

116TH CONGRESS
1ST SESSION

H. R. 3942

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2019

Received

AN ACT

To apply requirements relating to delivery sales of cigarettes
to delivery sales of electronic nicotine delivery systems,
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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preventing Online
3 Sales of E-Cigarettes to Children Act”.

4 **SEC. 2. AMENDMENTS TO THE JENKINS ACT.**

5 (a) IN GENERAL.—The Act entitled “An Act to assist
6 States in collecting sales and use taxes on cigarettes”, ap-
7 proved October 19, 1949 (commonly known as the “Jen-
8 kins Act”) (15 U.S.C. 375 et seq.), is amended—

9 (1) in section 1 (15 U.S.C. 375)—

10 (A) in paragraph (2)(A)(ii)—

11 (i) by striking “includes roll-your-own
12 tobacco” and inserting the following: “in-
13 cludes—

14 “(I) roll-your-own tobacco”;

15 (ii) in subclause (I), as so designated,
16 by striking the period at the end and in-
17 serting “; and”; and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(II) an electronic nicotine deliv-
21 ery system.”;

22 (B) by redesignating paragraphs (7)
23 through (14) as paragraphs (8) through (15),
24 respectively; and

25 (C) by inserting after paragraph (6) the
26 following:

1 “(7) ELECTRONIC NICOTINE DELIVERY SYS-
2 TEM.—The term ‘electronic nicotine delivery sys-
3 tem’—

4 “(A) means any electronic device that,
5 through an aerosolized solution, delivers nico-
6 tine, flavor, or any other substance to the user
7 inhaling from the device;

8 “(B) includes—

9 “(i) an e-cigarette;

10 “(ii) an e-hookah;

11 “(iii) an e-cigar;

12 “(iv) a vape pen;

13 “(v) an advanced refillable personal
14 vaporizer;

15 “(vi) an electronic pipe; and

16 “(vii) any component, liquid, part, or
17 accessory of a device described in subpara-
18 graph (A), without regard to whether the
19 component, liquid, part, or accessory is
20 sold separately from the device; and

21 “(C) does not include a product that is—

22 “(i) approved by the Food and Drug
23 Administration for—

24 “(I) sale as a tobacco cessation
25 product; or

1 “(II) any other therapeutic pur-
2 pose; and

3 “(ii) marketed and sold solely for a
4 purpose described in clause (i).”; and

5 (2) in section 2A(b)(1) (15 U.S.C. 376a(b)(1)),
6 by inserting “NICOTINE/” after
7 “CIGARETTES/”.

8 (b) EFFECTIVE DATE.—This section, and the amend-
9 ments made by this section, shall take effect on the date
10 that is 90 days after the date of enactment of this Act.

11 **SEC. 3. NONMAILABILITY OF ELECTRONIC NICOTINE DE-**
12 **LIVERY SYSTEMS.**

13 (a) REGULATIONS.—Not later than 120 days after
14 the date of enactment of this Act, the United States Postal
15 Service shall promulgate regulations to clarify the applica-
16 bility of the prohibition on mailing of cigarettes under sec-
17 tion 1716E of title 18, United States Code, to electronic
18 nicotine delivery systems, in accordance with the amend-
19 ment to the definition of “cigarette” made by section 2.

20 (b) EFFECTIVE DATE.—The prohibition on mailing
21 of cigarettes under section 1716E of title 18, United
22 States Code, shall apply to electronic nicotine delivery sys-
23 tems on and after the date on which the United States
24 Postal Service promulgates regulations under subsection
25 (a) of this section.

Passed the House of Representatives October 28,
2019.

HR 3942 RDS