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117TH CONGRESS
2D SESSION

H. R. 8829

To amend the Federal Food, Drug, and Cosmetic Act to treat certain menstrual products as misbranded if their labeling does not list each component of the product, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2022

Ms. MENG (for herself and Mrs. LESKO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Federal Food, Drug, and Cosmetic Act to treat certain menstrual products as misbranded if their labeling does not list each component of the product, and for other purposes.

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 ''Menstrual Products Right To Know Act of 2022''.

SEC. 2. MENSTRUAL PRODUCTS MISBRANDED IF LABELING DOES NOT INCLUDE COMPONENTS.

(a) IN GENERAL.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

''(gg) If it is a menstrual product (as defined in section 515C), unless the labeling of the product meets the requirements of such section. ''.

(b) MENSTRUAL PRODUCT LABELING REQUIREMENTS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 515B (21 U.S.C. 360e–3) of such Act the following:

''SEC. 515C. MENSTRUAL PRODUCTS LABELING REQUIREMENTS.

''(a) IN GENERAL.—The manufacturer of a menstrual product, shall include on the labeling of such product a list of each component of the finished product, including any fragrance ingredients, in accordance with subsection (b).

''(b) REQUIRED ELEMENTS OF LABELING.—The following shall apply with respect to labeling required by subsection (a):

''(1) FRAGRANCE INGREDIENTS.—Fragrance ingredients shall not be required to be listed on the

labeling of the product except in the case of a fragrance that—

"(A) is a fragrance allergen; or

"(B) is not a fragrance allergen described in subsection (c)(2) but is present in the product at a concentration at or above a level at which the Secretary determines that disclosure is necessary due to a safety concern or risk to human health.

"(2) ORDER OF LISTING OF COMPONENTS.—Components in the product shall be listed in order of the most predominant component by weight to the least predominant component by weight, except that components present in a quantity less than 1 percent of the weight of the product may be listed in any order, after listing all components present in a quantity greater than or equal to 1 percent of the weight of the product.

"(3) NOMENCLATURE.—Components in the product shall be listed by standardized nomenclature or common chemical name. Component names should be sufficiently clear to allow for a user to identify a component.

"(4) LABELING REVISIONS.—The product labeling shall reflect any change, addition, or deletion to

the components of a product, or any relevant revision to a fragrance ingredient that affects the labeling requirements described in paragraph (1), not later than 18 months after such change, addition, deletion, or revision.

''(d) DEFINITIONS.—In this section:

''(1) The term 'component' has the meaning given such term in section 820.3(c) of title 21, Code of Federal Regulations (or any successor regulations), except that such term excludes—

''(A) the labeling of a finished product;

''(B) materials or substances that are contained in elements or parts of the external packaging box, wrapper, pouches, and adhesive strip peels that are ancillary to the intended use of the finished product to collect menstruation and do not have more than transient contact with the human body; and

''(C) materials or substances that are not intended to be included as part of the finished, packaged, and labeled product.

''(2) The term 'fragrance allergen' means any of the following:

''(A) Amyl cinnamal.

''(B) Amylcinnamyl alcohol.

"(C) Anisyl alcohol.

"(D) Benzyl alcohol.

"(E) Benzyl benzoate.

"(F) Benzyl cinnamate.

"(G) Benzyl salicylate.

"(H) Cinnamyl alcohol.

"(I) Cinnamaldehyde.

"(J) Citral.

"(K) Citronellol.

"(L) Coumarin.

"(M) Eugenol.

"(N) Farnesol.

"(O) Geraniol.

"(P) Hexyl cinnamaladehyde.

"(Q) Hydroxycitronellal.

"(R) Hydroxyisohexyl 3-cyclohexene carboxaldehyde (HICC), (also known as Lyral).

"(S) Isoeugenol.

"(T) Lilial.

"(U) d-Limonene.

"(V) Linalool.

"(W) Methyl 2-octynoate.

"(X) g-Methylionone.

"(Y) Oak moss extract.

"(Z) Tree moss extract.

''(AA) Any other fragrance allergen, as determined by the Secretary, including based on the inclusion of the fragrance allergen on an authoritative list or compendium of such compounds.

''(3) The term 'fragrance ingredient' means an intentionally added substance or complex mixture present in a menstrual product for which the sole purpose in the product is to impart an odor or scent, or to mask odor.

''(4) The term 'menstrual product' includes—

''(A) a cervical cap used to collect menstrual flow;

''(B) a menstrual cup;

''(C) a scented, scented deodorized, or unscented menstrual pad or tampon; and

''(D) scented deodorized or unscented menstrual underwear.

''(e) PREEMPTION.—

''(1) IN GENERAL.—

''(A) PREEMPTION OF NEW STATE AND LOCAL REQUIREMENTS.—Subject to paragraphs (2) and (3), no State or political subdivision of a State may establish, after the date of enactment of the Menstrual Products Right To

Know Act of 2022, any requirement for the labeling of components subject to this section.

''(B) GRANDFATHERED STATE AND LOCAL REQUIREMENTS.—A State or political subdivision of a State may continue in effect any requirement for the labeling of menstrual products subject to this section that is in full effect and implemented on the date of enactment of the Menstrual Products Right To Know Act of 2022.

''(2) APPLICATION OF EXEMPTION.—A State or political subdivision of a State wishing to establish a requirement to which preemption under paragraph (1)(A) applies may apply to the Secretary for an exemption from the application of paragraph (1)(A) to such new State or local requirement, as described in section 521, and the Secretary may grant such an exemption, as the Secretary determines appropriate.

''(3) SAVINGS.—Nothing in this section shall be construed to modify or otherwise affect, preempt, or displace any cause of action or State or Federal law creating a remedy for civil relief or criminal cause of action, whether statutory or based in common law.''.

(c) APPLICATION.—The amendments made by this Act shall apply with respect to products manufactured, and intended for introduction into interstate commerce, on or after the date that is 18 months after the date of the enactment of this Act.

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