

119TH CONGRESS  
2D SESSION

# S. 4257

To apply user fees with respect to tobacco products deemed subject to the requirements of chapter IX of the Federal Food, Drug, and Cosmetic Act.

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## IN THE SENATE OF THE UNITED STATES

MARCH 26, 2026

Mrs. SHAHEEN (for herself, Ms. MURKOWSKI, Mr. DURBIN, Ms. BALDWIN, and Mr. BLUMENTHAL) 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 apply user fees with respect to tobacco products deemed subject to the requirements of chapter IX of the Federal Food, Drug, and Cosmetic Act.

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 “Resources To Prevent  
5       Youth Vaping Act”.

6       **SEC. 2. USER FEES.**

7       (a) INCREASE IN TOTAL AMOUNT.—Section  
8       919(b)(1) of the Federal Food, Drug, and Cosmetic Act

1 (21 U.S.C. 387s(b)(1)) is amended by striking subpara-  
 2 graph (K) and inserting the following subparagraphs:

3 “(K) For each of fiscal years 2019 through  
 4 2026, \$712,000,000.

5 “(L) For fiscal year 2027, \$826,200,000.

6 “(M) For fiscal year 2028 and each subse-  
 7 quent fiscal year, the amount that was applica-  
 8 ble for the previous fiscal year, adjusted by the  
 9 total percentage change that occurred in the  
 10 Consumer Price Index for all urban consumers  
 11 (all items; United States city average) for the  
 12 12-month period ending June 30 preceding the  
 13 fiscal year.”.

14 (b) APPLICATION OF USER FEES TO ALL CLASSES  
 15 OF TOBACCO PRODUCTS.—

16 (1) IN GENERAL.—Subparagraph (A) of section  
 17 919(b)(2) of the Federal Food, Drug, and Cosmetic  
 18 Act (21 U.S.C. 387s(b)(2)) is amended to read as  
 19 follows:

20 “(A) IN GENERAL.—

21 “(i) FISCAL YEARS 2027 AND 2028.—

22 For fiscal years 2027 and 2028, user fees  
 23 shall be assessed and collected under sub-  
 24 section (a) only with respect to the classes  
 25 of tobacco products listed in subparagraph

(B)(i), and the total such user fees with respect to each such class shall be an amount that is equal to the applicable percentage of each such class for the fiscal year multiplied by the amount specified in paragraph (1) for the fiscal year.

“(ii) SUBSEQUENT FISCAL YEARS.— For fiscal year 2029 and each subsequent fiscal year, user fees shall be assessed and collected under subsection (a) with respect to each class of tobacco products to which this chapter applies (including tobacco products that the Secretary by regulation deems to be subject to this chapter), and the total user fees with respect to each such class shall be—

“(I) with respect to each class of tobacco products listed in subparagraph (B)(i), an amount that is calculated in the same way as the amounts calculated for fiscal years 2027 and 2028 under clause (i), except that for purposes of fiscal years 2029 and subsequent fiscal years, instead of multiplying the applicable

percentage of each such class by ‘the amount specified in paragraph (1) for the fiscal year’, the applicable percentage shall be multiplied by—

“(aa) the amount specified in paragraph (1) for the fiscal year, reduced by

“(bb) the total user fees assessed and collected pursuant to subparagraph (C) for the fiscal year; and

“(II) with respect to each class of tobacco products to which this chapter applies but which is not listed in subparagraph (B)(i), an amount determined pursuant to a formula under subparagraph (C).”.

(2) OTHER TOBACCO PRODUCTS.—Section 919(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387s(b)(2)), as amended by paragraph (1), is further amended by adding at the end the following new subparagraphs:

“(C) ALLOCATION FOR OTHER TOBACCO PRODUCTS.—

1 “(i) IN GENERAL.—Beginning with  
2 fiscal year 2029, the total user fees as-  
3 sessed and collected under subsection (a)  
4 each fiscal year with respect to each class  
5 of tobacco products not listed in subpara-  
6 graph (B)(i) shall be an amount that is de-  
7 termined pursuant to a formula developed  
8 by the Secretary by regulation using infor-  
9 mation required to be submitted under  
10 subparagraph (D).

11 “(ii) ALLOCATION FOR OTHER TO-  
12 BACCO PRODUCTS.—For each class of to-  
13 bacco products not listed in subparagraph  
14 (B)(i), the percentage of fees under the  
15 formula under clause (i) for the respective  
16 fiscal year shall be equal to the percentage  
17 of the gross domestic sales in the previous  
18 calendar year that is attributable to such  
19 class of tobacco products in such calendar  
20 year, as determined by the Secretary.

21 “(iii) ALLOCATION OF ASSESSMENT  
22 WITHIN EACH CLASS OF OTHER TOBACCO  
23 PRODUCTS.—The percentage of the total  
24 user fees to be paid by each manufacturer  
25 or importer of tobacco products in a class

1 not listed in subparagraph (B)(i) shall be  
2 determined by the Secretary, based on the  
3 percentage of the gross domestic sales of  
4 all such classes of tobacco products by all  
5 manufacturers and importers in the pre-  
6 vious calendar year that is attributable to  
7 such manufacturer or importer.

8 “(iv) EFFECT OF FAILURE TO FINAL-  
9 IZE FORMULA ON TIME.—If the Secretary  
10 for any reason fails to finalize by fiscal  
11 year 2029 the formula required by this  
12 subparagraph for the assessment and col-  
13 lection of user fees for classes of tobacco  
14 products not listed in subparagraph  
15 (B)(i)—

16 “(I) the Secretary shall continue  
17 to assess and collect fees under sub-  
18 section (a) with respect to each class  
19 of tobacco products listed in subpara-  
20 graph (B)(i); and

21 “(II) until the first fiscal year  
22 commencing after the finalization of  
23 such formula, the exception described  
24 in subparagraph (A)(ii)(I) shall not  
25 apply.

1 “(v) REVISIONS BY REGULATION.—

2 Any revisions to the formula promulgated  
3 pursuant to this subparagraph shall be by  
4 regulation.

5 “(vi) DEFINITION.—In this subpara-  
6 graph, the term ‘gross domestic sales’  
7 means the total value in dollars of the sale  
8 or distribution by manufacturers and im-  
9 porters of tobacco products in the United  
10 States in classes not listed in subpara-  
11 graph (B)(i), as determined based on the  
12 aggregation of sales data from every man-  
13 ufacturer and importer of tobacco products  
14 that submits sales data to the Secretary.

15 “(D) INFORMATION REQUIRED TO BE SUB-  
16 MITTED.—Each manufacturer or importer of  
17 any tobacco product shall submit to the Sec-  
18 retary the information required under this sub-  
19 paragraph by March 1, 2028, for calendar year  
20 2027, by April 1, 2028, for the period of Janu-  
21 ary 1, 2028, through March 31, 2028, and  
22 monthly thereafter. Such information shall in-  
23 clude—

24 “(i) the identification of the manufac-  
25 turer or importer;

1 “(ii) the class or classes of tobacco  
2 products sold by the manufacturer or im-  
3 porter;

4 “(iii) the full listing of the finished to-  
5 bacco products in a class not listed in sub-  
6 paragraph (B)(i) sold or distributed by the  
7 manufacturer or importer in the United  
8 States; and

9 “(iv) the gross domestic sales data for  
10 each class of finished tobacco products sold  
11 or distributed by the manufacturer or im-  
12 porter in the United States.”.

13 (3) PROHIBITED ACT.—Section 301(q)(1)(B) of  
14 the Federal Food, Drug, and Cosmetic Act (21  
15 U.S.C. 331(q)(1)(B)) is amended by inserting  
16 “919(b)(2)(D),” before “or 920”.

17 (c) ALLOCATION OF ASSESSMENT WITHIN EACH  
18 CLASS OF TOBACCO PRODUCT.—Section 919(b)(4) of the  
19 Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
20 387s(b)(4)) is amended by striking “shall be the percent-  
21 age determined for purposes of allocations under sub-  
22 sections (e) through (h) of section 625 of Public Law 108–  
23 357” and inserting “shall be the percentage determined  
24 by the Secretary”.



1 (d) 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) by striking paragraph (5);

5 (2) by redesignating paragraphs (6) and (7) as  
6 paragraphs (5) and (6), respectively; and

7 (3) by amending paragraph (6), as redesign-  
8 nated, to read as follows:

9 “(6) MEMORANDUM OF UNDERSTANDING.—The  
10 Secretary shall request the appropriate Federal  
11 agency to enter into a memorandum of under-  
12 standing that provides for the regular and timely  
13 transfer from the head of such agency to the Sec-  
14 retary of all necessary information regarding all to-  
15 bacco product manufacturers and importers required  
16 to pay user fees. The Secretary shall maintain all  
17 disclosure restrictions established by the head of  
18 such agency regarding the information provided  
19 under the memorandum of understanding.”.

20 (e) APPLICABILITY.—The amendments made by sub-  
21 sections (b), (c), and (d) shall apply beginning with fiscal  
22 year 2029. Except for the amendment made by subsection  
23 (a), section 919 of the Federal Food, Drug, and Cosmetic  
24 Act (21 U.S.C. 387s), as in effect on the day before the

1 date of enactment of this Act, shall apply with respect to  
2 fiscal years preceding fiscal year 2029.

3 **SEC. 3. ANNUAL REPORTING ON TOBACCO REGULATION**  
4 **ACTIVITIES.**

5 (a) IN GENERAL.—Section 112(b) of division P of the  
6 Consolidated Appropriations Act, 2022 (21 U.S.C.  
7 387v(b)) is amended by adding at the end the following:

8 “(12) A breakdown of the amount expended on  
9 activities related to deemed tobacco products versus  
10 the amount expended on activities related to com-  
11 bustible tobacco products listed in section  
12 919(b)(2)(B)(i) of the Federal Food, Drug, and Cos-  
13 metic Act (21 U.S.C. 387s(b)(2)(B)(i)).

14 “(13) An explanation for how the Food and  
15 Drug Administration ensures that the amount of  
16 user fees allocated to public education campaigns on  
17 youth e-cigarette use and prevention is sufficient to  
18 meet the need for education of teens and minors on  
19 the dangers of e-cigarettes and other Electronic Nic-  
20 otine Delivery Systems (commonly referred to as  
21 ‘ENDS’).

22 “(14) When applicable, a breakdown of the  
23 amount or user fees collected under the amendments  
24 made by this Act from manufacturers of deemed to-  
25 bacco products and the amount collected from man-

1        ufacturers of each of the original pre-existing cat-  
2        egories of tobacco products under section  
3        919(b)(2)(B)(i) of the Federal Food, Drug, and Cos-  
4        metic Act (21 U.S.C. 387s(b)(2)(B)(i)).”.

5        (b) APPLICATION.—The information described in  
6        paragraphs (12) and (13) of subsection (b) of section 112  
7        of division P of the Consolidated Appropriations Act, 2022  
8        (21 U.S.C. 387v(b)), as added by subsection (a), shall be  
9        required to be included in reports under such section 112  
10       for fiscal year 2027 and each subsequent fiscal year, and  
11       the information described in paragraph (14) of such sec-  
12       tion 112, as added by subsection (a), shall be required to  
13       be included in reports under such section 112 for fiscal  
14       year 2029 and each subsequent fiscal year.

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