

116TH CONGRESS
1ST SESSION

H. R. 4425

To increase the taxes on certain tobacco products, to prohibit the flavoring of certain tobacco products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2019

Mr. SUOZZI (for himself, Mr. KING of New York, Mr. COHEN, Mr. PANETTA, Mr. KRISHNAMOORTHY, and Mr. CICILLINE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase the taxes on certain tobacco products, to prohibit the flavoring of certain tobacco products, 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 “Quell Underage Inhal-
5 ing of Toxic Substances Act of 2019” or as the “QUITS
6 Act of 2019”.

1 **SEC. 2. INCREASE IN TAX ON CERTAIN TOBACCO PROD-**
2 **UCTS.**

3 (a) INCREASING TAX ON CIGARETTES.—

4 (1) SMALL CIGARETTES.—Section 5701(b)(1)
5 of the Internal Revenue Code of 1986 is amended by
6 striking “\$50.33” and inserting “\$150”.

7 (2) LARGE CIGARETTES.—Section 5701(b)(2)
8 of such Code is amended by striking “\$105.69” and
9 inserting “\$314.99”.

10 (b) TAX PARITY FOR SMALL CIGARS.—Paragraph
11 (1) of section 5701(a) of the Internal Revenue Code of
12 1986 is amended by striking “\$50.33” and inserting
13 “\$150”.

14 (c) TAX PARITY FOR LARGE CIGARS.—

15 (1) IN GENERAL.—Paragraph (2) of section
16 5701(a) of the Internal Revenue Code of 1986 is
17 amended by striking “52.75 percent” and all that
18 follows through the period and inserting “\$73.85 per
19 pound and a proportionate tax at the like rate on all
20 fractional parts of a pound but not less than 15
21 cents per cigar.”.

22 (2) GUIDANCE.—The Secretary of the Treas-
23 ury, or the Secretary’s delegate, may issue guidance
24 regarding the appropriate method for determining
25 the weight of large cigars for purposes of calculating

1 the applicable tax under section 5701(a)(2) of the
2 Internal Revenue Code of 1986.

3 (d) TAX PARITY FOR SMOKELESS TOBACCO.—

4 (1) Section 5701(e) of the Internal Revenue
5 Code of 1986 is amended—

6 (A) in paragraph (1), by striking “\$1.51”
7 and inserting “\$40”,

8 (B) in paragraph (2), by striking “50.33
9 cents” and inserting “\$16”, and

10 (C) by adding at the end the following new
11 paragraph:

12 “(3) SMOKELESS TOBACCO SOLD IN DISCRETE
13 SINGLE-USE UNITS.—On discrete single-use units,
14 \$150 per thousand.”.

15 (2) Section 5702(m) of such Code is amend-
16 ed—

17 (A) in paragraph (1), by striking “or chew-
18 ing tobacco” and inserting “, chewing tobacco,
19 or discrete single-use unit”,

20 (B) in paragraphs (2) and (3), by inserting
21 “that is not a discrete single-use unit” before
22 the period at the end of each such paragraph,
23 and

24 (C) by adding at the end the following new
25 paragraph:

1 “(4) DISCRETE SINGLE-USE UNIT.—The term
2 ‘discrete single-use unit’ means any product con-
3 taining tobacco that—

4 “(A) is not intended to be smoked, and

5 “(B) is in the form of a lozenge, tablet,
6 pill, pouch, dissolvable strip, or other discrete
7 single-use or single-dose unit.”.

8 (e) TAX PARITY FOR PIPE TOBACCO.—Section
9 5701(f) of the Internal Revenue Code of 1986 is amended
10 by striking “\$2.8311 cents” and inserting “\$73.85”.

11 (f) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO.—
12 Section 5701(g) of the Internal Revenue Code of 1986 is
13 amended by striking “\$24.78” and inserting “\$73.85”.

14 (g) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO
15 AND CERTAIN PROCESSED TOBACCO.—Subsection (o) of
16 section 5702 of the Internal Revenue Code of 1986 is
17 amended by inserting “, and includes processed tobacco
18 that is removed for delivery or delivered to a person other
19 than a person with a permit provided under section 5713,
20 but does not include removals of processed tobacco for ex-
21 portation” after “wrappers thereof”.

22 (h) CLARIFYING TAX RATE FOR OTHER TOBACCO
23 PRODUCTS.—

1 (1) IN GENERAL.—Section 5701 of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(i) OTHER TOBACCO PRODUCTS.—Any product not
5 otherwise described under this section that has been deter-
6 mined to be a tobacco product by the Food and Drug Ad-
7 ministration through its authorities under the Family
8 Smoking Prevention and Tobacco Control Act shall be
9 taxed at a level of tax equivalent to the tax rate for ciga-
10 rettes on an estimated per use basis as determined by the
11 Secretary.”.

12 (2) ESTABLISHING PER USE BASIS.—For pur-
13 poses of section 5701(i) of the Internal Revenue
14 Code of 1986, not later than 12 months after the
15 later of the date of the enactment of this Act or the
16 date that a product has been determined to be a to-
17 bacco product by the Food and Drug Administra-
18 tion, the Secretary of the Treasury (or the Secretary
19 of the Treasury’s delegate) shall issue final regula-
20 tions establishing the level of tax for such product
21 that is equivalent to the tax rate for cigarettes on
22 an estimated per use basis.

23 (i) CLARIFYING DEFINITION OF TOBACCO PROD-
24 UCTS.—

1 (1) IN GENERAL.—Subsection (c) of section
2 5702 of the Internal Revenue Code of 1986 is
3 amended to read as follows:

4 “(c) TOBACCO PRODUCTS.—The term ‘tobacco prod-
5 ucts’ means—

6 “(1) cigars, cigarettes, smokeless tobacco, pipe
7 tobacco, and roll-your-own tobacco, and

8 “(2) any other product subject to tax pursuant
9 to section 5701(i).”.

10 (2) CONFORMING AMENDMENTS.—Subsection
11 (d) of section 5702 of such Code is amended by
12 striking “cigars, cigarettes, smokeless tobacco, pipe
13 tobacco, or roll-your-own tobacco” each place it ap-
14 pears and inserting “tobacco products”.

15 (j) TAX RATES ADJUSTED FOR INFLATION.—Section
16 5701 of such Code, as amended by subsection (g), is
17 amended by adding at the end the following new sub-
18 section:

19 “(j) INFLATION ADJUSTMENT.—

20 “(1) IN GENERAL.—In the case of any calendar
21 year beginning after 2019, each dollar amount con-
22 tained in this section shall be increased by an
23 amount equal to—

24 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year, determined by substituting ‘calendar year
4 2018’ for ‘calendar year 2016’ in subparagraph
5 (A)(ii) thereof.

6 “(2) ROUNDING.—If any amount as adjusted
7 under paragraph (1) is not a multiple of \$0.01, such
8 amount shall be rounded to the next highest multiple
9 of \$0.01”.

10 (k) FLOOR STOCKS TAXES.—

11 (1) IMPOSITION OF TAX.—On tobacco products
12 manufactured in or imported into the United States
13 which are removed before the tax increase date and
14 held on such date for sale by any person, there is
15 hereby imposed a tax in an amount equal to the ex-
16 cess of—

17 (A) the tax which would be imposed under
18 section 5701 of the Internal Revenue Code of
19 1986 on the article if the article had been re-
20 moved on such date, over

21 (B) the prior tax (if any) imposed under
22 section 5701 of such Code on such article.

23 (2) TAX INCREASE DATE.—For purposes of this
24 subsection, the term “tax increase date” means the
25 day after the date of the enactment of this Act.

1 (l) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to articles removed after the date
3 of the enactment of this Act.

4 **SEC. 3. PROHIBITING FLAVORING OF TOBACCO PRODUCTS.**

5 (a) PROHIBITION.—Subparagraph (A) of section
6 907(a)(1) of the Federal Food, Drug, and Cosmetic Act
7 (21 U.S.C. 387g(a)(1)) is amended to read as follows:

8 “(A) SPECIAL RULE.—Beginning on the
9 date that is 1 year after the date of enactment
10 of the Quell Underage Inhaling of Toxic Sub-
11 stances Act of 2019, except as provided in sub-
12 paragraph (C), a tobacco product or any of its
13 component parts or accessories (including the
14 tobacco, filter, or paper) shall not contain, as a
15 constituent (including a smoke constituent) or
16 additive, an artificial or natural flavor (other
17 than tobacco) that is a characterizing flavor of
18 the tobacco product or tobacco smoke or an
19 herb or spice, including menthol, mint, straw-
20 berry, grape, orange, clove, cinnamon, pine-
21 apple, vanilla, coconut, licorice, cocoa, chocolate,
22 cherry, or coffee. Nothing in this subparagraph
23 shall be construed to limit the Secretary’s au-
24 thority to take action under this section or

1 other sections of this Act applicable to any arti-
2 ficial or natural flavor, herb, or spice.”.

3 (b) EXCEPTION.—Paragraph (1) of section 907(a) of
4 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
5 387g(a)) is amended by adding at the end the following
6 new subparagraph:

7 “(C) EXCEPTION FOR CHARACTERIZING
8 FLAVORS TO DECREASE SMOKING.—Notwith-
9 standing subparagraph (A), an electronic nico-
10 tine delivery system product or any component
11 or part of such a product may contain, as a
12 constituent (including a smoke constituent) or
13 additive, an artificial or natural flavor or an
14 herb or spice, that is a characterizing flavor of
15 the tobacco product or tobacco smoke so long as
16 the Secretary, in coordination with the Commis-
17 sioner of Food and Drugs, determines that such
18 characterizing flavor will be appropriate for the
19 protection of public health because it—

20 “(i) will significantly increase the like-
21 lihood of smoking cessation among current
22 users of tobacco products;

23 “(ii) will not increase the likelihood
24 that individuals who do not use tobacco

1 products, including youth, will start using
2 such products; and

3 “(iii) will not increase the likelihood of
4 harm to the person using the product.”.

5 (c) SAVINGS PROVISION.—Section 907(a)(1) of the
6 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
7 387g(a)(1)), as in effect on the date of enactment of this
8 Act, shall remain in effect until the amendments made to
9 such section 907(a)(1) by this section take effect.

10 **SEC. 4. INCREASE IN AUTHORIZATION OF APPROPRIA-**
11 **TIONS FOR OFFICE OF SMOKING AND**
12 **HEALTH OF THE CENTERS FOR DISEASE CON-**
13 **TROL AND PREVENTION.**

14 There is hereby authorized to be appropriated to
15 carry out the programs of the Office of Smoking and
16 Health of the Centers for Disease Control and Prevention
17 \$500,000,000 in each fiscal year.

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