



Congressional Democrats are not serious about the baby formula crisis

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The House passed legislation on May 18 to provide emergency funding for the Food and Drug Administration. House Republicans rebuked the legislation, with 12 voting in favor and 192 voting against it. Congressional Democrats were quick to criticize House Republicans for their votes, with House Speaker Nancy Pelosi (D-CA) personally tweeting, “After days of scapegoating, when they had a chance to help, 192 House Republicans said NO. This is who they are.”

What Pelosi fails to mention is that Congressional Republicans already acted with Congressional Democrats to address the baby formula shortage without throwing money at the FDA. The Access to Baby Formula Act of 2022, proposed by Rep. Jahana Hayes (D-CT), passed the House in a 414-9 vote last Wednesday. The legislation was agreed to in the Senate with unanimous consent on Thursday and signed by President Joe Biden on Saturday.

Unlike the emergency funding proposal, the Access to Baby Formula Act provides relief to low-income families that are reliant on baby formula. The legislation provides greater access to baby formula for families enrolled in the Special Supplemental Nutrition Program for Women, Infants, and Children. By allowing the U.S. Department of Agriculture to waive WIC requirements for specific baby formula brands during emergencies, the Access to Baby Formula Act addresses the real issue causing the baby formula shortage: burdensome government regulations.

Protectionist trade policies currently limit the ability of the United States to import baby formula from Europe and other countries. Baby formula imports currently face a 17.5% tariff. Additionally, there is a tariff-rate quota that subjects excess imports “to a tariff and additional duties,” according to the CATO Institute.

The FDA announced on May 16 that it would start allowing the importation of baby formula products that are “not currently being produced for the U.S. market.” Yet this is a temporary move that will not change the FDA guidelines on importing baby formula in the long term.

Currently, the FDA maintains a list of foreign baby formula brands that U.S. Customs and Border Protection agents should immediately seize if the products are found in the country. The “Red List,” titled Import Alert 40-05, was published on Feb. 24, 2022, five days after the FDA announced its investigation into Abbott Nutrition’s facility in Sturgis, Michigan.

These brands are primarily listed because of burdensome regulations on labels for baby formulas. A 2019 study analyzed 16 baby formula products used in Europe and found that 15 of them met

the FDA's nutritional requirements. However, the FDA has banned them from being imported because of burdensome labeling requirements that none of the products meet.

Sen. Rand Paul (R-KY) introduced the Freedom to Import Infant Formula Act in an effort to eliminate the restrictions on baby formula imports. His bill seeks to remove the tariffs on baby formula imports and prohibits CBP agents from seizing imported baby formula products that meet the requirements of the country where they were produced. Yet Democratic leadership in Congress has not mentioned this legislation despite it tackling the underlying causes of the baby formula shortage.

Were these restrictions ever crucial to improving the health of infants if the FDA is willing to waive them temporarily during a public health crisis? By recognizing that the change is necessary to address the current shortage but refusing to make it permanent, the Biden administration is demonstrating its short-sightedness. Public health bureaucrats consistently failed the public throughout the pandemic. The FDA is reminding us that incompetency is not a symptom of COVID-19 but a disease of its own that has viciously infected the organization.