

## Committee Print

[SHOWING THE TEXT OF H.R. 2339, AS FAVORABLY FORWARDED BY THE ENERGY AND COMMERCE SUBCOMMITTEE ON HEALTH ON NOVEMBER 13, 2019]

116TH CONGRESS  
1ST SESSION

# H. R. 2339

To amend the Federal Food, Drug, and Cosmetic Act with respect to the sale and marketing of tobacco products, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2019

Mr. PALLONE (for himself and Ms. SHALALA) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to the sale and marketing of 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 “Reversing the Youth  
5 Tobacco Epidemic Act of 2019”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—FOOD AND DRUG ADMINISTRATION

- Sec. 101. Cigarette graphic health warnings.
- Sec. 102. Advertising and sales parity for all deemed tobacco products.
- Sec. 103. Reducing child and adolescent nicotine addiction.
- Sec. 104. Fees applicable to all tobacco products.
- Sec. 105. Regulation of products containing synthetic nicotine.
- Sec. 106. Update to youth tobacco prevention public awareness campaigns.

TITLE II—FEDERAL TRADE COMMISSION

- Sec. 201. Advertising of tobacco products.

TITLE III—PUBLIC HEALTH PROGRAMS

- Sec. 301. Outreach to medically underserved communities.
- Sec. 302. Demonstration grant program to develop strategies for smoking cessation in medically underserved communities.

1           **TITLE I—FOOD AND DRUG**  
 2                           **ADMINISTRATION**

3 **SEC. 101. CIGARETTE GRAPHIC HEALTH WARNINGS.**

4           (a) **ISSUANCE DEADLINES.**—Not later than March  
 5 15, 2020, the Secretary of Health and Human Services,  
 6 acting through the Commissioner of Food and Drugs,  
 7 shall publish a final rule pursuant to section 4(d) of the  
 8 Federal Cigarette Labeling and Advertising Act (15  
 9 U.S.C. 1333(d)). If the Secretary fails to promulgate such  
 10 final rule by March 15, 2020, then the proposed rule titled  
 11 “Tobacco Products; Required Warnings for Cigarette  
 12 Packages and Advertisements” published by the Food and  
 13 Drug Administration on August 16, 2019 (84 Fed. Reg.  
 14 42754) shall be treated as a final rule beginning on March  
 15 16, 2020.

1 (b) CONFORMING CHANGE.—Section 4(d) of the Fed-  
2 eral Cigarette Labeling and Advertising Act (15 U.S.C.  
3 1333(d)) is amended by striking “Not later than 24  
4 months after the date of enactment of the Family Smok-  
5 ing Prevention and Tobacco Control Act, the Secretary”  
6 and inserting “The Secretary”.

7 **SEC. 102. ADVERTISING AND SALES PARITY FOR ALL**  
8 **DEEMED TOBACCO PRODUCTS.**

9 (a) IN GENERAL.—Not later than 1 year after the  
10 date of enactment of this Act, the Secretary of Health and  
11 Human Services, acting through the Commissioner of  
12 Food and Drugs, shall promulgate a final rule amending  
13 part 1140 of subchapter K of title 21, Code of Federal  
14 Regulations—

15 (1) to apply the provisions of such part 1140 to  
16 all tobacco products, as applicable, to which chapter  
17 IX of the Federal Food, Drug, and Cosmetic Act  
18 (21 U.S.C. 387a et seq.) applies pursuant to section  
19 901(b) of such Act (21 U.S.C. 387a(b)), as amended  
20 by section 103(a) of this Act; and

21 (2) to make such changes as may be necessary  
22 for consistency with the amendments made by sec-  
23 tion 103 of this Act, including by updating all ref-  
24 erences to persons younger than 18 years of age in

1 subpart B of part 1140 of title 21, Code of Federal  
2 Regulations.

3 (b) EFFECTIVE DATE.—The final rule required by  
4 subsection (a) shall take effect on the date that is 2 years  
5 after the date of enactment of this Act.

6 **SEC. 103. REDUCING CHILD AND ADOLESCENT NICOTINE**  
7 **ADDICTION.**

8 (a) APPLICABILITY TO ALL TOBACCO PRODUCTS.—

9 (1) IN GENERAL.—Subsection (b) of section  
10 901 of the Federal Food, Drug, and Cosmetic Act  
11 (21 U.S.C. 387a) is amended to read as follows:

12 “(b) APPLICABILITY.—This chapter shall apply to all  
13 tobacco products.”.

14 (2) RULE OF CONSTRUCTION.—Paragraph (1)  
15 and the amendment made thereby shall not be con-  
16 strued to limit the applicability of chapter IX of the  
17 Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
18 387a et seq.) to—

19 (A) products that were listed in section  
20 901(b) of such Act as in effect on the day be-  
21 fore the date of enactment of this Act; and

22 (B) products that were deemed by regula-  
23 tion to be subject to such chapter pursuant to  
24 section 901(b) of such Act as in effect on the  
25 day before the date of enactment of this Act.

1 (b) MINIMUM AGE RESTRICTIONS.—

2 (1) IN GENERAL.—Section 906(d) of the Fed-  
3 eral Food, Drug, and Cosmetic Act (21 U.S.C.  
4 387f(d)) is amended by striking paragraph (3) and  
5 inserting the following:

6 “(3) MINIMUM AGE RESTRICTIONS.—

7 “(A) RESTRICTION.—It shall be unlawful  
8 for any retailer, manufacturer, distributor,  
9 third-party marketplace, or any other commer-  
10 cial entity to sell a tobacco product to any per-  
11 son younger than 21 years of age.

12 “(B) AGE VERIFICATION.—To ensure com-  
13 pliance with subparagraph (A), a retailer shall,  
14 at a minimum, verify by means of a govern-  
15 ment-issued photographic identification the age  
16 of the individual purchasing the product as pre-  
17 scribed in—

18 “(i) subpart B of part 1140 of sub-  
19 chapter K of title 21, Code of Federal Reg-  
20 ulations; and

21 “(ii) successor regulations, including  
22 the regulation required by section 102 of  
23 the Reversing the Youth Tobacco Epidemic  
24 Act of 2019 and any applicable regulation

1           imposing restrictions pursuant to para-  
2           graph (1).

3           “(C) REGULATIONS.—Not later than 180  
4           days after the date of enactment of the Revers-  
5           ing the Youth Tobacco Epidemic Act of 2019,  
6           the Secretary shall promulgate a final regula-  
7           tion to implement and enforce subparagraphs  
8           (A) and (B).

9           “(D) TIMING.—Subparagraphs (A) and  
10          (B) shall take effect on the date that is 180  
11          days after the date of enactment of the Revers-  
12          ing the Youth Tobacco Epidemic Act of 2019,  
13          regardless of whether the Secretary has promul-  
14          gated the final regulations required by subpara-  
15          graph (C).”.

16          (2) PRESERVATION OF STATE AND LOCAL AU-  
17          THORITY.—Nothing in the amendment made by  
18          paragraph (1) shall be construed to affect the pres-  
19          ervation of State and local authority pursuant to  
20          section 916 of the Federal Food, Drug, and Cos-  
21          metic Act (21 U.S.C. 387p).

22          (c) PROHIBITION AGAINST REMOTE RETAIL  
23          SALES.—Paragraph (4) of section 906(d) of the Federal  
24          Food, Drug, and Cosmetic Act (21 U.S.C. 387f(d)) is  
25          amended to read as follows:

1           “(4) PROHIBITION AGAINST REMOTE RETAIL  
2 SALES.—Not later than 2 years after the date of en-  
3 actment of the Reversing the Youth Tobacco Epi-  
4 demic Act of 2019, the Secretary shall promulgate  
5 a final regulation under paragraph (1) prohibiting  
6 the retail sale of all tobacco products, including elec-  
7 tronic nicotine delivery systems and electronic nico-  
8 tine delivery system accessories, other than retail  
9 sales through a direct, face-to-face exchange between  
10 a retailer and a consumer.”.

11       (d) PROHIBITING FLAVORING OF TOBACCO PROD-  
12 UCTS.—

13           (1) PROHIBITION.—

14           (A) IN GENERAL.—Subparagraph (A) of  
15 section 907(a)(1) of the Federal Food, Drug,  
16 and Cosmetic Act (21 U.S.C. 387g(a)(1)) is  
17 amended to read as follows:

18           “(A) SPECIAL RULES.—

19           “(i) IN GENERAL.—Beginning on the  
20 date that is 1 year after the date of enact-  
21 ment of the Reversing the Youth Tobacco  
22 Epidemic Act of 2019, a tobacco product  
23 (including its components, parts, and ac-  
24 cessories, including the tobacco, filter, or  
25 paper) that is not an electronic nicotine de-

1 livery system shall not contain, as a con-  
2 stituent (including a smoke constituent) or  
3 additive, an artificial or natural flavor  
4 (other than tobacco) that is a character-  
5 izing flavor of the tobacco product or to-  
6 bacco smoke or an herb or spice, including  
7 menthol, mint, strawberry, grape, orange,  
8 clove, cinnamon, pineapple, vanilla, coco-  
9 nut, licorice, cocoa, chocolate, cherry, or  
10 coffee.

11 “(ii) RULE OF CONSTRUCTION.—  
12 Nothing in this subparagraph shall be con-  
13 strued to limit the Secretary’s authority to  
14 take action under this section or other sec-  
15 tions of this Act applicable to any artificial  
16 or natural flavor, herb, or spice.

17 “(iii) APPLICABILITY TO CERTAIN IN-  
18 DIVIDUALS.—Notwithstanding any provi-  
19 sion of this Act, no individual who pur-  
20 chases or possess for consumption a to-  
21 bacco product that is in violation of the  
22 prohibition under this subparagraph shall  
23 be subject to any criminal penalty under  
24 this Act for such purchase or possession.”.



1 (B) SAVINGS PROVISION.—Section  
2 907(a)(1) of the Federal Food, Drug, and Cos-  
3 metic Act (21 U.S.C. 387g(a)(1)), as in effect  
4 on the date of enactment of this Act, shall re-  
5 main in effect until the amendments made to  
6 such section 907(a)(1) by this paragraph take  
7 effect.

8 (2) FLAVORED ELECTRONIC NICOTINE DELIV-  
9 ERY SYSTEM.—Section 910 of the Federal Food,  
10 Drug, and Cosmetic Act (21 U.S.C. 387j) is amend-  
11 ed by inserting at the end the following:

12 “(h) FLAVORED ELECTRONIC NICOTINE DELIVERY  
13 SYSTEMS.—

14 “(1) RESTRICTION.—Beginning on the date  
15 that is 30 days after the date of enactment of the  
16 Reversing the Youth Tobacco Epidemic Act of 2019,  
17 any flavored electronic nicotine delivery system that  
18 is a new tobacco product, including any liquid, solu-  
19 tion, or other component or part or its aerosol, shall  
20 not contain an artificial or natural flavor (other than  
21 tobacco) that is a characterizing flavor, including  
22 menthol, mint, strawberry, grape, orange, clove, cin-  
23 namon, pineapple, vanilla, coconut, licorice, cocoa,  
24 chocolate, cherry, or coffee, unless the Secretary has  
25 issued a marketing order as described in paragraph

1 (2). Nothing in this paragraph shall be construed to  
2 limit the Secretary's authority to take action under  
3 this section or other sections of this Act applicable  
4 to any artificial or natural flavor, herb, or spice.

5 “(2) REVIEW.—The Secretary shall not issue a  
6 marketing order under subsection (c)(1)(A)(i) or a  
7 substantial equivalence order under subsection  
8 (a)(2)(A)(i) for any electronic nicotine delivery sys-  
9 tem, including any liquid, solution, or other compo-  
10 nent or part or its aerosol, that contains an artificial  
11 or natural flavor (other than tobacco) that is a char-  
12 acterizing flavor, unless the Secretary issues an  
13 order finding that the manufacturer has dem-  
14 onstrated that—

15 “(A) use of the characterizing flavor—

16 “(i) will significantly increase the like-  
17 lihood of smoking cessation among current  
18 users of tobacco products; and

19 “(ii) will not increase the likelihood  
20 that individuals who do not use tobacco  
21 products, including youth, will start using  
22 any tobacco product, including an elec-  
23 tronic nicotine delivery system; and

24 “(B) such electronic nicotine delivery sys-  
25 tem is not more harmful to users than an elec-

1           tronic nicotine delivery system that does not  
2           contain any characterizing flavors.”.

3           (3) DEFINITION OF ELECTRONIC NICOTINE DE-  
4           LIVERY SYSTEM.—Section 900 of the Federal Food,  
5           Drug, and Cosmetic Act (21 U.S.C. 387) is amend-  
6           ed—

7                   (A) by redesignating paragraphs (8)  
8                   through (22) as paragraphs (9) through (23),  
9                   respectively; and

10                   (B) by inserting after paragraph (7) the  
11                   following new paragraph:

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

15                           “(A) means any electronic device that de-  
16                           livers nicotine, flavor, or another substance via  
17                           an aerosolized solution to the user inhaling  
18                           from the device (including e-cigarettes, e-hook-  
19                           ah, e-cigars, vape pens, advanced refillable per-  
20                           sonal vaporizers, and electronic pipes) and any  
21                           component, liquid, part, or accessory of such a  
22                           device, whether or not sold separately; and

23                           “(B) does not include a product that—

24                                   “(i) is approved by the Food and  
25                                   Drug Administration for sale as a tobacco

1 cessation product or for another thera-  
2 peutic purpose; and

3 “(ii) is marketed and sold solely for a  
4 purpose described in clause (i).”.

5 **SEC. 104. FEES APPLICABLE TO ALL TOBACCO PRODUCTS.**

6 (a) INCREASE IN TOTAL AMOUNT.—Section  
7 919(b)(1) of the Federal Food, Drug, and Cosmetic Act  
8 (21 U.S.C. 387s(b)(1)) is amended by striking subpara-  
9 graph (K) and inserting the following subparagraphs:

10 “(K) For fiscal year 2019, \$712,000,000.

11 “(L) For fiscal year 2020, \$812,000,000.

12 “(M) For each subsequent fiscal year, the  
13 amount that was applicable for the previous fis-  
14 cal year, increased by the total percentage  
15 change that occurred in the Consumer Price  
16 Index for all urban consumers (all items;  
17 United States city average) for the 12-month  
18 period ending June 30 preceding the fiscal  
19 year.”.

20 (b) APPLICATION OF USER FEES TO ALL CLASSES  
21 OF TOBACCO PRODUCTS.—Paragraph (2) of section  
22 919(b) of the Federal Food, Drug, and Cosmetic Act (21  
23 U.S.C. 387s(b)(2)) is amended to read as follows:

24 “(2) ALLOCATIONS OF ASSESSMENT BY CLASS  
25 OF TOBACCO PRODUCTS.—Beginning with fiscal year

1       2022, the total user fees assessed and collected  
2       under subsection (a) each fiscal year with respect to  
3       each class of tobacco products shall be an amount  
4       that is determined pursuant to a formula developed  
5       by the Secretary.”.

6       (c) ALLOCATION OF ASSESSMENT WITHIN EACH  
7       CLASS OF TOBACCO PRODUCT.—Section 919(b)(4) of the  
8       Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
9       387s(b)(4)) is amended by striking “shall be the percent-  
10      age determined for purposes of allocations under sub-  
11      sections (e) through (h) of section 625 of Public Law 108–  
12      357” and inserting “shall be the percentage determined  
13      by the Secretary”.

14      (d) CONFORMING AMENDMENTS.—Section 919(b) of  
15      the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
16      387s(b)) is amended—

17              (1) by striking paragraph (5);

18              (2) by redesignating paragraphs (6) and (7) as  
19      paragraphs (7) and (8), respectively; and

20              (3) by amending paragraph (7) to read as fol-  
21      lows:

22              “(7) MEMORANDUM OF UNDERSTANDING.—The  
23      Secretary shall request the appropriate Federal  
24      agency to enter into a memorandum of under-  
25      standing that provides for the regular and timely

1 transfer from the head of such agency to the Sec-  
2 retary of all necessary information regarding all to-  
3 bacco product manufacturers and importers required  
4 to pay user fees. The Secretary shall maintain all  
5 disclosure restrictions established by the head of  
6 such agency regarding the information provided  
7 under the memorandum of understanding.”.

8 (e) APPLICABILITY.—The amendments made by sub-  
9 sections (b), (c), and (d) apply beginning with fiscal year  
10 2022. Subject to the amendment made by subsection (a),  
11 section 919 of the Federal Food, Drug, and Cosmetic Act  
12 (21 U.S.C. 387s), as in effect on the day before the date  
13 of enactment of this Act, shall apply with respect to fiscal  
14 years preceding fiscal year 2022.

15 (f) REPORT.—For fiscal year 2020 and each subse-  
16 quent fiscal year for which fees are collected under section  
17 919 of the Federal Food, Drug, and Cosmetic Act (21  
18 U.S.C. 387s), the Secretary of Health and Human Serv-  
19 ices, acting through the Commissioner of Food and Drugs,  
20 shall, by the end of the respective fiscal year, submit to  
21 the Congress financial and performance reports with re-  
22 spect to such fees.

1 **SEC. 105. REGULATION OF PRODUCTS CONTAINING SYN-**  
2 **THETIC NICOTINE.**

3 (a) IN GENERAL.—The Secretary of Health and  
4 Human Services, acting through the Commissioner of  
5 Food and Drugs, shall—

6 (1) not later than 1 year after the date of en-  
7 actment of this Act, issue an interim final rule pro-  
8 viding for the regulation of products containing syn-  
9 thetic nicotine under the Federal Food, Drug, and  
10 Cosmetic Act (21 U.S.C. 301 et seq.); and

11 (2) not later than 2 years after such date of en-  
12 actment, issue a final rule providing for such regula-  
13 tion.

14 (b) SYNTHETIC NICOTINE DEFINED.—In this sec-  
15 tion, the term “synthetic nicotine” means nicotine that is  
16 not made or derived from tobacco.

17 **SEC. 106. UPDATE TO YOUTH TOBACCO PREVENTION PUB-**  
18 **LIC AWARENESS CAMPAIGNS.**

19 (a) IN GENERAL.—The Secretary of Health and  
20 Human Services, acting through the Commissioner of  
21 Food and Drugs, shall—

22 (1) review all public health awareness cam-  
23 paigns of the Department of Health and Human  
24 Services designed to educate at-risk individuals  
25 about the harmful effects of tobacco use, including

1 the use of e-cigarettes and other electronic nicotine  
2 delivery systems; and

3 (2) as applicable, modify such campaigns to in-  
4 clude awareness and education materials designated  
5 for individuals who are 18 to 21 years of age.

6 (b) CONSULTATION.—In carrying out subsection (a),  
7 the Secretary of Health and Human Services may consult  
8 with medical and public health associations and nonprofit  
9 organizations.

## 10 **TITLE II—FEDERAL TRADE** 11 **COMMISSION**

### 12 **SEC. 201. ADVERTISING OF TOBACCO PRODUCTS.**

13 (a) ADVERTISING OF ELECTRONIC NICOTINE DELIV-  
14 ERY SYSTEMS.—

15 (1) IN GENERAL.—It shall be unlawful—

16 (A) to market, advertise, or promote any  
17 electronic nicotine delivery system in a manner  
18 that appeals to an individual under 21 years of  
19 age; or

20 (B) to market, advertise, promote, or en-  
21 dorse, or to compensate any person for the  
22 marketing, advertising, promotion, or endorse-  
23 ment of, any electronic nicotine delivery system  
24 without clearly disclosing that the communica-  
25 tion is an advertisement, unless the communica-



1           tion is unambiguously identifiable as an adver-  
2           tisement.

3           (2) ENFORCEMENT BY COMMISSION.—

4                 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
5           TICES.—A violation of paragraph (1) shall be  
6           treated as a violation of a regulation under sec-  
7           tion 18(a)(1)(B) of the Federal Trade Commis-  
8           sion Act (15 U.S.C. 57a(a)(1)(B)) regarding  
9           unfair or deceptive acts or practices.

10                (B) POWERS OF COMMISSION.—The Com-  
11           mission shall enforce paragraph (1) in the same  
12           manner, by the same means, and with the same  
13           jurisdiction, powers, and duties as though all  
14           applicable terms and provisions of the Federal  
15           Trade Commission Act (15 U.S.C. 41 et seq.)  
16           were incorporated into and made a part of this  
17           Act. Any person who violates such paragraph  
18           shall be subject to the penalties and entitled to  
19           the privileges and immunities provided in the  
20           Federal Trade Commission Act.

21           (3) ENFORCEMENT BY STATE ATTORNEYS GEN-  
22           ERAL.—

23                 (A) IN GENERAL.—If the attorney general  
24           of a State has reason to believe a violation of  
25           paragraph (1) has occurred or is occurring, the

1 attorney general, in addition to any authority  
2 the attorney general may have to bring an ac-  
3 tion in State court under the law of the State,  
4 may bring a civil action in any court of com-  
5 petent jurisdiction to—

6 (i) enjoin further such violation by the  
7 defendant;

8 (ii) enforce compliance with such  
9 paragraph;

10 (iii) obtain civil penalties in the same  
11 amount as may be obtained by the Com-  
12 mission in a civil action under section 5(m)  
13 of the Federal Trade Commission Act (15  
14 U.S.C. 45(m)); or

15 (iv) obtain damages, restitution, or  
16 other compensation on behalf of residents  
17 of the State.

18 (B) NOTICE.—Before filing an action  
19 under subparagraph (A), the attorney general  
20 of a State shall provide to the Commission a  
21 written notice of such action and a copy of the  
22 complaint for such action. If the attorney gen-  
23 eral determines that it is not feasible to provide  
24 the notice described in this subparagraph before  
25 the filing of the action, the attorney general

1 shall provide written notice of the action and a  
2 copy of the complaint to the Commission imme-  
3 diately upon the filing of the action.

4 (C) AUTHORITY OF FEDERAL TRADE COM-  
5 MISSION.—

6 (i) IN GENERAL.—On receiving notice  
7 under subparagraph (B) of an action  
8 under subparagraph (A), the Commission  
9 shall have the right—

10 (I) to intervene in the action;

11 (II) upon so intervening, to be  
12 heard on all matters arising therein;  
13 and

14 (III) to file petitions for appeal.

15 (ii) LIMITATION ON STATE ACTION  
16 WHILE FEDERAL ACTION IS PENDING.—If  
17 the Commission has instituted a civil ac-  
18 tion for violation of paragraph (1) (re-  
19 ferred to in this clause as the “Federal ac-  
20 tion”), no attorney general of a State may  
21 bring an action under subparagraph (A)  
22 during the pendency of the Federal action  
23 against any defendant named in the com-  
24 plaint in the Federal action for any viola-

1           tion of such paragraph alleged in such  
2           complaint.

3           (D) RELATIONSHIP WITH STATE-LAW  
4           CLAIMS.—

5           (i) PRESERVATION OF STATE-LAW  
6           CLAIMS.—Nothing in this section shall pre-  
7           vent the attorney general of a State from  
8           bringing an action under State law for acts  
9           or practices that also violate paragraph  
10          (1).

11          (ii) ASSERTION IN SAME CIVIL AC-  
12          TION.—If the attorney general of a State  
13          has authority to bring an action under  
14          State law for acts or practices that also  
15          violate paragraph (1), the attorney general  
16          may assert the State-law claim and the  
17          claim for violation of such paragraph in  
18          the same civil action.

19          (E) ACTIONS BY OTHER STATE OFFI-  
20          CIALS.—In addition to civil actions brought by  
21          attorneys general under subparagraph (A), any  
22          other consumer protection officer of a State  
23          who is authorized by the State to do so may  
24          bring a civil action under such subparagraph,  
25          subject to the same requirements and limita-

1           tions that apply under this paragraph to civil  
2           actions brought by attorneys general.

3           (4) RULEMAKING AUTHORITY.—The Commis-  
4           sion may promulgate regulations under section 553  
5           of title 5, United States Code, to implement para-  
6           graph (1).

7           (b) REPORT TO CONGRESS ON TOBACCO PRODUCT  
8           ADVERTISING.—

9           (1) IN GENERAL.—Not later than 2 years after  
10          the date of the enactment of this Act, and annually  
11          thereafter, the Commission shall submit to Congress  
12          a report relating to each category of products de-  
13          scribed in paragraph (2) (or a single report a por-  
14          tion of which relates to each such category) that  
15          contains the following:

16                (A) Information on domestic sales and ad-  
17                vertising and promotional activity by the manu-  
18                facturers that have the largest market shares of  
19                the product category.

20                (B) Such recommendations for legislation  
21                as the Commission may consider appropriate.

22           (2) PRODUCT CATEGORIES DESCRIBED.—The  
23           categories of products described in this paragraph  
24           are the following:

25                (A) Cigarettes.

1 (B) Cigars.

2 (C) Smokeless tobacco.

3 (D) Electronic nicotine delivery systems.

4 (c) PRESERVATION OF AUTHORITY.—Nothing in this  
5 section may be construed in any way to limit the Commis-  
6 sion’s authority under any other provision of law.

7 (d) DEFINITIONS.—In this section:

8 (1) CIGAR.—The term “cigar” means a tobacco  
9 product that—

10 (A) is not a cigarette; and

11 (B) is a roll of tobacco wrapped in leaf to-  
12 bacco or any substance containing tobacco.

13 (2) CIGARETTE.—The term “cigarette” has the  
14 meaning given such term in section 900 of the Fed-  
15 eral Food, Drug, and Cosmetic Act (21 U.S.C. 387).

16 (3) COMMISSION.—The term “Commission”  
17 means the Federal Trade Commission.

18 (4) ELECTRONIC NICOTINE DELIVERY SYS-  
19 TEM.—The term “electronic nicotine delivery sys-  
20 tem”—

21 (A) means any electronic device that deliv-  
22 ers nicotine, flavor, or another substance via an  
23 aerosolized solution to the user inhaling from  
24 the device (including e-cigarettes, e-hookah, e-  
25 cigars, vape pens, advanced refillable personal

1 vaporizers, and electronic pipes) and any com-  
2 ponent, liquid, part, or accessory of such a de-  
3 vice, whether or not sold separately; and

4 (B) does not include a product that—

5 (i) is approved by the Food and Drug  
6 Administration for sale as a tobacco ces-  
7 sation product or for another therapeutic  
8 purpose; and

9 (ii) is marketed and sold solely for a  
10 purpose described in clause (i).

11 (5) ENDORSE.—The term “endorse” means to  
12 communicate an advertising message (including a  
13 verbal statement, demonstration, or depiction of the  
14 name, signature, likeness, or other identifying per-  
15 sonal characteristics of an individual or the name or  
16 seal of an organization) that consumers are likely to  
17 believe reflects the opinions, beliefs, findings, or ex-  
18 periences of a party other than the sponsoring ad-  
19 vertiser, even if the views expressed by such party  
20 are identical to those of the sponsoring advertiser.

21 (6) NICOTINE.—The term “nicotine” has the  
22 meaning given such term in section 900 of the Fed-  
23 eral Food, Drug, and Cosmetic Act (21 U.S.C. 387).

24 (7) SMOKELESS TOBACCO.—The term “smoke-  
25 less tobacco” has the meaning given such term in

1 section 900 of the Federal Food, Drug, and Cos-  
2 metic Act (21 U.S.C. 387).

3 (8) TOBACCO PRODUCT.—The term “tobacco  
4 product” has the meaning given such term in section  
5 201 of the Federal Food, Drug, and Cosmetic Act  
6 (21 U.S.C. 321).

## 7 **TITLE III—PUBLIC HEALTH** 8 **PROGRAMS**

### 9 **SEC. 301. OUTREACH TO MEDICALLY UNDERSERVED COM-** 10 **MUNITIES.**

11 The Secretary shall ensure that programs at the Cen-  
12 ters for Disease Control and Prevention related to out-  
13 reach to medically underserved communities, including ra-  
14 cial and ethnic minority populations, include efforts to  
15 educate and provide guidance regarding effective evidence-  
16 based strategies—

17 (1) to prevent tobacco, e-cigarette, and nicotine  
18 addiction; and

19 (2) for smoking cessation and the cessation of  
20 the use of e-cigarettes and electronic nicotine deliv-  
21 ery systems.



1 **SEC. 302. DEMONSTRATION GRANT PROGRAM TO DEVELOP**  
2 **STRATEGIES FOR SMOKING CESSATION IN**  
3 **MEDICALLY UNDERSERVED COMMUNITIES.**

4 (a) IN GENERAL.—The Secretary, acting through the  
5 Director of the Centers for Disease Control and Preven-  
6 tion, shall establish a demonstration program to award  
7 grants to or contract with State, local, Tribal, or terri-  
8 torial public health departments to support—

9 (1) the development of improved evidence-based  
10 strategies for smoking cessation and the cessation of  
11 the use of e-cigarettes and electronic nicotine deliv-  
12 ery systems for populations in medically underserved  
13 communities, particularly racial and ethnic minority  
14 populations;

15 (2) the development of improved communication  
16 and outreach tools to reach populations in medically  
17 underserved communities, particularly racial and  
18 ethnic minority populations, addicted to tobacco and  
19 e-cigarette products; and

20 (3) improved coordination, access, and referrals  
21 to services for smoking cessation and the cessation  
22 of the use of e-cigarettes and electronic nicotine de-  
23 livery systems, including smoking cessation products  
24 and mental health and counseling services.

25 (b) APPLICATION.—To be eligible to receive a grant  
26 under subsection (a), a State, local, Tribal, or territorial

1 public health department shall submit to the Secretary an  
2 application at such time, in such manner, and containing  
3 such information as the Secretary may require.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to carry out this section,  
6 \$3,000,000 for each of fiscal years 2020 through 2024.