

# Proposed Federal Legislation Would Require Warning Labels and Advertising Prohibitions on “Junk Foods”

Kelley Drye

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On April 19<sup>th</sup>, Sen. Bernie Sanders (I-Vt.), Sen. Cory Booker (D-N.J.), and Sen. Peter Welch (D-Vt.) introduced The Childhood Diabetes Reduction Act (the “Act”). In a press release that positions the Act as having the same urgency as Congress’s efforts to take on the tobacco industry 30 years ago, the sponsors’ stated aim is to combat growing trends in childhood diabetes and obesity. As written, the [Act](#) requires the following:

- Prominently-displayed bold-type boxed warnings on the principle display panel of foods and beverages with specific warnings depending on the product’s nutritional profile. For example, for sugar-sweetened beverages, the warning must state as follows:
- Investigation by the National Institutes of Health (NIH) into the dangers associated with “ultra-processed foods”.
- Development of a national campaign for education and awareness through the Centers for Disease Control and Prevention (CDC).

As written, the Act includes significant advertising prohibitions as well, such as the following:

- Prohibit advertising of “junk food”, defined as products subject to warning label requirements per the Act, in a manner directed toward children.
- Prohibit advertising of “junk food” to the general population without including the relevant mandatory health or nutrient label warnings, as described above.

Violation of this prohibition will be treated as a rule violation under the Federal Trade Commission Act, meaning that the FTC could pursue civil penalties for first time offenders.

There will undoubtedly be much discussion among consumer brands as to how best to respond to the Act. As our readers may know, several of the nation’s largest food and beverage companies committed years ago to an [industry self-regulation initiative](#) called the Children’s Food and Beverage Advertising Initiative, which restricted advertising directed at children 12 years and under for foods meeting certain nutritional criteria. Further, many of these same companies already use “Facts Up Front” - a front-of-pack labeling disclosure to provide specific nutritional information, as shown below.

Will taking the next step and expressly telling the consumer that a particular product may contribute

to obesity, diabetes, and tooth decay make a difference? We may find out.