

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 1014

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

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 following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Youth Sports Concussion Act”.
5

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) scientific advancements and a greater understanding of the issues that affect the health and
9 safety of young athletes are key to reducing sports-related concussions in youth;
10
11

1 (2) the National Academies issued a report in
2 2013 finding limited evidence that current helmet
3 designs reduce the risk of sports-related concussions
4 and no evidence that mouthguards or facial protec-
5 tion reduce concussion risk, and recommending that
6 the National Institutes of Health and the Depart-
7 ment of Defense fund research on biomechanical fac-
8 tors that influence injury risk in youth;

9 (3) the Consumer Product Safety Commission
10 should review the National Academies' report and
11 future research in this area, including research as
12 recommended by the National Academies, for any
13 matter that may impact products under the Com-
14 mission's jurisdiction;

15 (4) if protective equipment manufacturers
16 choose to adopt voluntary consumer product safety
17 standards, the voluntary standards should include
18 mechanisms to ensure substantial compliance by cov-
19 ered entities; and

20 (5) the Federal Trade Commission should re-
21 view the National Academies' report and future re-
22 search in this area, including research as rec-
23 ommended by the National Academies, for any mat-
24 ter that may inform efforts to protect consumers

1 from unfair or deceptive practices in or affecting
2 commerce.

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

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

14 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
15 SION.—

16 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
17 TICES.—A violation of subsection (a) shall be treated
18 as a violation of a rule under section 18 of the Fed-
19 eral Trade Commission Act (15 U.S.C. 57a) regard-
20 ing unfair or deceptive acts or practices.

21 (2) POWERS OF FEDERAL TRADE COMMIS-
22 SION.—

23 (A) IN GENERAL.—The Federal Trade
24 Commission shall enforce this section in the
25 same manner, by the same means, and with the

1 same jurisdiction, powers, and duties as though
2 all applicable terms and provisions of the Fed-
3 eral Trade Commission Act (15 U.S.C. 41 et
4 seq.) were incorporated into and made a part of
5 this section.

6 (B) REGULATIONS.—Notwithstanding any
7 other provision of law, the Federal Trade Com-
8 mission may promulgate under section 553 of
9 title 5, United States Code, such regulations as
10 the Commission considers necessary or appro-
11 priate to carry out this section.

12 (C) PRIVILEGES AND IMMUNITIES.—Any
13 person who violates subsection (a) shall be sub-
14 ject to the penalties and entitled to the privi-
15 leges and immunities provided in the Federal
16 Trade Commission Act as though all applicable
17 terms and provisions of the Federal Trade
18 Commission Act (15 U.S.C. 41 et seq.) were in-
19 corporated and made part of this section.

20 (D) AUTHORITY PRESERVED.—Nothing in
21 this section shall be construed to limit the au-
22 thority of the Federal Trade Commission under
23 any other provision of law.

24 (e) ENFORCEMENT BY STATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (4), in any case in which the attorney general
3 of a State has reason to believe that an interest of
4 the residents of the State has been or is threatened
5 or adversely affected by any person who violates sub-
6 section (a), the attorney general of the State, as
7 *parens patriae*, may bring a civil action on behalf of
8 the residents of the State in an appropriate district
9 court of the United States to obtain appropriate in-
10 junctive relief.

11 (2) RIGHTS OF FEDERAL TRADE COMMIS-
12 SION.—

13 (A) NOTICE TO FEDERAL TRADE COMMIS-
14 SION.—

15 (i) IN GENERAL.—Except as provided
16 in clause (iii), the attorney general of a
17 State shall notify the Federal Trade Com-
18 mission in writing that the attorney gen-
19 eral intends to bring a civil action under
20 paragraph (1) before initiating the civil ac-
21 tion.

22 (ii) CONTENTS.—The notification re-
23 quired by clause (i) with respect to a civil
24 action shall include a copy of the complaint
25 to be filed to initiate the civil action.

1 (iii) EXCEPTION.—If it is not feasible
2 for the attorney general of a State to pro-
3 vide the notification required by clause (i)
4 before initiating a civil action under para-
5 graph (1), the attorney general shall notify
6 the Federal Trade Commission imme-
7 diately upon instituting the civil action.

8 (B) INTERVENTION BY FEDERAL TRADE
9 COMMISSION.—The Federal Trade Commission
10 may—

11 (i) intervene in any civil action
12 brought by the attorney general of a State
13 under paragraph (1); and

14 (ii) upon intervening—

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

17 (II) file petitions for appeal.

18 (3) INVESTIGATORY POWERS.—Nothing in this
19 subsection shall be construed to prevent the attorney
20 general of a State from exercising the powers con-
21 ferred on the attorney general by the laws of the
22 State to conduct investigations, to administer oaths
23 or affirmations, or to compel the attendance of wit-
24 nesses or the production of documentary or other
25 evidence.

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

11 (5) VENUE; SERVICE OF PROCESS.—

12 (A) VENUE.—Any action brought under
13 paragraph (1) may be brought in any district
14 court of the United States that meets applicable
15 requirements relating to venue under section
16 1391 of title 28, United States Code.

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

20 (i) is an inhabitant; or

21 (ii) may be found.

22 (6) ACTIONS BY OTHER STATE OFFICIALS.—In
23 addition to a civil actions brought by attorneys gen-
24 eral under paragraph (1), any other consumer pro-
25 tection officer of a State who is authorized by the

1 State to do so may bring a civil action under para-
2 graph (1), subject to the same requirements and
3 limitations that apply under this subsection to civil
4 actions brought by attorneys general.