

Union Calendar No. 208

116TH CONGRESS
1ST SESSION

H. R. 3942

[Report No. 116-260]

To apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2019

Ms. DELAURO (for herself, Mr. ARMSTRONG, Mr. COLLINS of Georgia, Mr. RASKIN, Mr. WILSON of South Carolina, Mr. CORREA, Mr. WOMACK, Ms. LOFGREN, Mr. DUFFY, Mr. HILL of Arkansas, Mr. GALLAGHER, and Mrs. BEATTY) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 28, 2019

Additional sponsors: Mrs. WALORSKI, Mr. WELCH, Mr. LARSEN of Washington, Mr. NORMAN, Mr. RUSH, Mr. GUEST, Mr. SENSENBRENNER, Mrs. MCBATH, Mr. DEUTCH, Ms. BASS, Ms. SCANLON, Mr. JOYCE of Pennsylvania, Mr. SUOZZI, Mr. RESCHENTHALER, Mr. JOHNSON of Georgia, Mr. NEGUSE, Mr. PALAZZO, Mr. COHEN, Mr. BURGESS, Mr. RODNEY DAVIS of Illinois, and Mr. DESAULNIER

OCTOBER 28, 2019

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To apply requirements relating to delivery sales of cigarettes
to delivery sales of electronic nicotine delivery systems,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Online
 5 Sales of E-Cigarettes to Children Act”.

6 **SEC. 2. AMENDMENTS TO THE JENKINS ACT.**

7 (a) IN GENERAL.—The Act entitled “An Act to assist
 8 States in collecting sales and use taxes on cigarettes”, ap-
 9 proved October 19, 1949 (commonly known as the “Jen-
 10 kins Act”) (15 U.S.C. 375 et seq.), is amended—

11 (1) in section 1 (15 U.S.C. 375)—

12 (A) in paragraph (2)(A)(ii)—

13 (i) by striking “includes roll-your-own
 14 tobacco” and inserting the following: “in-
 15 cludes—

16 “(I) roll-your-own tobacco”;

17 (ii) in subclause (I), as so designated,
 18 by striking the period at the end and in-
 19 serting “; and”; and

20 (iii) by adding at the end the fol-
 21 lowing:

22 “(II) an electronic nicotine deliv-
 23 ery system.”;

1 (B) by redesignating paragraphs (7)
2 through (14) as paragraphs (8) through (15),
3 respectively; and

4 (C) by inserting after paragraph (6) the
5 following:

6 “(7) ELECTRONIC NICOTINE DELIVERY SYS-
7 TEM.—The term ‘electronic nicotine delivery sys-
8 tem’—

9 “(A) means any electronic device that,
10 through an aerosolized solution, delivers nico-
11 tine, flavor, or any other substance to the user
12 inhaling from the device;

13 “(B) includes—

14 “(i) an e-cigarette;

15 “(ii) an e-hookah;

16 “(iii) an e-cigar;

17 “(iv) a vape pen;

18 “(v) an advanced refillable personal
19 vaporizer;

20 “(vi) an electronic pipe; and

21 “(vii) any component, liquid, part, or
22 accessory of a device described in subpara-
23 graph (A), without regard to whether the
24 component, liquid, part, or accessory is
25 sold separately from the device; and

1 “(C) does not include a product that is—

2 “(i) approved by the Food and Drug
3 Administration for—

4 “(I) sale as a tobacco cessation
5 product; or

6 “(II) any other therapeutic pur-
7 pose; and

8 “(ii) marketed and sold solely for a
9 purpose described in clause (i).”; and

10 (2) in section 2A(b)(1) (15 U.S.C. 376a(b)(1)),
11 by inserting “NICOTINE/” after “CIGARETTES/
12 ”.

13 (b) EFFECTIVE DATE.—This section, and the amend-
14 ments made by this section, shall take effect on the date
15 that is 90 days after the date of enactment of this Act.

16 **SEC. 3. NONMAILABILITY OF ELECTRONIC NICOTINE DE-**
17 **LIVERY SYSTEMS.**

18 (a) REGULATIONS.—Not later than 120 days after
19 the date of enactment of this Act, the United States Postal
20 Service shall promulgate regulations to clarify the applica-
21 bility of the prohibition on mailing of cigarettes under sec-
22 tion 1716E of title 18, United States Code, to electronic
23 nicotine delivery systems, in accordance with the amend-
24 ment to the definition of “cigarette” made by section 2.

1 (b) EFFECTIVE DATE.—The prohibition on mailing
2 of cigarettes under section 1716E of title 18, United
3 States Code, shall apply to electronic nicotine delivery sys-
4 tems on and after the date on which the United States
5 Postal Service promulgates regulations under subsection
6 (a) of this section.

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