118TH CONGRESS
2D SESSION

S. 3584

To require enforcement against misbranded egg alternatives.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2024

Mr. FETTERMAN (for himself, Ms. ERNST, Mrs. GILLIBRAND, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To require enforcement against misbranded egg alternatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consistent Egg Labels Act of 2024''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Eggs and egg products are nutrient- and protein-rich foods that contribute to a healthy diet, according to the Dietary Guidelines for Americans, 2020–2025 (referred to in this section as the ''Die-

tary Guidelines'') published by the Department of Agriculture and the Department of Health and Human Services.

(2) Eggs and egg products are important sources of iron, zinc, protein, choline, and long chain polyunsaturated fatty acids. Long chain polyunsaturated fatty acids contribute to healthy brain development for infants, according to the Dietary Guidelines.

(3) Many Americans rely on eggs and egg products as an affordable, healthy source of protein. Nutritional research from the Department of Agriculture finds that eggs are the lowest cost source of protein, vitamin A, vitamin B12, iron, and riboflavin. Eggs provide Americans with an easy, inexpensive source of protein.

(4) The protein found in eggs is highly digestible and contains numerous essential amino acids. Plant-sourced protein found in egg product alternatives does not contain essential amino acids in levels as concentrated as in eggs.

(5) Egg product alternatives are relatively new on the market and have potential to mislead consumers if such products are not properly labeled to

distinguish such products from products made from shell eggs.

(6) Consumers purchase egg product alternatives for various reasons, including food allergies. Consumers who need to purchase alternatives should be assured of labeling that is truthful and not misleading.

SEC. 3. PURPOSE.

No food may be introduced or delivered for introduction into interstate commerce using a market name for an egg or egg product if the food does not meet the criterion set forth for eggs or egg products under paragraph (z)(2) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) (as added by section 4(a)).

SEC. 4. ENFORCEMENT OF DEFINITION.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(z)(1) If it uses a market name for an egg or egg product described in subparagraph (3) and the food does not meet the criterion for being an egg or egg product, as described in subparagraph (2).

''(2) For purposes of this paragraph, a food is an egg only if the food is the reproductive output of avian poultry species, including an albumen or yolk that is, or

was at any point, encased in a calcium-based shell. For purposes of this paragraph, a food is an egg product only if the food is an egg product described in part 160 of title 21, Code of Federal Regulations (or successor regulations).

''(3) A market name for an egg or egg product described in this subparagraph means the egg or egg product terms described in part 160 of title 21, Code of Federal Regulations (or successor regulations), section 590.5 of title 9, Code of Federal Regulations (or successor regulations), or the common and usual name for 'egg'.''.

(b) GUIDANCE.—

(1) NEW GUIDANCE.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall—

(A) not later than 180 days after the date of enactment of this Act, issue draft guidance on how enforcement of the amendment made by subsection (a) will be carried out; and

(B) not later than 1 year after the date of enactment of this Act, issue final guidance on such enforcement.

(2) EFFECT ON CERTAIN PREVIOUS GUIDANCE.—Effective on the date of enactment of this Act, any guidance with respect to eggs or egg prod-

ucts issued by the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, that is not consistent with paragraph (z) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as added by subsection (a), shall have no force or effect.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, and in consultation with the Secretary of Agriculture, acting through the Administrator of the Food Safety and Inspection Service, shall report to Congress on actions taken with respect to food that is misbranded as described in paragraph (z) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as amended by this Act, including warnings issued pursuant to such paragraph and penalties assessed under section 303 of such Act (21 U.S.C. 333) with respect to such paragraph. If food that is misbranded under such section 403(z) is offered for sale in interstate commerce at the time of such report, the Commissioner of Food and Drugs shall include in such report an updated plan for actions to be taken with respect to such food.

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