

117TH CONGRESS
1ST SESSION

S. _____

To require the Commissioner of Food and Drugs to develop standards for
“Reef Safe” and “Ocean Safe” labels for sunscreen.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself and Mr. RUBIO) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To require the Commissioner of Food and Drugs to develop
standards for “Reef Safe” and “Ocean Safe” labels for
sunscreen.

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 “Reef Safe Act of
5 2021”.

6 **SEC. 2. LABELING CRITERIA FOR “REEF SAFE” AND “OCEAN**
7 **SAFE” SUNSCREEN.**

8 (a) IN GENERAL.—As soon as practicable, but not
9 later than 2 years after the date of enactment of this Act,

1 the Secretary, acting through the Commissioner, shall de-
2 velop labeling criteria for “Reef Safe” and “Ocean Safe”
3 designations for nonprescription sunscreen, in consulta-
4 tion with the Administrator of the Environmental Protec-
5 tion Agency and the Administrator of the National Oce-
6 anic and Atmospheric Administration.

7 (b) REEF SAFE LABEL.—

8 (1) IN GENERAL.—Not later than 2 years after
9 the date of enactment of this Act, the Secretary, act-
10 ing through the Commissioner, shall develop stand-
11 ards for use of the term “Reef Safe” on the labeling
12 of nonprescription sunscreen, which shall conform
13 with the requirements of section 502 of the Federal
14 Food, Drug, and Cosmetic Act (21 U.S.C. 352).

15 (2) CRITERIA AND CONSULTATION.—In devel-
16 oping the standards described in paragraph (1), the
17 Secretary shall—

18 (A) consider the impacts of active sun-
19 screen ingredients on the mortality of, and de-
20 velopmental or reproductive disruptions to,
21 ecologically- or economically-valuable marine
22 species, including fish, fish larvae, sea urchins,
23 coral, crustaceans, sea grasses, and macroalgae;

24 (B) consult with appropriate heads of Fed-
25 eral agencies, including the Administrator of

1 the Environmental Protection Agency and the
2 Administrator of the National Oceanic and At-
3 mospheric Administration, with respect to stud-
4 ies on the impacts of active sunscreen ingredi-
5 ents on living components of coral reef eco-
6 systems; and

7 (C) consider the findings of the National
8 Academies of Sciences, Engineering, and Medi-
9 cine report titled “Environmental Impact of
10 Currently Marketed Sunscreens and Potential
11 Human Impacts of Changes in Sunscreen
12 Usage”.

13 (c) OCEAN SAFE LABEL.—

14 (1) IN GENERAL.—Not later than 2 years after
15 the date of enactment of this Act, the Secretary, act-
16 ing through the Commissioner, shall develop stand-
17 ards for use of the term “Ocean Safe” on the label-
18 ing of nonprescription sunscreen, which shall con-
19 form with the requirements of section 502 of the
20 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
21 352).

22 (2) CRITERIA AND CONSULTATION.—In devel-
23 oping the standards described in paragraph (1), the
24 Secretary shall—

1 (A) consider the impacts of active sun-
2 screen ingredients on the mortality of, and de-
3 velopmental or reproductive disruptions to,
4 ecologically- or economically-valuable marine
5 species, including fish, fish larvae, sea urchins,
6 coral, crustaceans, sea grasses, and macroalgae,
7 and ecologically- or economically-valuable ma-
8 rine and coastal ecosystems including estuaries,
9 wetlands, tidal marshes, mangroves, kelp for-
10 ests, seagrass meadows, lagoons, salt marshes,
11 and intertidal zones;

12 (B) consult with appropriate heads of Fed-
13 eral agencies, including the Administrator of
14 the Environmental Protection Agency and the
15 Administrator of the National Oceanic and At-
16 mospheric Administration, with respect to stud-
17 ies on the impacts of active sunscreen ingredi-
18 ents on living components of marine and coastal
19 ecosystems; and

20 (C) consider the findings of the National
21 Academies of Sciences, Engineering, and Medi-
22 cine report, titled “Environmental Impacts of
23 Currently Marketed Sunscreens and Potential
24 Human Impact of Changes in Sunscreen
25 Usage”.

1 (d) REVIEW AND REVISION.—Not less frequently
2 than once every 10 years, the Secretary, acting through
3 the Commissioner and in consultation with the Adminis-
4 trator of the Environmental Protection Agency and the
5 Administrator of the National Oceanic and Atmospheric
6 Administration, and taking into consideration scientific
7 studies of the Food and Drug Administration, the Envi-
8 ronmental Protection Agency, and the National Oceanic
9 and Atmospheric Administration, shall—

10 (1) review the labeling standards in effect under
11 subsections (b)(1) and (c)(1);

12 (2) if appropriate, revise the criteria under sub-
13 sections (b)(2) and (c)(2); and

14 (3) in accordance with such criteria, as revised
15 under paragraph (2) as applicable, update the label-
16 ing standards under subsections (b)(1) and (c)(1).

17 (e) NON-PREEMPTION.—Nothing in this section shall
18 be construed to prevent a State from establishing, enforce-
19 ing, or maintaining a requirement with respect to labeling
20 criteria for a “Reef Safe” or “Ocean Safe” designation
21 for nonprescription sunscreen, provided that any such
22 State law is at least as restrictive as the requirements es-
23 tablished under this section.

1 (f) RULE OF CONSTRUCTION.—Nothing in this Act
2 shall be construed as prohibiting or limiting the sale of
3 any sunscreen product.

4 (g) DEFINITIONS.—In this section—

5 (1) the terms “active sunscreen ingredient”,
6 “nonprescription”, and “sunscreen” have the mean-
7 ings given such terms in section 586 of the Federal
8 Food, Drug, and Cosmetic Act (21 U.S.C. 360fff);
9 (2) the terms “coral” and “coral reef eco-
10 system” have the meanings given such terms in sec-
11 tion 210 of the Coral Reef Conservation Act of 2000
12 (16 U.S.C. 6409);

13 (3) the term “Commissioner” means the Com-
14 missioner of Food and Drugs; and

15 (4) the term “Secretary”, unless specified oth-
16 erwise, means the Secretary of Health and Human
17 Services.