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HR 7342

Introduced in House

December 19, 2018

H. R. 7342

To amend the Internal Revenue Code of 1986 to protect children's health by denying any deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality.

IN THE HOUSE OF REPRESENTATIVES

December 19, 2018

Ms. DeLauro introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to protect children's health by denying any deduction for advertising and marketing directed at children to promote the consumption of food of poor nutritional quality.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Stop Subsidizing Childhood Obesity Act'.

SEC. 2. FINDINGS.

Congress finds the following:

- (1) Childhood obesity has more than doubled in children and tripled in adolescents in the past 30 years. Currently, more than one-third of children and adolescents are overweight or obese.
- (2) A report by the Robert Wood Johnson Foundation found that if the population of the United States continues on its current trajectory, adult obesity rates could exceed 60 percent in a number of States by 2030.
- (3) Health-related behaviors, such as eating habits and physical activity patterns, develop early in life and often extend into adulthood. The diets of American children and adolescents depart substantially from recommended patterns that put their health at risk. Overall, American children and youth are not achieving basic nutritional goals. They are consuming excess calories and added sugars and have higher than recommended intakes of sodium, total fat, and saturated fats.

(4) According to a 2012 report from the Federal Trade Commission, the total amount spent on food marketing to children is about \$2,000,000,000 a year.

(5) Companies market food to children through television, radio, Internet, magazines, product placement in movies and video games, schools, product packages, toys, clothing and other merchandise, and almost anywhere a logo or product image can be shown.

(6) According to a comprehensive review by the National Academy of Medicine, studies demonstrate that television food advertising affects children's food choices, food purchase requests, diets, and health.

(7) A 2005 report from the National Academy of Medicine confirmed that marketing of high-calorie foods to children and adolescents has been identified as one of the major contributors to childhood obesity.

(8) Nearly three-quarters of the foods advertised on television shows intended for children are for sweets and convenience or fast foods.

SEC. 3. DENIAL OF DEDUCTION FOR MARKETING DIRECTED AT CHILDREN TO PROMOTE FOOD OF POOR NUTRITIONAL QUALITY.

(a) In General. Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

'SEC. 280I. DENIAL OF DEDUCTION FOR MARKETING DIRECTED AT CHILDREN FOR FOOD OF POOR NUTRITIONAL QUALITY OR BRANDS PRIMARILY ASSOCIATED WITH FOOD OF POOR NUTRITIONAL QUALITY.

'(a) In General. No deduction shall be allowed under this chapter with respect to-

'(1) any marketing directed at children for food of poor nutritional quality or brands primarily associated with food of poor nutritional quality, and

'(2) any of the following which are incurred or provided primarily for purposes described in paragraph (1):

'(A) Travel expenses (including meals and lodging).

'(B) Goods or services of a type generally considered to constitute entertainment, amusement, or recreation or the use of a facility in connection with providing such goods and services.

'(C) Gifts.

'(D) Other promotion expenses.

'(b) Definitions. In this section:

'(1) Brand. The term 'brand' means a corporate or product name, a business image, or a mark, regardless of whether it may legally qualify as a trademark, used by a seller or manufacturer to identify goods or services and to distinguish them from the goods of a competitor.

'(2) Child. The term 'child' means an individual who is age 14 or under.

'(3) Directed at. The term 'directed at' includes the use of measured media if the audience for such media will consist of 25 percent or more of children.

'(c) Marketing. For purposes of this section, the term 'marketing' means all advertising and promotional techniques, including-

'(1) advertising (including product placement) on television and radio, in print media, in social media, mobile media and apps, and on the Internet (including third-party and company-sponsored Websites),

'(2) product packaging and labeling,

'(3) advertising preceding a movie shown in a movie theater or placed on a video (DVD or VHS) or within a video game or mobile application,

'(4) promotional content transmitted to personal computers and other digital or mobile devices,

'(5) advertising displays and promotions at the retail site, including preferential placement,

'(6) specialty or premium items distributed in connection with the sale of a product or a product loyalty program,

'(7) character licensing fees, toy cobranding and cross-promotions,

'(8) sponsorship of events,

'(9) celebrity endorsements, and

'(10) in-school advertising including corporate-branded materials, corporate incentive programs, label redemption programs, fundraisers, signs, scoreboards, posters, vending machine fronts, in-school TV and radio, corporate sponsorships, and market research activities.

'(d) Regulations. Not later than 24 months after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Health and Human Services and the Federal Trade Commission, shall promulgate such regulations as may be necessary to carry out the purposes of this section, including regulations defining the terms 'directed at children', 'food of poor nutritional quality', and 'brand primarily associated with food of poor nutritional quality', based on the National Academy of Medicine report described in such section 3(b), for purposes of this section.'

(b) Study by National Academy of Medicine.-

(1) In general. Not later than 60 days after the date of the enactment of this section, the Secretary of Treasury shall enter into a contract with the National Academy of Medicine to develop procedures for the evaluation and identification of-

(A) food of poor nutritional quality, and

(B) brands that are primarily associated with food of poor nutritional quality.

(2) Report. Not later than 12 months after the date of the enactment of this section, the National Academy of Medicine shall submit to the Secretary a report that establishes the proposed procedures described in paragraph (1).

(c) Clerical Amendment. The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

'Sec 280I Denial of deduction for marketing directed at children to promote food of poor nutritional quality.'

(d) Effective Date. The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning 24 months after the date of the enactment of this Act.

SEC. 4. ADDITIONAL FUNDING FOR THE FRESH FRUIT AND VEGETABLE PROGRAM.

In addition to any other amounts made available to carry out the Fresh Fruit and Vegetable Program under section 19 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a), the Secretary of the Treasury (or the Secretary's delegate) shall, on an annual basis, transfer to such program, from amounts in the general fund of the Treasury of the United States, an amount determined by the Secretary of the Treasury (or the Secretary's delegate) to be equal to the increase in revenue for the preceding 12-month period by reason of the amendments made by section 3 of this Act.

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