

Calendar No. **701**114TH CONGRESS
2^D SESSION**S. 2508**

To reduce sports-related concussions in youth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2016

Mr. UDALL (for himself, Mr. BLUMENTHAL, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 6, 2016

Reported by Mr. THUNE, without amendment

A BILL

To reduce sports-related concussions in youth, 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 “Youth Sports Concus-
5 sion Act”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) Scientific advancements and a greater un-
5 derstanding of the issues that affect the health and
6 safety of young athletes are key to reducing sports
7 related concussions in youth.

8 (2) The National Academies issued a report in
9 2013 finding limited evidence that current helmet
10 designs reduce the risk of sports-related concussions
11 and no evidence that mouthguards or facial protec-
12 tion reduce concussion risk, and recommending that
13 the National Institutes of Health and the Depart-
14 ment of Defense fund research on biomechanical fac-
15 tors that influence injury risk in youth.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that—

18 (1) the Consumer Product Safety Commission
19 should review the National Academies' report and
20 future research in this area, including research as
21 recommended by the National Academies, for any
22 matter that may impact products under the Com-
23 mission's jurisdiction;

24 (2) if protective equipment manufacturers
25 choose to adopt voluntary consumer product safety
26 standards, the voluntary standards should include

1 mechanisms to ensure substantial compliance by cov-
2 ered entities; and

3 (3) the Federal Trade Commission should re-
4 view the National Academies' report and future re-
5 search in this area, including research as rec-
6 ommended by the National Academies, for any mat-
7 ter that may inform efforts to protect consumers
8 from unfair or deceptive practices in or affecting
9 commerce.

10 **SEC. 3. FALSE OR MISLEADING CLAIMS WITH RESPECT TO**
11 **ATHLETIC SPORTING ACTIVITY EQUIPMENT.**

12 (a) UNLAWFUL ACTIVITY.—It is unlawful for any
13 person to sell, or offer for sale, in interstate commerce,
14 or import into the United States for the purpose of selling
15 or offering for sale, any item or equipment intended, de-
16 signed, or offered for use by an individual engaged in any
17 athletic sporting activity, whether professional or amateur,
18 for which the seller or importer, or any person acting on
19 behalf of the seller or importer, makes any deceptive claim
20 with respect to the safety benefits of such item.

21 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
22 SION.—

23 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
24 TICES.—A violation of subsection (a) shall be treated
25 as a violation of a rule under section 18 of the Fed-

1 eral Trade Commission Act (15 U.S.C. 57a) regard-
2 ing unfair or deceptive acts or practices.

3 (2) POWERS OF FEDERAL TRADE COMMIS-
4 SION.—

5 (A) IN GENERAL.—The Federal Trade
6 Commission shall enforce this section in the
7 same manner, by the same means, and with the
8 same jurisdiction, powers, and duties as though
9 all applicable terms and provisions of the Fed-
10 eral Trade Commission Act (15 U.S.C. 41 et
11 seq.) were incorporated into and made a part of
12 this section.

13 (B) REGULATIONS.—Notwithstanding any
14 other provision of law, the Federal Trade Com-
15 mission may promulgate under section 553 of
16 title 5, United States Code, such regulations as
17 the Commission considers necessary or appro-
18 priate to carry out this section.

19 (C) PRIVILEGES AND IMMUNITIES.—Any
20 person who violates subsection (a) shall be sub-
21 ject to the penalties and entitled to the privi-
22 leges and immunities provided in the Federal
23 Trade Commission Act as though all applicable
24 terms and provisions of the Federal Trade

Commission Act (15 U.S.C. 41 et seq.) were incorporated and made part of this section.

(D) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.

(c) ENFORCEMENT BY STATES.—

(1) IN GENERAL.—Except as provided in paragraph (4), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by any person who violates subsection (a), the attorney general of the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate injunctive relief.

(2) RIGHTS OF FEDERAL TRADE COMMISSION.—

(A) NOTICE TO FEDERAL TRADE COMMISSION.—

(i) IN GENERAL.—Except as provided in clause (iii), the attorney general of a State shall notify the Federal Trade Commission in writing that the attorney gen-

1 eral intends to bring a civil action under
2 paragraph (1) before initiating the civil ac-
3 tion.

4 (ii) CONTENTS.—The notification re-
5 quired by clause (i) with respect to a civil
6 action shall include a copy of the complaint
7 to be filed to initiate the civil action.

8 (iii) EXCEPTION.—If it is not feasible
9 for the attorney general of a State to pro-
10 vide the notification required by clause (i)
11 before initiating a civil action under para-
12 graph (1), the attorney general shall notify
13 the Federal Trade Commission imme-
14 diately upon instituting the civil action.

15 (B) INTERVENTION BY FEDERAL TRADE
16 COMMISSION.—The Federal Trade Commission
17 may—

18 (i) intervene in any civil action
19 brought by the attorney general of a State
20 under paragraph (1); and

21 (ii) upon intervening—

22 (I) be heard on all matters aris-
23 ing in the civil action; and

24 (II) file petitions for appeal.

1 (3) INVESTIGATORY POWERS.—Nothing in this
2 subsection shall be construed to prevent the attorney
3 general of a State from exercising the powers con-
4 ferred on the attorney general by the laws of the
5 State to conduct investigations, to administer oaths
6 or affirmations, or to compel the attendance of wit-
7 nesses or the production of documentary or other
8 evidence.

9 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
10 COMMISSION.—If the Federal Trade Commission in-
11 stitutes a civil action or an administrative action
12 with respect to a violation of subsection (a) or a rule
13 promulgated under subsection (b)(2)(B) the attorney
14 general of a State may not, during the pendency of
15 that action, bring a civil action under paragraph (1)
16 against any defendant named in the complaint of the
17 Commission for the violation with respect to which
18 the Commission instituted such action.

19 (5) VENUE; SERVICE OF PROCESS.—

20 (A) VENUE.—Any action brought under
21 paragraph (1) may be brought in any district
22 court of the United States that meets applicable
23 requirements relating to venue under section
24 1391 of title 28, United States Code.

1 (B) SERVICE OF PROCESS.—In an action
2 brought under paragraph (1), process may be
3 served in any district in which the defendant—

4 (i) is an inhabitant; or

5 (ii) may be found.

6 (6) ACTIONS BY OTHER STATE OFFICIALS.—In
7 addition to civil actions brought by attorneys general
8 under paragraph (1), any other consumer protection
9 officer of a State who is authorized by the State to
10 do so may bring a civil action under paragraph (1),
11 subject to the same requirements and limitations
12 that apply under this subsection to civil actions
13 brought by attorneys general.

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