

May 23, 2016

The Honorable Michael Burgess Chairman,
Subcommittee on Commerce,
Manufacturing and Trade
United States House of Representatives
Washington, DC 20515

The Honorable Jan Schakowsky
Subcommittee on Commerce,
Manufacturing and Trade
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Dear Chairman Burgess and Ranking Member Schakowsky:

On behalf of the Retail Industry Leaders Association, I write today to express our organization's objection to the Youth Sports Concussion Act (H.R. 4460) as currently drafted. We appreciate the continuous dialogue with your staff as you work to address this important issue of preventing concussions.

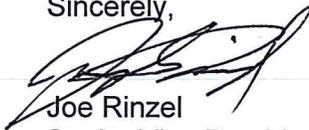
By way of background, RILA is the trade association of the world's largest and most innovative retail companies. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA members agree with the goal of providing clarity to consumers with regards to deceptive claims associated with youth sports equipment. The intent of Congress to ensure the safety of products used in youth sports mirrors our members' priorities relative to consumer trust. RILA believes first and foremost that all products sold to consumers should be safe and meet all applicable legal requirements and standards.

Unfortunately, due to the wide-ranging nature of the bill as drafted, we remain seriously concerned that the role of retailers and manufacturers in the global supply chain needs to be distinguished under the bill. More specifically, the party that owns or controls the product testing and pre-packaging should be the party liable for making such deceptive claims. In addition, the overly broad scope of products covered and the ambiguous nature of the direction given to the Federal Trade Commission on rulemaking and implementation will lead to numerous and troublesome unintended consequences in the marketplace. Attached you will find a more detailed analysis of our concerns.

We continue to welcome the opportunity to work with your committee staff on ensuring transparency for consumers in regards to manufacturer statements of the benefits and effectiveness of any product. We look forward to working together to promote the goal of ensuring that children playing youth sports are safely equipped.

Sincerely,



Joe Rinzel
Senior Vice President, Government Affairs

cc: House Energy & Commerce Subcomm. Commerce, Manufacturing & Trade Members

Youth Sports Concussion Act

The Retail Industry Leaders Association (RILA) believes first and foremost that all products sold to consumers should be safe and meet all applicable legal requirements and standards. Moreover, consumers should have accurate information about the safety benefits or effectiveness of any product. RILA has concerns about the Youth Sports Concussion Act (H.R.4460/S.2508) as introduced, which would make it unlawful to sell, offer for sale, or import into the United States professional and amateur athletic sporting equipment for which the seller or importer makes any deceptive claim to the safety benefits of the item. Our concerns are outlined below.

Retailers should not be liable for product safety claims made by manufacturers.

In general, retailers do not make product safety claims, including concussion-related safety claims, regarding the sporting equipment that they sell. Nor do retailers have control over the pre-marked product packaging making safety claims or the testing necessary to substantiate safety claims.

- Rather than targeting retailers, the bills should impose responsibility for concussion-related safety claims on the manufacturers producing those products.

The scope of products covered should reflect the title of the legislation. While the title of the bills focuses on youth sporting equipment, the scope of coverage applies to any claim of safety benefits for any item that a store or importer may introduce into the U.S. commerce. This could apply to unrelated athletic equipment such as apparel, footwear, sports drinks, sunglasses, sport cameras or any other item sold in a store for which a manufacturer may make a general safety claim.

- The bills should limit the scope of products covered to youth sporting equipment that is intended to prevent concussions.

Congress should provide direction to the FTC on rulemaking and implementation.

Retailers are not in the position to determine whether safety claims are valid and must rely upon manufacturers to conduct claim verification testing.

- In order to assist manufacturers with compliance, the FTC should issue rules and guidance as to the type of due diligence testing that is required as part of the claim verification process.

Congress should clarify the roles of state attorneys general. The bills would allow state attorneys general and consumer protection officers to seek injunctions against alleged violators.

- The bills should clarify and limit state attorney general enforcement authority to prevent “pile on” litigation, and clarify the role of the “consumer protection officer” where the attorney general does not have authority to bring an enforcement action.