

116TH CONGRESS  
1ST SESSION

# S. 9

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration’s jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 3, 2019

Mr. RUBIO (for himself, Mr. GARDNER, Mr. MANCHIN, Mr. COTTON, Mr. MENENDEZ, and Mrs. ERNST) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration’s jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

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 “Traditional Cigar Man-  
5 ufacturing and Small Business Jobs Preservation Act of  
6 2019”.

1 **SEC. 2. LIMITATION OF AUTHORITY WITH RESPECT TO**  
2 **PREMIUM CIGARS.**

3 (a) EXCEPTION FOR TRADITIONAL LARGE AND PRE-  
4 MIUM CIGARS.—Section 901(c) of the Federal Food,  
5 Drug, and Cosmetic Act (21 U.S.C. 387a(c)) is amend-  
6 ed—

7 (1) in paragraph (2), in the heading, by insert-  
8 ing “FOR CERTAIN TOBACCO LEAF” after “AUTHOR-  
9 ITY”; and

10 (2) by adding at the end the following:

11 “(3) LIMITATION OF AUTHORITY FOR CERTAIN  
12 CIGARS.—

13 “(A) IN GENERAL.—The provisions of this  
14 chapter (except for section 907(d)(3)) shall not  
15 apply to traditional large and premium cigars.

16 “(B) RULE OF CONSTRUCTION.—Nothing  
17 in this chapter shall be construed to grant the  
18 Secretary authority to promulgate regulations  
19 on any matter that involves traditional large  
20 and premium cigars.

21 “(C) TRADITIONAL LARGE AND PREMIUM  
22 CIGAR DEFINED.—For purposes of this para-  
23 graph, the term ‘traditional large and premium  
24 cigar’—

25 “(i) means any roll of tobacco that is  
26 wrapped in 100-percent leaf tobacco,

1           bunched with 100-percent tobacco filler,  
2           contains no filter, tip or non-tobacco  
3           mouthpiece, weighs at least 6 pounds per  
4           1,000 count, and—

5                   “(I) has a 100-percent leaf to-  
6                   bacco binder and is hand rolled;

7                   “(II) has a 100-percent leaf to-  
8                   bacco binder and is made using  
9                   human hands to lay the leaf tobacco  
10                  wrapper or binder onto only one ma-  
11                  chine that bunches, wraps, and caps  
12                  each individual cigar; or

13                  “(III) has a homogenized tobacco  
14                  leaf binder and is made in the United  
15                  States using human hands to lay the  
16                  100-percent leaf tobacco wrapper onto  
17                  only one machine that bunches,  
18                  wraps, and caps each individual cigar;  
19                  and

20                  “(ii) does not include a cigarette (as  
21                  such term is defined by section 900(3)) or  
22                  a little cigar (as such term is defined by  
23                  section 900(11)).”.

1 (b) CONFORMING AMENDMENTS.—Section 919(b) of  
2 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
3 387s(b)) is amended—

4 (1) in paragraph (2)(B)(i)(II), by inserting “,  
5 but excluding traditional large and premium cigars  
6 (as such term is defined under section 901(c)(3))”  
7 before the period; and

8 (2) in paragraph (5), by inserting “subject to  
9 section 901(c)(3),” before “if a user fee”.

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