

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1823

To require health warnings to be included in alcoholic beverage advertisements, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1993

Mr. KENNEDY (for himself, Mr. MCCURDY, Mr. BEILENSON, Mr. CONYERS, Mr. SERRANO, Mr. LAFALCE, and Mr. ORTON) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To require health warnings to be included in alcoholic beverage advertisements, 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 “Sensible Advertising  
5       and Family Education Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Alcohol is by far the drug most widely used  
9       and abused by young people in the United States  
10      today, even though it is illegal for youths under age

1 21 to purchase alcohol in all 50 of the States and  
2 the District of Columbia.

3 (2) According to the 1992 National Institute on  
4 Drug Abuse survey of high school students and  
5 young adults, 89.5 percent of high school seniors in  
6 the class of 1990 had used alcohol at least once and  
7 30 percent had experienced a “binge” of 5 or more  
8 drinks in a row within the past 2 weeks. Among col-  
9 lege students, 43 percent reported occasions of  
10 “binge” drinking, including 35 percent of the fe-  
11 males and 52 percent of the males.

12 (3) The average age at which young people  
13 begin drinking is 13. By age 13, approximately 30  
14 percent of boys and 22 percent of girls classify  
15 themselves as drinkers. According to the 1988 Na-  
16 tional High School Senior Survey, 17 percent of  
17 high school seniors reported having been drunk by  
18 eighth grade, 37 percent by ninth grade, 54 percent  
19 by tenth grade, and 71 percent by twelfth grade.  
20 Studies demonstrate that the use of alcohol by indi-  
21 viduals before the age of 15 appears to be one of the  
22 predictors of later heavy alcohol and other drug use  
23 by the individuals.

24 (4) Young people are not well informed about  
25 the hazards of alcohol use. Only 43 percent of high

1 school seniors believe there is great risk of harm  
2 from drinking activities such as binge drinking once  
3 or twice each weekend. More than one quarter of  
4 high school seniors do not view heavy, regular daily  
5 (“binge”) drinking as entailing great risk. More  
6 than 40 percent of 8th graders, 45 percent of 10th  
7 graders, and 51 percent of 12th graders do not per-  
8 ceive having 5 or more drinks once or twice a week-  
9 end as entailing a great risk.

10 (5) According to the Department of Health and  
11 Human Services, sponsorships and promotions on  
12 college campuses by alcohol producers and the use of  
13 celebrities and youth-oriented musical groups in ad-  
14 vertising create a pro-drinking environment.

15 (6) Treatment costs for fetal alcohol syndrome  
16 (referred to in this section as “FAS”) and other al-  
17 cohol-related birth defects in the United States are  
18 estimated at nearly a third of a billion dollars. FAS  
19 is one of the top 3 known causes of birth defects  
20 with accompanying mental retardation and the only  
21 known preventable cause among the top three.  
22 Among children born to women who drink heavily,  
23 the incidence of FAS may be as high as 25 per  
24 1,000 live births. Among children born to other  
25 women, the FAS incidence is between 1 to 3 infants

1 with the syndrome per 1,000 live births. The inci-  
2 dence of other alcohol-related birth defects is esti-  
3 mated to be 3 times greater than that of FAS.

4 (7) According to the National Institute on Alco-  
5 hol Abuse and Alcoholism, an estimated 18,000,000  
6 persons in the United States who are 18 or older  
7 currently experience problems as a result of alcohol  
8 use. An estimated 4,500,000 young people are de-  
9 pendent on alcohol or are problem drinkers.

10 (8) According to Healthy People 2000, the Na-  
11 tional Health Promotion and Disease Prevention Ob-  
12 jectives—

13 (A) nearly one-half of all deaths from  
14 motor vehicle crashes are alcohol-related;

15 (B) alcohol is implicated in nearly one-half  
16 of all fatal intentional injuries such as suicides  
17 and homicides; and

18 (C) victims are intoxicated in approxi-  
19 mately one-third of all homicides, drownings,  
20 and boating deaths.

21 (9) An estimated 25 percent of all hospitalized  
22 persons have alcohol-related problems.

23 (10) Alcohol advertising, especially in the  
24 broadcast media, represents the single greatest  
25 source of alcohol education for persons in the United

1 States. According to a 1990 study of 10- to 13-year-  
2 olds, funded by the American Automobile Associa-  
3 tion Foundation for Traffic Safety, there is a rela-  
4 tionship between exposure and attention by an indi-  
5 vidual to beer advertising, and expectations that the  
6 individual drink as an adult.

7 (11) A major 1981 federally funded study  
8 found a significant relationship between—

9 (A) exposure of individuals to alcoholic  
10 beverage advertising as youth; and

11 (B) drinking behaviors and attitudes of the  
12 individuals that can lead to certain forms of  
13 problem drinking.

14 (12) Over 80 percent of 2,000 adults surveyed  
15 in 1988 for the Bureau of Alcohol, Tobacco, and  
16 Firearms by the Opinion Research Corporation be-  
17 lieve that alcohol advertising influences underage  
18 youth to drink alcoholic beverages. The survey also  
19 found that the general public feels that the young  
20 people of the United States constitute the group that  
21 is most at risk from drinking alcoholic beverages.

22 (13) The alcoholic beverage industry spends ap-  
23 proximately \$2,000,000,000 each year on advertising  
24 and promotions in the United States.

1           (14) The 1988 Surgeon General’s Workshop on  
2 Drunk Driving has recommended—

3           (A) that the level of alcoholic beverage ad-  
4 vertising be matched with an equal number of  
5 pro-health and pro-safety messages; and

6           (B) the inclusion of health warning mes-  
7 sages in all alcohol advertising.

8           (15) The National Commission on Drug-Free  
9 Schools’ September 1990 Final Report, “Toward a  
10 Drug-Free Generation: A Nation’s Responsibility”,  
11 recommends that Congress—

12           (A) require additional health and safety  
13 messages on all alcohol products and advertis-  
14 ing for the products; and

15           (B) consider enacting a ban on advertising  
16 and promotion of alcohol if alcohol advertising  
17 still targets youth and glamorizes alcohol use.

18           (16) Over two-thirds of persons surveyed in a  
19 1989 Wall Street Journal poll favor requiring  
20 warnings about the dangers of drinking both on al-  
21 coholic beverage containers and in alcohol advertise-  
22 ments. Nearly three-fourths of persons surveyed in  
23 a 1990 Gallup Poll favor requiring health warning  
24 messages in alcohol advertising.

1           (17) Alcohol in combination with other drugs is  
2 the leading cause of emergency room drug abuse epi-  
3 sodes.

4           (18) According to the Inspector General of the  
5 Department of Health and Human Services, the av-  
6 erage binge drinker is a 16 year old male in the  
7 10th grade who was 12 years old when he took his  
8 first drink.

9           (19) A third of all students do not understand  
10 the intoxicating effects of alcohol. More than 2.6  
11 million do not know a person can die from an over-  
12 dose of alcohol. A projected 259,000 students think  
13 that wine coolers or beer cannot get a person drunk,  
14 cannot make a person sick, or cannot do as much  
15 harm as other alcoholic beverages.

16           (20) In 1989, chronic liver disease, including  
17 cirrhosis, was the 9th leading cause of death in the  
18 United States. Of 41,000 deaths attributed to liver  
19 disease in the United States, 46 percent diagnosti-  
20 cally were associated with alcohol. Heavy alcohol use  
21 is considered the most important risk factor for  
22 chronic liver disease. Even among liver disease  
23 deaths not coded as alcohol-related, approximately  
24 50 percent are thought to be due to alcohol use.

1           (21) Between 5 and 24 percent of hypertension  
2 cases are associated with alcohol. Many cases diag-  
3 nosed as essential hypertension (high blood pressure  
4 having no known causes) may actually have chronic  
5 alcohol ingestion as their cause.

6           (22) Alcohol abuse is strongly associated with  
7 increased risk of certain kinds of cancer, especially  
8 cancer of the liver, esophagus, nasopharynx, and lar-  
9 ynx. Alcohol is also associated with dietary defi-  
10 ciency that may increase cancer risk.

11 **SEC. 3. HEALTH WARNINGS.**

12           (a) IN GENERAL.—On and after the expiration of the  
13 6-month period following the date of enactment of this  
14 Act, it shall be an unfair or deceptive act or practice under  
15 section 6 of the Federal Trade Commission Act for any  
16 person to—

17           (1) advertise or cause to be advertised through  
18 magazines, newspapers, brochures, and promotional  
19 displays within the United States any alcoholic bev-  
20 erage unless the advertising bears, in accordance  
21 with requirements of section 3(a), one of the follow-  
22 ing health warnings:

23           **SURGEON GENERAL’S WARNING:** If  
24 you are pregnant, don’t drink. Drinking alcohol  
25 during pregnancy may cause mental retardation

1 and other birth defects. Avoid alcohol during  
2 pregnancy. If you are pregnant and can't stop  
3 drinking, call [insert appropriate toll free num-  
4 ber].

5 **SURGEON GENERAL'S WARNING:** If  
6 you are under the age of 21, it's against the  
7 law to buy alcoholic beverages. For information  
8 about teenagers and young adults and drinking,  
9 call [insert appropriate toll free number]., or

10 **SURGEON GENERAL'S WARNING:** Al-  
11cohol is a drug and may be addictive. If you  
12 know someone who has an alcohol or other drug  
13 problem or has trouble controlling their drink-  
14 ing, call [insert appropriate toll free number].

15 **SURGEON GENERAL'S WARNING:**  
16 Drive sober. If you don't, you could lose your  
17 driver's license. Alcohol impairs your ability to  
18 drive a car or operate machinery. If you or peo-  
19 ple you love drink and drive, call [insert appro-  
20 priate toll free number].

21 **SURGEON GENERAL'S WARNING:**  
22 Don't mix alcohol with over-the-counter, pre-  
23 scription, or illicit drugs. For more information  
24 call [insert appropriate toll free number].

1           **SURGEON GENERAL'S WARNING:** If  
2           you drink too much alcohol too fast, you can  
3           die. You can be poisoned by alcohol if you drink  
4           [insert number of drinks] in [insert time]. To  
5           find out more about alcohol poisoning call [in-  
6           sert appropriate toll free number].

7           **SURGEON GENERAL'S WARNING:**  
8           Drinking increases your risks of high blood  
9           pressure, liver disease, and cancer. The more  
10          you drink, the more likely it is that you will  
11          have such health problems. To find out how to  
12          prevent getting such health problems call [in-  
13          sert appropriate toll free number]., or

14          (2) advertise or cause to be advertised through  
15          radio or television broadcasting (including cable  
16          broadcasting and paid per view or subscription tele-  
17          vision) any alcoholic beverage unless the advertising  
18          includes, in accordance with requirements of section  
19          3(b), one of the following health warnings:

20          **SURGEON GENERAL'S WARNING:** If  
21          you are pregnant, don't drink alcohol. Alcohol  
22          may cause mental retardation and other birth  
23          defects.

1           **SURGEON GENERAL’S WARNING:** If  
2           you are under the age of 21, it’s illegal to buy  
3           alcoholic beverages.

4           **SURGEON GENERAL’S WARNING:** Al-  
5           cohol is a drug and may be addictive.

6           **SURGEON GENERAL’S WARNING:**  
7           Drive sober. If you don’t, you could lose your  
8           driver’s license.

9           **SURGEON GENERAL’S WARNING:**  
10          Don’t mix alcohol with over-the-counter, pre-  
11          scription, or illicit drugs.

12          **SURGEON GENERAL’S WARNING:** If  
13          you drink too much alcohol too fast, you can die  
14          of alcohol poisoning.

15          **SURGEON GENERAL’S WARNING:**  
16          Drinking increases your risk of high blood pres-  
17          sure, liver disease, and cancer.

18          (b) TOLL FREE NUMBERS.— The Secretary of  
19          Health and Human Services shall be responsible for estab-  
20          lishing and maintaining the toll free numbers referred to  
21          in the health warnings required by subsection (a)(1). The  
22          Secretary shall report to Congress annually on the number  
23          of calls received using those numbers and the types of re-  
24          ferrals made.

1 **SEC. 4. REQUIREMENTS.**

2 (a) IN GENERAL.—The health warnings required for  
3 alcoholic beverage advertisements by section 3(a)(1)  
4 shall—

5 (1) be located in a conspicuous and prominent  
6 place on each such advertisement, as determined by  
7 the Secretary of Health and Human Services in reg-  
8 ulations to take effect no later than 6 months after  
9 the date of the enactment of this Act,

10 (2) shall require that all the regulations issued  
11 by the Secretary under paragraph (1) shall require  
12 that all letters in such health warnings appear in  
13 conspicuous and legible type that is not script or  
14 italic and that such health warnings be in contrast  
15 by typography, layout, and color with all other print-  
16 ed material in the advertisement, be surrounded by  
17 typographic lines that form a box, and, on an appro-  
18 priate visual medium, appear on the front of an ad-  
19 vertisement as indicated by labeling of the manufac-  
20 turer or importer, and

21 (3) be rotated in an alternating sequence on  
22 each advertisement of a brand style in accordance  
23 with a plan submitted by such manufacturer or im-  
24 porter to the Secretary.

25 The Secretary shall approve a plan submitted under para-  
26 graph (3) by a manufacturer or importer that assures that

1 each sequence of the same or substantially similar adver-  
2 tisement for a brand style has displayed upon it an equal  
3 distribution of each health warning at the same time. If  
4 an application is approved by the Secretary, the rotation  
5 shall apply with respect to the applicant during the one-  
6 year period beginning on the date of the application ap-  
7 proval.

8 (b) RADIO AND TELEVISION.—

9 (1) WARNINGS.—The health warnings required  
10 for alcoholic beverage advertisements placed on radio  
11 or television broadcasting by section 2(a)(2) shall—

12 (A) be included in a conspicuous and  
13 prominent manner in such advertisement, as  
14 determined by the Secretary of Health and  
15 Human Services in regulations to take effect  
16 not later than 6 months after the date of the  
17 enactment of this Act, and

18 (B) be rotated in an alternating sequence  
19 on each such advertisement of a brand style in  
20 accordance with a plan submitted by such man-  
21 ufacturer or importer to the Secretary.

22 The Secretary shall approve a plan submitted under  
23 subparagraph (B) by a manufacturer or importer  
24 that assures that an equal distribution of each of the  
25 health warnings is displayed on each sequence of the

1 same or substantially similar advertisement for a  
2 brand style at the same time. If an application is ap-  
3 proved by the Secretary, the rotation shall apply  
4 with respect to the applicant during the one-year pe-  
5 riod beginning on the date of the application ap-  
6 proval.

7 (2) REGULATIONS.—The regulations issued by  
8 the Secretary under paragraph (1) shall require—

9 (A) that such health warnings be read as  
10 part of an alcoholic beverage advertisement in  
11 an audible and deliberate manner and in a  
12 length of time that allows for a clear under-  
13 standing of the health warning message by the  
14 intended audience, and

15 (B) that for television a graphic represen-  
16 tation of such health warning be included after  
17 each advertisement, that all letters in such  
18 health warning appear in conspicuous and leg-  
19 ible type that is not script or italic, that such  
20 health warning be surrounded by typographic  
21 lines that form a box, and that such health  
22 warning appear in the same length of time si-  
23 multaneously with the reading of the message  
24 required by subparagraph (A).

1 **SEC. 5. DEFINITIONS.**

2 As used in this Act—

3 (1) the term “alcoholic beverage” includes any  
4 beverage in liquid form which contains not less than  
5 one-half of one percent of alcohol by volume and is  
6 intended for human consumption,

7 (2) the term “person” includes a State, a State  
8 agency, or an officer or employee of a State or State  
9 agency, and

10 (3) the term “State” includes—

11 (A) any political subdivision of a State,

12 (B) the District of Columbia,

13 (C) the Commonwealth of Puerto Rico,

14 (D) the Commonwealth of the Northern  
15 Mariana Islands,

16 (E) Guam,

17 (F) the Virgin Islands,

18 (G) American Samoa,

19 (H) Wake Island,

20 (I) the Midway Islands,

21 (J) Kingman Reef, and

22 (K) Johnston Island.

23 **SEC. 6. REPORT TO CONGRESS.**

24 (a) INVESTIGATION.—Not earlier than 2 years after  
25 the date of the enactment of this Act, the Secretary of  
26 Health and Human Services shall conduct an appropriate

1 investigation and consult with the Surgeon General to de-  
2 termine whether available scientific information would jus-  
3 tify a change in, an addition to, or deletion of, a health  
4 warning set forth in section 3.

5 (b) REPORT.—If the Secretary of Health and Human  
6 Services finds that available scientific information would  
7 justify the change, addition, or deletion described in sub-  
8 section (a), the Secretary shall promptly submit a report  
9 to the appropriate committees of Congress containing—  
10 (1) the information; and  
11 (2) specific recommendations for such amend-  
12 ments to this Act as the Secretary determines to be  
13 appropriate and in the public interest.

○

HR 1823 IH—2