

PROVIDING FOR CONSIDERATION OF THE BILL (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

FEBRUARY 26, 2020.—Referred to the House Calendar and ordered to be printed

Ms. SHALALA, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 866]

The Committee on Rules, having had under consideration House Resolution 866, by a record vote of 6 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2339, the Protecting American Lungs and Reversing the Youth Tobacco Epidemic Act of 2020, under a closed rule. The resolution provides 90 minutes of general debate equally divided among and controlled by the chair and ranking minority member of the Committee on Energy and Commerce and the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116-51, modified by the amendment printed in this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes waivers of the following:

- Clause 3(d)(1) of rule XIII, which requires the inclusion of committee cost estimate in a committee report. A CBO cost estimate on H.R. 2339 was not available at the time the Committee on Energy and Commerce filed its report.

- Clause 12(a)(1) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the bill proposes to change current law.

- Clause 12(b) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the text of the bill as proposed to be considered differs from the text of the bill as reported.

- Section 303(a) of the Congressional Budget Act, which prohibits consideration of legislation, as reported, providing new budget authority, change in revenues, change in public debt, new entitlement authority or new credit authority for a fiscal year until the budget resolution for that year has been agreed to.

The waiver of all points of order against provisions in the bill, as amended, includes waivers of the following:

- Clause 4 of rule XXI, which prohibits reporting a bill carrying an appropriation from a committee not having jurisdiction to report an appropriation.

- Clause 5(a) of rule XXI, which prohibits a bill or joint resolution carrying a tax or tariff measure from being reported by a committee not having jurisdiction to report tax or tariff measures.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 248

Motion by Mr. Cole to report an open rule. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman			

Rules Committee record vote No. 249

Motion by Mr. Cole to amend the rule to H.R. 2339 to make in order amendment #19, offered by Rep. Butterfield (NC), which removes menthol from the prohibition on flavoring for tobacco products that are not electronic nicotine delivery systems. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman			

Rules Committee record vote No. 250

Motion by Mr. Woodall to amend the rule to H.R. 2339 to make in order amendment #18, offered by Rep. Crenshaw (TX), which exempts waterpipe (“Hookah”) tobacco from the prohibition on flavored tobacco products. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman			

Rules Committee record vote No. 251

Motion by Mr. Woodall to amend the rule to H.R. 2339 to make in order amendment #14, offered by Rep. Walden (OR), which requires FDA to consider whether the denial of a marketing application for a flavored ENDS product will increase the likelihood that consumers will purchase illegal and adulterated products through the black market when determining whether a flavored product is less harmful than an unflavored ENDS product. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman			

Rules Committee record vote No. 252

Motion by Mr. Woodall to amend the rule to H.R. 2339 to make in order amendment #7, offered by Rep. Burgess (TX), which strikes the increase in user fees for fiscal year 2021 unless the FDA submits to Congress the appropriate reports required under the Family Smoking Prevention and Tobacco Control Act. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman			

Rules Committee record vote No. 253

Motion by Mrs. Lesko to amend the rule to H.R. 2339 to make in order amendment #12, offered by Rep. Griffith (VA), which amends the bill to include a prohibition against flavored marijuana products, stating that such products shall be treated in the same manner as flavored tobacco products. Defeated: 3–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon .....	.....	
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman .....	.....	

Rules Committee record vote No. 254

Motion by Ms. Shalala to report the rule. Adopted: 6–3

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Nay
Mrs. Torres	Yea	Mr. Woodall	Nay
Mr. Perlmutter	Yea	Mr. Burgess .....	.....
Mr. Raskin	Yea	Mrs. Lesko	Nay
Ms. Scanlon .....	.....	
Mr. Morelle	Yea		
Ms. Shalala	Yea		
Mr. DeSaulnier	Yea		
Mr. McGovern, Chairman .....	.....	

SUMMARY OF THE AMENDMENT TO H.R. 2339 CONSIDERED AS ADOPTED

1. Pallone (NJ): Makes technical corrections in Section 103 and Section 109 of this Act.

TEXT OF AMENDMENT TO H.R. 2339 CONSIDERED AS ADOPTED

Page 7, line 16, after “mint,” insert “mango,”.

Page 25, line 22, strike “\$5,000,0000” and insert “\$5,000,000”.