

S 2558 IS

108th CONGRESS  
2d Session  
**S. 2558**

To improve the health of Americans and reduce health care costs by reorienting the Nation's health care system towards prevention, wellness, and self care.

**IN THE SENATE OF THE UNITED STATES**

**June 22, 2004**

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

**A BILL**

To improve the health of Americans and reduce health care costs by reorienting the Nation's health care system towards prevention, wellness, and self care.

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

- (a) SHORT TITLE- This Act may be cited as the `Healthy Lifestyles and Prevention America Act' or the `HeLP America Act'.
- (b) TABLE OF CONTENTS- The table of contents of this Act is as follows:
  - Sec. 1. Short title; table of contents.
  - Sec. 2. Findings.

**TITLE I--HEALTHIER KIDS AND SCHOOLS**

- Sec. 101. Fruit and vegetable program.
- Sec. 102. School wellness policy; competitive foods.
- Sec. 103. Healthy school nutrition environment incentive grants.
- Sec. 104. Grants for the integration of schools and mental health systems.

**TITLE II--HEALTHIER COMMUNITIES AND WORKPLACES**

**Subtitle A--Incentives for a Healthy Workforce**

- Sec. 201. Short title.

- Sec. 202. Tax credit to employers for costs of implementing wellness programs.
- Sec. 203. Income exclusion for employer-provided off-premises health club services.
- Sec. 204. CDC and employer-based wellness programs.

### **Subtitle B--Healthy Communities**

- Sec. 211. Healthy community grants.
- Sec. 212. Living well with a disability and working well with a disability programs.
- Sec. 213. Enhanced standards for roads and intersection controls.
- Sec. 214. Mental health surveillance.

### **Subtitle C--Family Smoking Prevention and Control**

- Sec. 221. Short title.
- Sec. 222. Findings.
- Sec. 223. Purpose.
- Sec. 224. Scope and effect.
- Sec. 225. Severability.

### **Chapter 1--Authority of the Food and Drug Administration**

- Sec. 231. Amendment of Federal Food, Drug, and Cosmetic Act.
- Sec. 232. Interim final rule.
- Sec. 233. Conforming and other amendments to general provisions.

### **Chapter 2--Tobacco Product Warnings; Constituent and Smoke Constituent Disclosure**

- Sec. 241. Cigarette label and advertising warnings.
- Sec. 242. Authority to revise cigarette warning label Statements.
- Sec. 243. State regulation of cigarette advertising and promotion.
- Sec. 244. Smokeless tobacco labels and advertising warnings.
- Sec. 245. Authority to revise smokeless tobacco product warning label Statements.
- Sec. 246. Tar, nicotine, and other smoke constituent disclosure to the public.

### **Chapter 3--Prevention of Illicit Trade in Tobacco Products**

- Sec. 251. Labeling, recordkeeping, records inspection.
- Sec. 252. Study and report.

## **TITLE III--RESPONSIBLE MARKETING AND CONSUMER AWARENESS**

## **Subtitle A--General Provisions**

- Sec. 301. Nutrition labeling of restaurant foods.
- Sec. 302. Rulemaking authority for advertising to children.
- Sec. 303. Food advertising in schools.
- Sec. 304. Disallowance of deductions for advertising and marketing expenses relating to tobacco product use.
- Sec. 305. Federal-State tobacco counter-advertising programs.

## **Subtitle B--Penalties for Failure to Reduce Teen Smoking**

- Sec. 311. Child cigarette use surveys.
- Sec. 312. Cigarette use reduction goal and noncompliance.
- Sec. 313. Enforcement.

## **TITLE IV--REIMBURSEMENT AND COVERAGE OF PREVENTIVE SERVICES**

- Sec. 401. Coverage of substance use (other than tobacco), diet, exercise, injury prevention, and dental health counseling.
- Sec. 402. Preventive mental health screenings.
- Sec. 403. Encouragement of cessation of tobacco use.
- Sec. 404. Preventive health services for women.

## **TITLE V--HELP (HEALTHY LIFESTYLES AND PREVENTION) AMERICA TRUST FUND**

- Sec. 501. HELP (healthy lifestyles and prevention) America Trust Fund.

## **TITLE VI--RESEARCH**

- Sec. 601. Expansion of research regarding obesity.

## **TITLE VII--PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS**

- Sec. 700. Amendment of 1986 Code.
- Sec. 701. Clarification of economic substance doctrine.
- Sec. 702. Penalty for failing to disclose reportable transaction.
- Sec. 703. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
- Sec. 704. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 705. Modifications of substantial understatement penalty for nonreportable transactions.

- Sec. 706. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
- Sec. 707. Disclosure of reportable transactions.
- Sec. 708. Modifications to penalty for failure to register tax shelters.
- Sec. 709. Modification of penalty for failure to maintain lists of investors.
- Sec. 710. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
- Sec. 711. Penalty for promoting abusive tax shelters.
- Sec. 712. Statute of limitations for taxable years for which required listed transactions not reported.
- Sec. 713. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
- Sec. 714. Penalty for aiding and abetting the understatement of tax liability.

## **SEC. 2. FINDINGS.**

Congress makes the following findings:

- (1) Health care costs in the United States are rising rapidly. On a per capita basis, the United States spends 40 percent more than any other country on health care as a proportion of our gross domestic product.
- (2) The United States spends over \$1,800,000,000,000 annually on health care, 75 percent of which is spent on the treatment of chronic disease.
- (3) However, only 2 percent of annual health care spending in the United States goes toward the prevention of chronic diseases.
- (4) The high cost of chronic disease management and treatment is a major contributing factor to these exploding health care costs.
- (5) Reducing and preventing the incidence of chronic disease is one means by which to reduce health care costs in the United States.
- (6) More than 1,700,000 Americans die of a chronic disease each year, accounting for nearly 70 percent of all United States deaths.
- (7) In 2000, 38.2 percent of all deaths were due to tobacco use, poor nutrition and physical inactivity, and alcohol consumption.
- (8) The economic impact of chronic disease can be seen in the annual costs associated with cardiovascular disease \$352,000,000,000 obesity \$117,000,000,000, tobacco use \$75,000,000,000 and mental illness \$150,000,000,000.
- (9) In 2001 obesity related health conditions carried a \$13,000,000,000 price tag to employers (as determined by the Department of Health and Human Services).
- (10) Health promotion investments by employers on average yield a return \$3 for every \$1 invested in a program.
- (11) Being overweight or obese increase the risk of diabetes, heart disease, stroke, several types of cancer and other health problems.
- (12) An estimated 65 percent of adults and 15 percent of children and adolescents in the United States are overweight or obese.
- (13) The rates of obesity have doubled in children and tripled in teens since the 1980's.

- (14) An estimated 400,000 deaths a year are associated with being overweight or obese.
- (15) Almost 40 percent of Americans are sedentary. More than a third of young people in grades 9 through 12 do not regularly engage in vigorous-intensity physical activity.
- (16) Only 1 in 5 young people eat the recommended 5 daily servings of fruits and vegetables.
- (17) More than \$12,000,000,000 a year is spent on advertising and marketing, mostly unhealthy food to children through television, the internet, movies, magazines, in-school marketing, kids clubs, toys, coupons, product placement in movies and books.
- (18) Approximately one-quarter of walking trips take place on roads without sidewalks or shoulders and bike lanes are available for only about 5 percent of bike trips.
- (19) Virtually all new users of tobacco products are under the minimum legal age to purchase such products. Every day in America, more than 4,000 kids try their first cigarette. Another 2,000 children become new daily smokers.
- (20) In 2002, 61,000,000 Americans, 26 percent of our population smoked cigarettes.
- (21) Research consistently shows that smoking cessation services offered as a combination of tobacco medication therapy and counseling can be one of the most cost-effective health interventions and can reduce smoking-related health care costs.
- (22) Physical and mental health are interconnected. Physical conditions often result in mental health complications, likewise, depression can manifest itself through physical symptoms.
- (23) The Surgeon General reported that mental disorders collectively account for 15 percent of the overall burden of disease from all causes, and slightly more than the burden associated with all forms of cancer.
- (24) Major depression is the leading cause of disability in the United States.
- (25) One of every 2 people who need mental health treatment in the United States does not receive it and 30,000 Americans die by suicide each year.
- (26) Early screening and prevention programs in the schools can detect high risk children that are vulnerable to developing mental illness and assist in accessing appropriate services.
- (27) People with disabilities report substantial disparities in health compared with people without disabilities. These disparities are caused by a number of factors, including less access to health care than individuals without disabilities. People with disabilities report more days of pain, depression, and anxiety and they have higher rates of obesity.
- (28) Evidence shows that health promotion programs with exercise, nutrition, and wellness components targeting people with disabilities can significantly reduce the incidence of these conditions and lead to healthy outcomes for people with disabilities, as well as save money by reducing the frequency of medical visits.