



AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 5026

To require warning labels on sugar-sweetened foods and beverages, foods and beverages containing high-intensity sweeteners, ultra-processed foods, and foods high in nutrients of concern, such as added sugar, saturated fat, or sodium, to restrict junk food advertising to children

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Childhood Diabetes Reduction Act of 2026”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 101. Front of package nutrition labeling of foods; restriction on certain advertisements directed at children.

Sec. 102. National Institutes of Health research on nutrition science.

Sec. 103. Nutrition and physical activity public education campaign.

TITLE II—FEDERAL TRADE COMMISSION

Sec. 201. Definitions.

Sec. 202. Restrictions on advertisements for junk food directed at children; required disclosure of any health and nutrient warning label in advertisements.

Sec. 203. Restoring the Federal Trade Commission's ability to promulgate rules on children's advertising.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 101. FRONT OF PACKAGE NUTRITION LABELING OF FOODS; RESTRICTION ON CERTAIN ADVERTISEMENTS DIRECTED AT CHILDREN.

(a) FRONT OF PACKAGE NUTRITION LABELING.—

Section 403 of the Federal Food, Drug, and Cosmetic Act
(21 U.S.C. 343) is amended—

(1) by adding at the end the following:

“(z)(1) If it is a sugar-sweetened beverage intended for human consumption and is offered for sale, unless its label includes the following statement: ‘Food and Drug Administration Warning: Drinking beverages with added sugar can contribute to obesity, type 2 diabetes, and tooth decay. Not recommended for children.’, and such statement is—

“(A) enclosed by a rectangular border in bold type and readily legible under ordinary conditions alongside an icon comprised of an exclamation point contained within a triangle; and

1 “(B) prominently displayed on the front, or the
2 principal display, of the container, using not less
3 than 5 percent of the area of the front, or the prin-
4 cipal display, of the container, and, as applicable, on
5 2 sides of any multi-pack packaging.

6 “(2) If it is a food, including a beverage, containing
7 any high-intensity sweetener intended for human con-
8 sumption and is offered for sale, unless its label includes
9 the following statement: ‘Food and Drug Administration
10 Warning: Contains high-intensity sweetener. Not rec-
11 ommended for children.’, and such statement is—

12 “(A) enclosed by a rectangular border in bold
13 type and readily legible under ordinary conditions
14 alongside an icon comprised of an exclamation point
15 contained within a triangle; and

16 “(B) prominently displayed on the front, or the
17 principal display, of the container, using not less
18 than 5 percent of the area of the front, or the prin-
19 cipal display, of the container, and, as applicable, on
20 2 sides of any multi-pack packaging.

21 “(3) If it is an ultra-processed food, including a bev-
22 erage, intended for human consumption and is offered for
23 sale, unless its label includes the following statement:
24 ‘Food and Drug Administration Warning: Consuming
25 ultra-processed foods and drinks can cause weight gain,

1 which increases the risk of obesity and type 2 diabetes.’,
2 and such statement is—

3 “(A) enclosed by a rectangular border in bold
4 type and readily legible under ordinary conditions
5 alongside an icon comprised of an exclamation point
6 contained within a triangle; and

7 “(B) prominently displayed on the front, or the
8 principal display, of the container, using not less
9 than 5 percent of the area of the front, or the prin-
10 cipal display, of the container, and, as applicable, on
11 2 sides of any multi-pack packaging.

12 “(4) If it is a food, including a beverage, intended
13 for human consumption and is offered for sale, and such
14 food contains a nutrient of concern, such as added sugar,
15 saturated fat, or sodium, or any other nutrient of concern,
16 as the Secretary determines appropriate, at a level that
17 increases, for individuals in the general population, the
18 risk of disease or a health-related condition, as defined
19 by the Secretary, unless its label includes the following
20 statement for each nutrient of concern: ‘High in’, followed
21 by the specific nutrient of concern, and such statement
22 is—

23 “(A) enclosed by an octagon border in bold type
24 and readily legible under ordinary conditions; and

1 “(B) prominently displayed on the front, or the
2 principal display, of the container, using not less
3 than 5 percent of the area of the front, or the prin-
4 cipal display, of the container, and, as applicable, on
5 2 sides of any multi-pack packaging.

6 “(5) For purposes of this paragraph—

7 “(A) the term ‘high-intensity sweetener’—

8 “(i) means any synthetic, naturally-occur-
9 ring, or modified non-nutritive sweetener that is
10 not classified as sugar and is used as an ingre-
11 dient in manufactured food, or sold on its own
12 to be added to food; and

13 “(ii) includes acesulfame K, aspartame,
14 advantame, cyclamates, monk fruit, neotame,
15 saccharin, sucralose, stevia, and stevia deriva-
16 tives;

17 “(B) the term ‘sugar-sweetened beverage’—

18 “(i) means any beverage intended for
19 human consumption to which one or more ca-
20 loric sweeteners has been added and that con-
21 tains 25 or more calories per 12 fluid ounces of
22 beverage; and

23 “(ii) includes drinks and beverages com-
24 monly referred to as ‘soda’, ‘pop’, ‘cola’, ‘soft
25 drinks’, ‘sports drinks’, ‘energy drinks’,

1 'slushies', 'sweetened ice tea', 'fruit juice', or
2 any other drinks and beverage, as determined
3 by the Secretary; and

4 "(iii) does not include—

5 "(I) any critical food, as defined in
6 section 201(ss);

7 "(II) any beverage designed as supple-
8 mental, meal replacement, or sole-source
9 nutrition that includes proteins, carbo-
10 hydrates, and multiple vitamins and min-
11 erals;

12 "(III) 100 percent natural fruit or
13 vegetable juice; or

14 "(IV) any alcoholic beverage; or

15 "(V) any other product that the Sec-
16 retary determines appropriate; and

17 "(C) the term 'ultra-processed food'—

18 "(i) means a food, including a beverage,
19 containing one or more industrial ingredients,
20 including surface-active agents, stabilizers and
21 thickeners, propellants, aerating agents and
22 gases, color and coloring adjuncts, emulsifiers
23 and emulsifier salts, flavoring agents and adju-
24 vants, flavor enhancers, surface-finishing, high-

1 intensity sweeteners, and other ingredients, as
2 the Secretary determines appropriate; and

3 “(ii) does not include—

4 “(I) any product that meets the defi-
5 nition of ‘healthy’ set forth in current reg-
6 ulations promulgated by the Food and
7 Drug Administration;

8 “(II) any critical food, as defined in
9 section 201(ss); or

10 “(III) any other product that the Sec-
11 retary determines appropriate.

12 “(6) The Secretary shall promulgate regulations, as
13 appropriate, with respect to the labeling requirements
14 under subparagraphs (1), (2), (3), and (4), which may in-
15 clude—

16 “(A) information on minimum font size, spac-
17 ing in comparison to other required statements, and
18 steps to comply for products with small packaging;

19 “(B) information on how the labeling require-
20 ments may be applied to online retailers; and

21 “(C) additional information the Secretary deter-
22 mines to be necessary to assist with compliance with
23 the labeling requirements.”; and

24 (2) in paragraph (r)(2)(A)(vi), by inserting “,
25 including if the Secretary determines that the food

1 is high in added sugar, saturated fat, sodium, or any
2 other nutrient of concern (as determined by the Sec-
3 retary pursuant to paragraph (z)(4)), or if the food
4 contains high-intensity sweetener or is an ultra-proc-
5 essed food (as defined in paragraph (z)(5)(C))” be-
6 fore the period at the end.

7 (b) ADVERTISING.—Section 301 of the Federal Food,
8 Drug, and Cosmetic Act (21 U.S.C. 331) is amended by
9 adding at the end the following:

10 “(jjj)(1) Marketing or advertising a food for which
11 labeling is required under section 403(z), in a manner that
12 reasonably appears to be directed at children.

13 “(2) In determining whether any marketing or adver-
14 tising reasonably appears to be directed to children for
15 purposes of subparagraph (1), the Secretary shall consider
16 the totality of the circumstances, including whether such
17 marketing or advertising uses themes or promotional
18 strategies for food described in section 403(z) that appeal
19 to children, such as the use of fun or fantasy themes, ath-
20 letes and celebrities, cross-promotions using fictional char-
21 acters, cartoon characters, social media influencers, ani-
22 mation, children’s music, actors, or situations representing
23 children’s daily life, or free gifts or toys, contests, inter-
24 active games, or mobile or computer applications.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary of Health
3 and Human Services such sums as may be necessary for
4 each of fiscal years 2027 through 2031 for purposes of
5 promulgating regulations and carrying out enforcement
6 activities with respect to the labeling requirements under
7 the amendments made by subsections (a) and (b).

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect 1 year after the date of enact-
10 ment of this Act.

11 **SEC. 102. NATIONAL INSTITUTES OF HEALTH RESEARCH**
12 **ON NUTRITION SCIENCE.**

13 Part A of title IV of the Public Health Service Act
14 (42 U.S.C. 281 et seq.) is amended by adding at the end
15 the following:

16 **“SEC. 404P. RESEARCH AND COLLABORATION ON NUTRI-**
17 **TION SCIENCE.**

18 “(a) IN GENERAL.—The Director of NIH shall, as
19 appropriate, expand, intensify, and coordinate the activi-
20 ties of the National Institutes of Health with respect to
21 nutrition science, including basic and clinical research
22 on—

23 “(1) the effects of food and dietary patterns, in-
24 cluding ultra-processed foods, on health;

1 “(2) the effects of food processing, formulation,
2 ingredient, and additives on health and food con-
3 sumption;

4 “(3) the biological and health effects of food in-
5 gredients and additives, including research to ad-
6 dress gaps in available evidence;

7 “(4) the effects of food formulation and proc-
8 essing on eating behavior, energy intake, and pat-
9 terns of consumption, including relevant biological
10 and behavioral mechanisms; and

11 “(5) evidence-based approaches to improve nu-
12 trition and prevent or manage chronic disease re-
13 lated to diet.

14 “(b) COORDINATION AND STAKEHOLDER INPUT.—In
15 carrying out this section, the Director of NIH shall coordi-
16 nate, as appropriate, with the Commissioner of Food and
17 Drugs and the heads of other relevant Federal agencies,
18 and may consult with researchers, clinicians, patients, and
19 other relevant stakeholders.

20 “(c) DEFINITION.—In this section, the term ‘ultra-
21 processed food’ has the meaning given such term in sec-
22 tion 403(z)(6) of the Federal Food, Drug, and Cosmetic
23 Act.”.

1 **SEC. 103. NUTRITION AND PHYSICAL ACTIVITY PUBLIC**
2 **EDUCATION CAMPAIGN.**

3 Section 399Y of the Public Health Service Act (42
4 U.S.C. 280h-2) is amended—

5 (1) in the section heading, by inserting “**NU-**
6 **TRITION AND PHYSICAL ACTIVITY PUBLIC**” be-
7 fore “**EDUCATION CAMPAIGN**”;

8 (2) in subsection (a), by striking “, and in col-
9 laboration with” and all that follows through the pe-
10 riod at the end and inserting “ and in coordination
11 with the Office of the Assistant Secretary of Health,
12 shall, as appropriate, conduct or support public edu-
13 cation activities concerning nutrition, physical activ-
14 ity, and the prevention of chronic disease related to
15 diet.”;

16 (3) by redesignating subsection (b) as sub-
17 section (d);

18 (4) by inserting after subsection (a) the fol-
19 lowing:

20 “(b) **ACTIVITIES.**—Activities conducted or supported
21 under subsection (a) may include the dissemination of evi-
22 dence-based information concerning—

23 “(1) the health risks associated with obesity, in-
24 activity, and poor nutrition;

25 “(2) the relationship between nutrition, physical
26 activity, and chronic disease;

1 “(3) the use of nutrition information, including
2 information provided on food labels, to inform die-
3 tary choices; and

4 “(4) strategies to support healthy eating and
5 physical activity.

6 “(c) COORDINATION.—In carrying out this section,
7 the Secretary may coordinate with other relevant Federal
8 agencies and consult with State, local, and Tribal public
9 health agencies, health professionals, and other relevant
10 stakeholders, as appropriate.”; and

11 (5) in subsection (d), as so redesignated, by
12 striking “2001 through 2005” and inserting “2027
13 through 2031”.

14 **TITLE II—FEDERAL TRADE** 15 **COMMISSION**

16 **SEC. 201. DEFINITIONS.**

17 In this title:

18 (1) CHILD.—The term “child” means an indi-
19 vidual who is under the age of 13.

20 (2) CHILD-DIRECTED ADVERTISING.—The term
21 “child-directed advertising” means any advertise-
22 ment—

23 (A) that uses themes or promotional strat-
24 egies that appeal to children, which may include
25 the use of—

1 (i) fun or fantasy themes, cartoon
2 characters, social media influencers, ani-
3 mation, endorsements by celebrities and
4 athletes, cross-promotions using fictional
5 characters, children's music, actors, or sit-
6 uations representing children's daily life; or

7 (ii) free gifts or toys, contests, inter-
8 active games, or mobile or computer appli-
9 cations; or

10 (B) in media for which children comprise
11 at least 30 percent of the audience, as deter-
12 mined by the Commission, that is displayed
13 using—

14 (i) traditional measured media, such
15 as television, radio, and printed media; or

16 (ii) electronic media, content created
17 by influencers, online videos, company-
18 sponsored websites, social media, movies,
19 and video games.

20 (3) COMMISSION.—The term “Commission”
21 means the Federal Trade Commission.

22 (4) JUNK FOOD.—The term “junk food” means
23 products with labeling requirements described in
24 subparagraph (1), (2), (3), or (4) of paragraph (z)
25 of section 403 of the Federal Food, Drug, and Cos-

1 metie Act (21 U.S.C. 343), as added by section
2 101(a) of this Act.

3 **SEC. 202. RESTRICTIONS ON ADVERTISEMENTS FOR JUNK**
4 **FOOD DIRECTED AT CHILDREN; REQUIRED**
5 **DISCLOSURE OF ANY HEALTH AND NUTRIENT**
6 **WARNING LABEL IN ADVERTISEMENTS.**

7 (a) MARKETING OR ADVERTISING JUNK FOOD TO
8 CHILDREN.—

9 (1) IN GENERAL.—It shall be unlawful for any
10 person to market or advertise, or produce or dis-
11 tribute any advertisement or marketing material for,
12 junk food by using child-directed advertising.

13 (2) CONSIDERATIONS.—In determining whether
14 any marketing or advertising uses child-directed ad-
15 vertising for purposes of subparagraph (A), the
16 Commission shall consider the totality of the cir-
17 cumstances.

18 (b) REQUIRED DISCLOSURE.—It shall be unlawful
19 for any person to market or advertise, or produce or dis-
20 tribute any advertisement or marketing material for, junk
21 food without including in such advertisement or marketing
22 material the relevant mandatory health or nutrient warn-
23 ing label or notice described in section 403(z) of the Fed-
24 eral Food, Drug, and Cosmetic Act (21 U.S.C. 343(z)).

1 (c) EFFECTIVE DATE.—The prohibitions established
2 in this section shall take effect on the date that is 1 year
3 after the date of enactment of this Act.

4 (d) ENFORCEMENT BY THE COMMISSION.—

5 (1) UNFAIR OR DECEPTIVE ACT OR PRAC-
6 TICE.—A violation of this section or a regulation
7 promulgated under this section shall be treated as a
8 violation of a rule defining an unfair or deceptive act
9 or practice under section 18(a)(1)(B) of the Federal
10 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

11 (2) POWERS OF THE COMMISSION.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (C), the Commission shall enforce
14 this section in the same manner, by the same
15 means, and with the same jurisdiction, powers,
16 and duties as though all applicable terms and
17 provisions of the Federal Trade Commission
18 Act (15 U.S.C. 41 et seq.) were incorporated
19 into and made a part of this section.

20 (B) PRIVILEGES AND IMMUNITIES.—Ex-
21 cept as provided in subparagraph (C), any per-
22 son who violates this section or a regulation
23 promulgated under this section shall be subject
24 to the penalties and entitled to the privileges

1 and immunities provided in the Federal Trade
2 Commission Act (15 U.S.C. 41 et seq.).

3 (C) COMMON CARRIERS.—Notwithstanding
4 section 4, 5(a)(2), or 6 of the Federal Trade
5 Commission Act (15 U.S.C. 44, 45(a)(2), 46)
6 or any jurisdictional limitation of the Commis-
7 sion, the Commission shall also enforce this
8 Act, in the same manner provided in subpara-
9 graphs (A) and (B), with respect to common
10 carriers subject to the Communications Act of
11 1934 (47 U.S.C. 151 et seq.) and Acts amend-
12 atory thereof and supplementary thereto.

13 (D) AUTHORITY PRESERVED.—Nothing in
14 this section shall be construed to limit the au-
15 thority of the Commission under any other pro-
16 vision of law.

17 (E) RULEMAKING.—The Commission shall
18 promulgate in accordance with section 553 of
19 title 5, United States Code, such rules as may
20 be necessary to carry out this section.

21 **SEC. 203. RESTORING THE FEDERAL TRADE COMMISSION'S**
22 **ABILITY TO PROMULGATE RULES ON CHIL-**
23 **DREN'S ADVERTISING.**

24 (a) IN GENERAL.—Section 18(h) of the Federal
25 Trade Commission Act (15 U.S.C. 57a(h)) is repealed.

1 (b) CONFORMING AMENDMENT.—Section 18(a)(1) of
2 such Act is amended in the matter preceding subpara-
3 graph (A), by striking “Except as provided in subsection
4 (h), the Commission” and inserting “The Commission”.