

114TH CONGRESS
1ST SESSION

H. R. 3242

To require special packaging for liquid nicotine containers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2015

Mrs. BROOKS of Indiana (for herself and Ms. ESTY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require special packaging for liquid nicotine containers, 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 “Child Nicotine Poi-
5 soning Prevention Act of 2015”.

6 **SEC. 2. SPECIAL PACKAGING FOR LIQUID NICOTINE CON-**
7 **TAINERS.**

8 (a) REQUIREMENT.—Notwithstanding section 2(f)(2)
9 of the Federal Hazardous Substances Act (15 U.S.C.
10 1261(f)(2)) and section 3(a)(5) of the Consumer Product

1 Safety Act (15 U.S.C. 2052(a)(5)), any nicotine provided
2 in a liquid nicotine container sold, offered for sale, manu-
3 factured for sale, distributed in commerce, or imported
4 into the United States shall be packaged in accordance
5 with the standards provided in section 1700.15 of title 16,
6 Code of Federal Regulations, as determined through test-
7 ing in accordance with the method described in section
8 1700.20 of title 16, Code of Federal Regulations, and any
9 subsequent changes to such sections adopted by the Com-
10 mission.

11 (b) SAVINGS CLAUSE.—

12 (1) IN GENERAL.—Nothing in this Act shall be
13 construed to limit or otherwise affect the authority
14 of the Secretary of Health and Human Services to
15 regulate, issue guidance, or take action regarding
16 the manufacture, marketing, sale, distribution, im-
17 portation, or packaging, including child-resistant
18 packaging, of nicotine, liquid nicotine, liquid nicotine
19 containers, electronic cigarettes, electronic nicotine
20 delivery systems or other similar products that con-
21 tain or dispense liquid nicotine, or any other nico-
22 tine-related products, including—

23 (A) authority under the Federal Food,
24 Drug, and Cosmetic Act (21 U.S.C. 301 et
25 seq.) and the Family Smoking Prevention and

1 Tobacco Control Act (Public Law 111–31) and
2 the amendments made by such Act; and

3 (B) authority for the rulemaking entitled
4 “Deeming Tobacco Products to Be Subject to
5 the Federal Food, Drug, and Cosmetic Act, as
6 Amended by the Family Smoking Prevention
7 and Tobacco Control Act; regulations on the
8 Sale and Distribution of Tobacco Products and
9 the Required Warning Statements for Tobacco
10 Products” (April 2014) (FDA–2014–N–0189),
11 the rulemaking entitled “Nicotine Exposure
12 Warnings and Child-Resistant Packaging for
13 Liquid Nicotine, Nicotine-Containing E-Liq-
14 uid(s), and Other Tobacco Products” (June
15 2015) (FDA–2015–N–1514), and subsequent
16 actions by the Secretary regarding packaging of
17 liquid nicotine containers.

18 (2) CONSULTATION.—If the Secretary of
19 Health and Human Services adopts, maintains, en-
20 forces, or imposes or continues in effect any pack-
21 aging requirement for liquid nicotine containers, in-
22 cluding a child-resistant packaging requirement, the
23 Secretary shall consult with the Commission, taking
24 into consideration the expertise of the Commission
25 in implementing and enforcing this Act and the Poi-

1 son Prevention Packaging Act of 1970 (15 U.S.C.
2 1471 et seq.).

3 (c) APPLICABILITY.—Notwithstanding section
4 3(a)(5) of the Consumer Product Safety Act (15 U.S.C.
5 2052(a)(5)) and section 2(f)(2) of the Federal Hazardous
6 Substances Act (15 U.S.C. 1261(f)(2)), the requirement
7 of subsection (a) shall be treated as a standard for the
8 special packaging of a household substance established
9 under section 3(a) of the Poison Prevention Packaging
10 Act of 1970 (15 U.S.C. 1472(a)).

11 (d) DEFINITIONS.—In this section:

12 (1) COMMISSION.—The term “Commission”
13 means the Consumer Product Safety Commission.

14 (2) LIQUID NICOTINE CONTAINER.—

15 (A) IN GENERAL.—Notwithstanding sec-
16 tion 2(f)(2) of the Federal Hazardous Sub-
17 stances Act (15 U.S.C. 1261(f)(2)) and section
18 3(a)(5) of the Consumer Product Safety Act
19 (15 U.S.C. 2052(a)(5)), the term “liquid nico-
20 tine container” means a package (as defined in
21 section 2 of the Poison Prevention Packaging
22 Act of 1970 (15 U.S.C. 1471))—

23 (i) from which nicotine in a solution
24 or other form is accessible through normal
25 and foreseeable use by a consumer; and

1 (ii) that is used to hold soluble nico-
2 tine in any concentration.

3 (B) EXCLUSION.—The term “liquid nico-
4 tine container” does not include a sealed, pre-
5 filled, and disposable container of nicotine in a
6 solution or other form in which such container
7 is inserted directly into an electronic cigarette,
8 electronic nicotine delivery system, or other
9 similar product, if the nicotine in the container
10 is inaccessible through customary or reasonably
11 foreseeable handling or use, including reason-
12 ably foreseeable ingestion or other contact by
13 children.

14 (3) NICOTINE.—The term “nicotine” means
15 any form of the chemical nicotine, including any salt
16 or complex, regardless of whether the chemical is
17 naturally or synthetically derived.

18 **SEC. 3. EFFECTIVE DATE.**

19 This Act shall take effect on the date that is 180 days
20 after the date of the enactment of this Act.

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