7 section;

8 shall continue in effect according to their terms until  
 9 modified, terminated, superseded, set aside, or re-  
 10 voked in accordance with law by the President, the  
 11 Secretary of Health and Human Services or other  
 12 authorized official, a court of competent jurisdiction,  
 13 or by operation of law.

14 (2) PROCEEDINGS NOT AFFECTED.—

15 (A) IN GENERAL.—This section shall not  
 16 affect any proceedings, including notices of pro-  
 17 posed rulemaking, or any application for any li-  
 18 cense, permit, certificate, or financial assistance  
 19 pending before the Department of the Treasury  
 20 on the effective date of this section, with re-  
 21 spect to functions transferred by this section.

22 (B) CONTINUATION.—Such proceedings  
 23 and applications shall be continued. Orders  
 24 shall be issued in such proceedings, appeals  
 25 shall be taken from the orders, and payments

1 shall be made pursuant to the orders, as if this  
2 section had not been enacted, and orders issued  
3 in any such proceedings shall continue in effect  
4 until modified, terminated, superseded, set  
5 aside, or revoked by a duly authorized official,  
6 by a court of competent jurisdiction, or by oper-  
7 ation of law.

8 (C) CONSTRUCTION.—Nothing in this  
9 paragraph shall be construed to prohibit the  
10 discontinuance or modification of any such pro-  
11 ceeding under the same terms and conditions  
12 and to the same extent that such proceeding  
13 could have been discontinued or modified if this  
14 section had not been enacted.

15 (3) SUITS NOT AFFECTED.—This section shall  
16 not affect suits commenced before the effective date  
17 of this section, and in all such suits, proceedings  
18 shall be had, appeals taken, and judgments rendered  
19 in the same manner and with the same effect as if  
20 this section had not been enacted.

21 (4) NONABATEMENT OF ACTIONS.—No suit, ac-  
22 tion, or other proceeding commenced by or against  
23 the Department of the Treasury, or by or against  
24 any individual in the official capacity of such individ-  
25 ual as an officer of the Department of the Treasury,

1       shall abate by reason of the enactment of this sec-  
2       tion.

3               (5) ADMINISTRATIVE ACTIONS RELATING TO  
4       PROMULGATION OF REGULATIONS.—Any administra-  
5       tive action relating to the preparation or promulga-  
6       tion of a regulation by the Department of the Treas-  
7       ury relating to a function transferred under this sec-  
8       tion may be continued by the Department of Health  
9       and Human Services with the same effect as if this  
10      section had not been enacted.

11      (h) TRANSITION.—The Secretary of Health and  
12      Human Services may utilize—

13              (1) the services of such officers, employees, and  
14      other personnel of the Department of the Treasury  
15      with respect to functions transferred to the Depart-  
16      ment of Health and Human Services by this section;  
17      and

18              (2) funds appropriated to such functions;  
19      for such period of time as may reasonably be needed to  
20      facilitate the orderly implementation of this section.

21      (i) REFERENCES.—A reference in any other Federal  
22      law, Executive order, rule, regulation, or delegation of au-  
23      thority, or any document of or relating to—

24              (1) the Secretary of the Treasury with regard  
25      to functions transferred under subsection (b), shall

1 be deemed to refer to the Secretary of Health and  
2 Human Services; and

3 (2) the Department of the Treasury with re-  
4 gard to functions transferred under subsection (b),  
5 shall be deemed to refer to the Department of  
6 Health and Human Services.

7 (j) ADDITIONAL CONFORMING AMENDMENTS.—

8 (1) RECOMMENDED LEGISLATION.—After con-  
9 sultation with the appropriate committees of Con-  
10 gress and the Director of the Office of Management  
11 and Budget, the Secretary of Health and Human  
12 Services shall prepare and submit to the Congress  
13 recommended legislation containing technical and  
14 conforming amendments to reflect the changes made  
15 by this section.

16 (2) SUBMISSION TO THE CONGRESS.—Not later  
17 than 6 months after the effective date of this sec-  
18 tion, the Secretary of Health and Human Services  
19 shall submit the recommended legislation referred to  
20 under paragraph (1).

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