

119TH CONGRESS
1ST SESSION

S. _____

To require enforcement against misbranded milk alternatives.

IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself, Mr. RISCH, Ms. COLLINS, Mr. WELCH, Ms. KLOBUCHAR, Mr. KING, Mr. FETTERMAN, Mrs. GILLIBRAND, Mr. CRAPO, Mr. ROUNDS, Mr. RICKETTS, Mr. MARSHALL, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require enforcement against misbranded milk 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 “Defending Against
5 Imitations and Replacements of Yogurt, Milk, and Cheese
6 To Promote Regular Intake of Dairy Everyday Act” or
7 the “DAIRY PRIDE Act”.

8 **SEC. 2. PURPOSE.**

9 It is the purpose of this Act to establish that no food
10 may be introduced or delivered for introduction into inter-

1 state commerce using a name for a standardized dairy
2 product if the food does not meet the criterion set forth
3 for dairy products under paragraph (z)(2) of section 403
4 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
5 343) (as added by section 3(a)) or the requirements for
6 imitation of another food under paragraph (c) of section
7 403 of such Act.

8 **SEC. 3. ENFORCEMENT OF DEFINITION.**

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

12 “(z)(1) If it uses the name for a standardized dairy
13 product described in subparagraph (3) and the food does
14 not meet—

15 “(A) the criterion for being a dairy product, as
16 described in subparagraph (2); or

17 “(B) the requirements for imitation of another
18 food under paragraph (c).

19 “(2) For purposes of this paragraph, a food is a dairy
20 product only if the food is, contains as a primary ingre-
21 dient, or is derived from, the lacteal secretion, practically
22 free from colostrum, obtained by the complete milking of
23 one or more hooved mammals.

24 “(3) A name for a standardized dairy product de-
25 scribed in this subparagraph means the dairy product

1 terms described in parts 131 and 133 of subchapter B
2 of chapter I of title 21, Code of Federal Regulations, and
3 sections 135.110, 135.115, and 135.140 of title 21, Code
4 of Federal Regulations (or any successor regulations), or
5 any other term for which the Secretary has promulgated
6 a standard of identity with respect to a food that is formu-
7 lated with a dairy product (as described in subparagraph
8 (2)) as the primary ingredient.”.

9 (b) GUIDANCE.—

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

13 (A) not later than 90 days after the date
14 of enactment of this Act, issue draft guidance
15 on how enforcement of the amendment made by
16 subsection (a) will be carried out; and

17 (B) not later than 180 days after the date
18 of enactment of this Act, issue final guidance
19 on such enforcement.

20 (2) EFFECT ON CERTAIN PREVIOUS GUID-
21 ANCE.—Effective on the date of enactment of this
22 Act, any guidance issued by the Secretary of Health
23 and Human Services, acting through the Commis-
24 sioner of Food and Drugs, that is not consistent
25 with paragraph (z) of section 403 of the Federal

1 Food, Drug, and Cosmetic Act (21 U.S.C. 343), as
2 added by subsection (a), shall have no force or ef-
3 fect.

4 (c) REPORT TO CONGRESS.—Not later than 2 years
5 after the date of enactment of this Act, the Secretary of
6 Health and Human Services, acting through the Commis-
7 sioner of Food and Drugs, shall report to Congress on en-
8 forcement actions taken under paragraph (z) of section
9 403 of the Federal Food, Drug, and Cosmetic Act (21
10 U.S.C. 343), as added by subsection (a), including warn-
11 ings issued pursuant to such paragraph and penalties as-
12 sessed under section 303 of such Act (21 U.S.C. 333) with
13 respect to such paragraph. If food that is misbranded
14 under section 403(z) of such Act is offered for sale in
15 interstate commerce at the time of such report, the Com-
16 missioner of Food and Drugs shall include in such report
17 an updated plan for enforcement with respect to such
18 food.