

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

A BILL

To require enforcement against misbranded egg alternatives.

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 “Consistent Egg Labels
5 Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Eggs and egg products are nutrient- and
9 protein-rich foods that contribute to a healthy diet,
10 according to the Dietary Guidelines for Americans,
11 2020–2025 (referred to in this section as the “Die-

1 tary Guidelines”) published by the Department of
2 Agriculture and the Department of Health and
3 Human Services.

4 (2) Eggs and egg products are important
5 sources of iron, zinc, protein, choline, and long chain
6 polyunsaturated fatty acids. Long chain polyunsat-
7 urated fatty acids contribute to healthy brain devel-
8 opment for infants, according to the Dietary Guide-
9 lines.

10 (3) Many Americans rely on eggs and egg prod-
11 ucts as an affordable, healthy source of protein. Nu-
12 tritional research from the Department of Agri-
13 culture finds that eggs are the lowest cost source of
14 protein, vitamin A, vitamin B12, iron, and ribo-
15 flavin. Eggs provide Americans with an easy, inex-
16 pensive source of protein.

17 (4) The protein found in eggs is highly digest-
18 ible and contains numerous essential amino acids.
19 Plant-sourced protein found in egg product alter-
20 natives does not contain essential amino acids in lev-
21 els as concentrated as in eggs.

22 (5) Egg product alternatives are relatively new
23 on the market and have potential to mislead con-
24 sumers if such products are not properly labeled to

1 distinguish such products from products made from
2 shell eggs.

3 (6) Consumers purchase egg product alter-
4 natives for various reasons, including food allergies.
5 Consumers who need to purchase alternatives should
6 be assured of labeling that is truthful and not mis-
7 leading.

8 **SEC. 3. PURPOSE.**

9 No food may be introduced or delivered for introduc-
10 tion into interstate commerce using a market name for
11 an egg or egg product if the food does not meet the cri-
12 terion set forth for eggs or egg products under paragraph
13 (z)(2) of section 403 of the Federal Food, Drug, and Cos-
14 metic Act (21 U.S.C. 343) (as added by section 4(a)).

15 **SEC. 4. ENFORCEMENT OF DEFINITION.**

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

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

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

1 was at any point, encased in a calcium-based shell. For
 2 purposes of this paragraph, a food is an egg product only
 3 if the food is an egg product described in part 160 of title
 4 21, Code of Federal Regulations (or successor regula-
 5 tions).

6 “(3) A market name for an egg or egg product de-
 7 scribed in this subparagraph means the egg or egg product
 8 terms described in part 160 of title 21, Code of Federal
 9 Regulations (or successor regulations), section 590.5 of
 10 title 9, Code of Federal Regulations (or successor regula-
 11 tions), or the common and usual name for ‘egg’.”.

12 (b) GUIDANCE.—

13 (1) NEW GUIDANCE.—The Secretary of Health
 14 and Human Services, acting through the Commis-
 15 sioner of Food and Drugs, shall—

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

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

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

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

7 (c) REPORT TO CONGRESS.—Not later than 2 years
8 after the date of enactment of this Act, the Secretary of
9 Health and Human Services, acting through the Commis-
10 sioner of Food and Drugs, and in consultation with the
11 Secretary of Agriculture, acting through the Adminis-
12 trator of the Food Safety and Inspection Service, shall re-
13 port to Congress on actions taken with respect to food that
14 is misbranded as described in paragraph (z) of section 403
15 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
16 343), as amended by this Act, including warnings issued
17 pursuant to such paragraph and penalties assessed under
18 section 303 of such Act (21 U.S.C. 333) with respect to
19 such paragraph. If food that is misbranded under such
20 section 403(z) is offered for sale in interstate commerce
21 at the time of such report, the Commissioner of Food and
22 Drugs shall include in such report an updated plan for
23 actions to be taken with respect to such food.

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