

116TH CONGRESS
1ST SESSION

S. 2463

To amend the Internal Revenue Code of 1986 to provide for regulation and taxation of electronic cigarettes and alternative nicotine products.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2019

Mr. WYDEN (for himself, Mrs. FEINSTEIN, Mr. REED, Mr. CARPER, Ms. STABENOW, Mr. CARDIN, Mr. WHITEHOUSE, Mr. UDALL, Mrs. SHAHEEN, Mr. MERKLEY, Mr. BENNET, Mr. COONS, Mr. HEINRICH, Mr. KING, Mr. MARKEY, Mr. VAN HOLLEN, Ms. HASSAN, Ms. SMITH, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for regulation and taxation of electronic cigarettes and alternative nicotine products.

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 “E-Cigarette Tax Parity
5 Act”.

1 **SEC. 2. REGULATION AND TAXATION OF ELECTRONIC CIGA-**
2 **RETTES AND ALTERNATIVE NICOTINE PROD-**
3 **UCTS.**

4 (a) IMPOSITION, RATE, AND ATTACHMENT OF
5 TAX.—Section 5701 of the Internal Revenue Code of 1986
6 is amended—

7 (1) by redesignating subsection (h) as sub-
8 section (i), and

9 (2) by inserting after subsection (g) the fol-
10 lowing new subsection:

11 “(h) ALTERNATIVE NICOTINE PRODUCTS.—

12 “(1) IN GENERAL.—On alternative nicotine
13 products, manufactured in or imported into the
14 United States, there shall be imposed a tax equal to
15 the applicable dollar amount per gram of nicotine
16 (and a proportionate tax at the like rate on all frac-
17 tional parts of a gram) contained in such product.

18 “(2) APPLICABLE DOLLAR AMOUNT.—For pur-
19 poses of this subsection, the applicable dollar
20 amount shall be equal to—

21 “(A) \$50.33, or

22 “(B) for any specified class of alternative
23 nicotine products which is identified pursuant
24 to regulations prescribed by the Secretary, such
25 amount as may be determined by the Secretary
26 (in consultation with the Secretary of Health

1 and Human Services) to be equivalent to the
 2 rate of tax imposed on cigarettes under sub-
 3 section (b)(1) on an estimated per use basis for
 4 such class of alternative nicotine products.”.

5 (b) DEFINITIONS.—Section 5702 of the Internal Rev-
 6 enue Code of 1986 is amended—

7 (1) in subsection (c), by striking “and roll-your-
 8 own tobacco” and inserting “roll-your-own tobacco,
 9 and alternative nicotine products”,

10 (2) in subsection (d), by striking “or roll-your-
 11 own tobacco” each place it appears and inserting
 12 “roll-your-own tobacco, or alternative nicotine prod-
 13 ucts”, and

14 (3) by adding at the end the following new sub-
 15 section:

16 “(q) ALTERNATIVE NICOTINE PRODUCT.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
 18 the term ‘alternative nicotine product’ means any
 19 product containing nicotine which is—

20 “(A) suitable for and likely to be offered
 21 to, or purchased by—

22 “(i) a consumer for the inhalation, in-
 23 gestion, absorption, or consumption of nie-
 24 otine, or

1 “(ii) a person for the production of a
2 product described in clause (i), and

3 “(B) sold, transferred, or delivered to any
4 person not possessing a permit provided for in
5 section 5713(a) as a manufacturer, importer, or
6 export warehouse proprietor.

7 “(2) EXCEPTIONS.—Pursuant to regulations
8 prescribed by the Secretary, the term ‘alternative
9 nicotine product’ shall not include—

10 “(A) tobacco, processed tobacco, cigars,
11 cigarettes, smokeless tobacco, pipe tobacco, or
12 roll-your-own tobacco, or

13 “(B) any product which—

14 “(i) has been approved by the Food
15 and Drug Administration for sale as a to-
16 bacco cessation product or for other thera-
17 peutic purposes, and

18 “(ii) is marketed and sold solely for a
19 purpose approved as described in clause
20 (i).”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date that is 180 days
23 after the date of the enactment of this Act.

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