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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Federal Food, Drug, and Cosmetic Act to deem an abortion drug misbranded unless it contains a ''Do Not Flush'' warning label and to require a catch kit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BIGGS of South Carolina introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to deem an abortion drug misbranded unless it contains a ''Do Not Flush'' warning label and to require a catch kit, 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 ''Don't Flush Babies Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Clear and conspicuous packaging notices on chemical abortion drugs can reduce undignified disposition of aborted human fetal remains and improper disposal of solid medical waste.

(2) Standardized labeling requirements are commonly used in Federal product-safety legislation.

(3) Improper disposal of aborted human fetal remains and related solid medical waste may cause pipe blockages, plumbing damage, and environmental contamination.

SEC. 3. ABORTION DRUG WARNING LABEL REQUIREMENTS.

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

''(hh)(1) If it is an abortion drug, unless the packaging of such drug bears, in a clear, conspicuous, and prominent manner on the principal display panel—

''(A) a label notice with the following warning statement: 'DO NOT FLUSH THE FETUS OR SOLID MEDICAL WASTE GENERATED BY USE OF THIS DRUG';

''(B) a symbol, to be located immediately adjacent to such label notice, that contains a pictorial image of a fetus at 10 weeks of gestation that displays the head, arms, and legs, placed so that the

characteristics of the fetus are clearly visible and remain recognizable and, adjacent to such image, a pictorial image of a toilet that is recognizable, with such images centered inside a red circle with a diagonal red slash, styled as a standard 'Do Not' symbol; and

''(C) under such symbol, the following statement: 'Image shown is of a fetus at 10 weeks gestation; development of the fetus will vary by gestation. Discuss your gestation with your healthcare provider.'.

''(2) For the purposes of this paragraph, the label notice and symbol on the principal display panel of the packaging of an abortion drug shall be displayed in a type size, style, and placement, and in high contrast to the immediate background of the packaging of such abortion drug, such that an ordinary individual under customary conditions of purchase and use may see and read such label notice and symbol.

''(3) In this paragraph:

''(A) The term 'abortion' means intentionally terminating the pregnancy of a woman known to be pregnant, with an intention other than—

''(i) producing a live birth;

''(ii) removing a dead unborn child caused by miscarriage; or

''(iii) treating an ectopic or molar pregnancy.

''(B) The term 'abortion drug' means—

''(i) Mifeprex;

''(ii) Mifegyne;

''(iii) mifepristone; and

''(iv) any such other drug, substance, or combination of drugs or substances that is intended for use in carrying out an abortion.

''(C) The term 'fetus' means the human product of conception from implantation until delivery.

''(D) The term 'human fetal remains' means any whole fetus or part of the fetus.

''(E) The term 'packaging' means the immediate container for an abortion drug and any outer container in which such drug is distributed.

''(F) The term 'solid medical waste'—

''(i) means the subset of medical waste consisting of non-liquid biological material generated by, and expelled in connection with, the use of an abortion drug; and

''(ii) does not include human fetal remains.''.

SEC. 4. CATCH KIT AND DISPOSAL REQUIREMENTS.

(a) CATCH KIT REQUIRED.—The Secretary of Health and Human Services shall require an abortion provider who prescribes to, dispenses to, or otherwise encourages the use of an abortion drug by a patient for the purpose of carrying out an abortion, irrespective of the use for which the product is labeled, to—

(1) provide such patient with a catch kit and with documentation on the purpose and use of such catch kit;

(2) receive and retain a physical or electronic acknowledgment from such patient confirming receipt of such catch kit and documentation on the purpose and use of such catch kit;

(3) receive human fetal remains and solid medical waste returned by such patient, or an individual authorized by such patient to act on behalf of such patient, in accordance with the physical instructions provided with such catch kit; and

(4) arrange for the burial or cremation of such human fetal remains and the disposal of such solid medical waste.

(b) DOCUMENTATION REQUIREMENTS.—The documentation provided with a catch kit under subsection (a) shall include—

(1) the name, address, and phone number of the nearest abortion facility or other facility equipped to receive aborted human fetal remains and solid medical waste in accordance with this section; and

(2) the approximate distance of such facility from the address of such patient.

(c) ABORTION PROVIDER REQUIREMENTS.—An abortion provider under subsection (a) shall, with respect to any patient who has used an abortion drug to carry out an abortion, regardless of whether such patient is a patient of such abortion provider—

(1) receive human fetal remains and solid medical waste from such patient, or an individual authorized by such patient to act on behalf of such patient, in accordance with the physical instructions provided with a catch kit; and

(2) arrange for the burial or cremation of such human fetal remains and the disposal of such solid medical waste.

(d) ABORTION DRUG DISPOSITION VIOLATIONS.—Any person who prescribes or dispenses an abortion drug for the purpose of carrying out an abortion, irrespective of the use for which the product is labeled, without providing the catch kit and documentation required under

this section, or who tampers with such catch kit, shall be imprisoned for not more than 5 years, fined not less than $20,000 and not more than $150,000, or both, for each offense.

(e) DEFINITIONS.—In this section:

(1) ABORTION, ABORTION DRUG; HUMAN FETAL REMAINS; SOLID MEDICAL WASTE.—The terms ''abortion'', ''abortion drug'', ''human fetal remains'', and ''solid medical waste'' have the meanings given such terms in section 502(hh) of the Federal Food, Drug, and Cosmetic Act, as added by section 3.

(2) ABORTION PROVIDER.—The term ''abortion provider'' means a person that performs abortions, including by prescribing or dispensing abortion drugs.

(3) CATCH KIT.—The term ''catch kit'' means a packaged set of materials for use in collecting and containing aborted human fetal remains and solid medical waste generated by use of an abortion drug that includes the following:

(A) A brightly colored, leak-resistant biohazardous collection container, to be labeled—

(i) in a contrasting color with the international biohazard symbol; and

(ii) with the following statement: ''Human Fetal Remains''.

(B) A brightly colored, leak-resistant biohazardous waste collection container, to be labeled—

(i) in a contrasting color with the international biohazard symbol; and

(ii) with the following statement: ''Solid Medical Waste''.

(C) Physical instructions for—

(i) the collection, containment, transportation, and disposal of solid medical waste;

(ii) the cremation or burial of human fetal remains; and

(iii) the in-person return of solid medical waste and human fetal remains by a patient, or an individual authorized by such patient to act on behalf of such patient, to an abortion provider.

(D) A statement that any human fetal remains and solid medical waste generated by use of an abortion drug may not be returned to an abortion provider by mail.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or the amendment made by this Act shall be construed to alter, supersede, or limit any requirement under Federal or State law related to emergency medical treatment.

SEC. 6. APPLICABILITY.

The amendment made by section 3 of this Act shall apply to an abortion drug that is packaged on or after the date that is 180 days after the date of enactment of this Act.