

111TH CONGRESS
1ST SESSION

H. R. 1432

To reduce youth usage of tobacco products, to enhance State efforts to eliminate retail sales of tobacco products to minors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2009

Mrs. BLACKBURN (for herself, Mr. COBLE, Mr. MARCHANT, Mr. HERGER, and Mr. PITTS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To reduce youth usage of tobacco products, to enhance State efforts to eliminate retail sales of tobacco products to minors, 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 “Stop Adolescent Smok-
5 ing Without Excessive Bureaucracy Act of 2009”.

6 **SEC. 2. YOUTH COMPLIANCE TARGET AND ENFORCEMENT.**

7 (a) AMENDMENT.—Section 1926 of the Public
8 Health Service Act (42 U.S.C. 300x–26) is amended to
9 read as follows:

1 **“SEC. 1926. STRENGTHENING STATE LAWS RELATING TO**
2 **TOBACCO PRODUCT SALES TO INDIVIDUALS**
3 **UNDER THE AGE OF 18.**

4 “(a) RELEVANT LAW.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 for fiscal year 2010 and subsequent fiscal years, the
7 Secretary may make a grant under section 1921
8 only if the State involved has in effect a law pro-
9 viding that—

10 “(A) it is unlawful for any manufacturer,
11 retailer, or distributor of tobacco products to
12 sell or distribute any such product to any indi-
13 vidual under 18 years of age;

14 “(B) it is unlawful for an individual under
15 18 years of age—

16 “(i) to purchase or attempt to pur-
17 chase, or receive or attempt to receive, a
18 tobacco product; or

19 “(ii) to possess or attempt to possess
20 a tobacco product in a public place;

21 “(C) a law enforcement agency, upon de-
22 termining that an individual under 18 years of
23 age allegedly purchased or received a tobacco
24 product, or allegedly possessed a tobacco prod-
25 uct in a public place, shall notify the individ-
26 ual’s parent or parents, custodian, or guardian

1 (if the name and address of a parent, guardian,
2 or custodian is reasonably ascertainable);

3 “(D) within 180 days after the effective
4 date of such State law, any person engaged in
5 the business of distributing tobacco products at
6 retail shall implement a program—

7 “(i) to notify each employee employed
8 by that person who distributes tobacco
9 products that State law prohibits the sale
10 or distribution of tobacco products to any
11 individual under 18 years of age and the
12 purchase or receipt, or possession in a pub-
13 lic place, of tobacco products by any such
14 individual; and

15 “(ii) to ensure compliance with such
16 law;

17 “(E) an employer shall not be in violation
18 of the prohibition described in subparagraph
19 (A) if such employer—

20 “(i) relies upon proof of age that ap-
21 peared on its face to be valid; or

22 “(ii) implements a program in accord-
23 ance with subparagraph (D); and

24 “(F) an individual who violates the prohi-
25 bition described in subparagraph (B) may be

1 liable for a civil monetary penalty and may be
2 required to perform community service.

3 “(2) DELAYED APPLICABILITY FOR CERTAIN
4 STATES.—In the case of a State whose legislature
5 does not convene a regular session in fiscal year
6 2010, and in the case of a State whose legislature
7 does not convene a regular session in fiscal year
8 2011, the requirement described in paragraph (1) as
9 a condition of a receipt of a grant under section
10 1921 shall apply only for fiscal year 2012 and sub-
11 sequent fiscal years.

12 “(b) STATE GOALS FOR NONCOMPLIANCE.—Begin-
13 ning with respect to the first applicable fiscal year, a fund-
14 ing agreement for a grant under section 1921 is that the
15 State involved has established goals for reducing the rate
16 of retailer violations of the law described in subsection (a),
17 as determined through annual, random, unannounced in-
18 spections described in subsection (c)(2)(A), so that the
19 rate of such violations relative to the number of inspec-
20 tions does not exceed the following:

21 “(1) 20 percent during fiscal year 2010.

22 “(2) 19 percent during fiscal year 2011.

23 “(3) 18 percent during fiscal year 2012.

24 “(4) 17 percent during fiscal year 2013.

25 “(5) 16 percent during fiscal year 2014.

1 “(6) 15 percent during fiscal year 2015.

2 “(7) 14 percent during fiscal year 2016.

3 “(8) 13 percent during fiscal year 2017.

4 “(9) 12 percent during fiscal year 2018.

5 “(10) 11 percent during fiscal year 2019.

6 “(11) 10 percent during fiscal year 2020 and
7 each subsequent year.

8 “(c) ENFORCEMENT.—

9 “(1) IN GENERAL.—A funding agreement for a
10 grant under section 1921 is that the State involved
11 will enforce the law described in subsection (a) in a
12 manner that can reasonably be expected to achieve
13 the goals established pursuant to subsection (b) and
14 reduce the extent to which tobacco products are
15 available to individuals under 18 years of age.

16 “(2) ACTIVITIES AND REPORTS REGARDING EN-
17 FORCEMENT.—A funding agreement for a grant
18 under section 1921 is that the State involved will—

19 “(A) annually conduct random, unan-
20 nounced inspections to ensure compliance with
21 the law described in subsection (a); and

22 “(B) annually submit to the Secretary a
23 report describing—

24 “(i) the activities carried out by the
25 State to enforce such law during the fiscal

1 year preceding the fiscal year for which the
2 State is seeking the grant;

3 “(ii) the extent of success the State
4 has achieved in meeting the goals estab-
5 lished pursuant to subsection (b) and in
6 reducing the availability of tobacco prod-
7 ucts to individuals under 18 years of age;
8 and

9 “(iii) the strategies to be utilized by
10 the State for enforcing such law during the
11 fiscal year for which the grant is sought.

12 “(3) USE OF INDIVIDUALS UNDER 18 YEARS OF
13 AGE IN INSPECTIONS.—A funding agreement for a
14 grant under section 1921 is that the State may en-
15 gage an individual under 18 years of age to test
16 compliance with the law described in subsection (a)
17 only if—

18 “(A) the testing is conducted with the
19 written consent of a parent or legal guardian of
20 such individual; and

21 “(B) such individual acts under the direct
22 supervision of the State during a random, un-
23 announced inspection.

24 “(d) USE OF STATE SETTLEMENT PROCEEDS.—A
25 funding agreement for a grant under section 1921 is that

1 the State involved certifies to the Secretary that, with re-
2 spect to the calendar year preceding the year in which the
3 State is applying for such a grant, the State expended
4 more than 10 percent of the funds paid to the State for
5 such calendar year as part of the comprehensive settle-
6 ment of November 1998 (as referred to in section
7 1903(d)(3)(B)(i) of the Social Security Act) on health pro-
8 grams, tobacco control and cessation activities, or eco-
9 nomic development for tobacco regions.

10 “(e) NONCOMPLIANCE OF STATE.—

11 “(1) DETERMINATION BY SECRETARY.—Before
12 making a grant under section 1921 to a State for
13 any fiscal year, the Secretary shall make a deter-
14 mination of whether the State has maintained com-
15 pliance with subsections (a), (b), (c), and (d).

16 “(2) REDUCTION OF ALLOTMENT.—Beginning
17 with respect to the first applicable fiscal year, if,
18 after notice to the State and an opportunity for a
19 hearing, the Secretary determines that the State is
20 not in compliance with any of subsections (a), (b),
21 or (c), the Secretary shall reduce the amount of the
22 allotment under section 1921 for the State for the
23 fiscal year involved by an amount equal to—

1 “(A) in the case of fiscal year 2010, 10
2 percent of the amount determined under section
3 1933 for the State for the fiscal year;

4 “(B) in the case of fiscal year 2011, 20
5 percent of the amount determined under section
6 1933 for the State for the fiscal year;

7 “(C) in the case of fiscal year 2012, 30
8 percent of the amount determined under section
9 1933 for the State for the fiscal year; and

10 “(D) in the case of fiscal year 2013 or any
11 subsequent fiscal year, 40 percent of the
12 amount determined under section 1933 for the
13 State for the fiscal year.

14 “(3) ADDITIONAL REDUCTION.—Beginning with
15 respect to the first applicable fiscal year, if the Sec-
16 retary determines under paragraph (1) that the
17 State is not in compliance with any of subsections
18 (a), (b), or (c), and is not in compliance with sub-
19 section (d), the Secretary may reduce the amount of
20 the allotment under section 1921 for the State for
21 the fiscal year involved by an amount equal to 10
22 percent of the amount determined under section
23 1933 for the State for such fiscal year. Such reduc-
24 tion shall be in addition to the reduction under para-
25 graph (2).

1 “(f) ASSISTANCE IN IMPLEMENTING PROGRAMS.—In
2 order to assist States in establishing and implementing
3 State laws described in subsection (a), the Secretary
4 shall—

5 “(1) develop not later than January 1, 2009,
6 and subsequently revise as appropriate, model legis-
7 lative language; and

8 “(2) provide technical assistance and guidance
9 in developing, enacting, and implementing such laws
10 and in setting goals pursuant to subsection (b).

11 “(g) DEFINITION.—In this section, the term ‘first ap-
12 plicable fiscal year’ means—

13 “(1) fiscal year 2012, in the case of any State
14 described in subsection (a)(2); and

15 “(2) fiscal year 2010, in the case of any other
16 State.”.

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendment made by
19 subsection (a) shall apply with respect to the first
20 applicable fiscal year and each subsequent fiscal
21 year. The provisions of section 1926 of the Public
22 Health Service Act (42 U.S.C. 300x–26), as in effect
23 on the day before the date of the enactment of this
24 Act, shall apply with respect to fiscal years pre-
25 ceding the first applicable fiscal year.

1 (2) DEFINITION.—In this subsection, the term
2 “first applicable fiscal year” has the meaning given
3 such term in subsection (g) of section 1926 of the
4 Public Health Service Act (42 U.S.C. 300x–26), as
5 amended by subsection (a) of this section.

6 **SEC. 3. PUBLIC DISCLOSURE OF INGREDIENTS.**

7 Section 7 of the Federal Cigarette Labeling and Ad-
8 vertising Act (15 U.S.C. 1335a) is amended—

9 (1) in subsection (a), by striking “the company
10 which uses the ingredients or”; and

11 (2) by amending subsection (b)(2) to read as
12 follows:

13 “(2) The Secretary shall make any information pro-
14 vided under this section accessible to the public on the
15 Internet not later than 48 hours after receipt by the Sec-
16 retary.”.

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