

Russia also poses a growing threat. China and Russia will not put their ambitions on hold for coronavirus or anything else. They will not wait for us or for them to recover from the coronavirus crisis and resolve our domestic disputes.

America must keep China and Russia both in check. The NDAA promotes a winning strategy. It modernizes our nuclear defenses. It maintains our high-tech edge over China and Russia. The NDAA honors our commitment to our dedicated men and women in uniform.

It delivers a well-earned pay raise for our troops, as well as high-quality housing, healthcare, childcare services for military families at home as well as abroad. The NDAA ensures our force is ready to fight and to win. That means to fight and to win today's wars, as well as the wars in the future.

It provides state-of-the-art equipment and tools our troops need to defend America all around the world. The NDAA will help spur innovation. It invests in new technologies: artificial intelligence, hypersonic weapons, biotechnology, cyber security.

The bill modernizes our Pentagon's financial management system. It provides for greater accountability and transparency at the Defense Department. This works to protect taxpayer money.

The NDAA also includes innovative legislation that promotes a cleaner environment. Now, in saying that, I mean that my bipartisan bill with SHELTON WHITEHOUSE of Rhode Island, SHELLEY MOORE CAPITO, and TOM CARPER of Delaware—we have included as part of the NDAA the Environment and Public Works Committee-approved legislation unanimously. It is called the USE IT Act. It is included in the NDAA. "USE IT" is short for utilizing significant emissions with innovative technologies. That is why I am saying we are doing more to clean the environment.

The USE IT Act will help researchers find commercial uses for captured carbon dioxide emissions. It supports the use of carbon capture technology, including direct air capture. This groundbreaking research is already happening in my home State of Wyoming. It is taking place at the Integrated Test Center outside of Gillette. The USE IT Act will further this important work.

It will apply our Nation's brightest minds to take carbon from the air, trap it, and transform it into valuable commercial products. Captured carbon can be used to extract oil from wells—wells that would not otherwise be profitable. It is also used to make building materials and carbon fibers. It can also be used for medical purposes.

The goal of the legislation is to innovate our way to a cleaner environment without onerous overregulation.

So I want to thank the Armed Services Committee chairman, JIM INHOFE, for bringing the USE IT Act one step closer to becoming law.

For the past 4 years, Congress has been able to pass the NDAA with strong, top-line defense funding. The bipartisan Budget Act sets overall defense funding levels for fiscal year 2021. Longer term funding is necessary, but it is uncertain.

Democrats have opposed stronger defense funding in the past, especially during the Obama-Biden administration. This history suggests that if Democrats win the election, they will slow our Nation's critical defense investments.

The NDAA strengthens America's hand to stand up to foreign aggressors, to stand up against those people who are against American values.

Our NDAA will protect American leadership in the world. It will enhance our standing with adversaries and allies alike. Above all, it sends a clear message to our enemies: You cannot defeat the United States so don't even try.

Every Senator should support this smart, strong, strategic approach to America's defense.

Let's honor this proud tradition; let's support our troops; and let us once again pass the NDAA, this, for the 60th time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

#### PREVENTING ONLINE SALES OF E-CIGARETTES TO CHILDREN ACT

Mrs. FEINSTEIN. Mr. President, I am delighted this morning to be on the floor with the distinguished Senator from Texas. In order to proceed, I ask unanimous consent that, as in legislative session, the Committee on the Judiciary be discharged from further consideration of S. 1253 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1253) to apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, and for other purposes.

There being no objection, the committee was discharged and the Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, I further ask unanimous consent that the Cornyn amendment at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2424) was agreed to as follows:

(Purpose: To require the National Institutes of Health to conduct a study and report on the short-term and long-term health impacts of e-cigarette use by youth and young adults under 21 years of age)

At the end of section 2, add the following:

(c) RULE OF CONSTRUCTION.—Nothing in this section, or an amendment made by this section, may be construed to affect or otherwise alter any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including its implementing regulations.

At the end, add the following:

#### SEC. \_\_\_\_ UNDERSTANDING THE IMPACT OF E-CIGARETTE USE BY ADOLESCENTS AND YOUNG ADULTS.

(a) STUDY.—The National Institutes of Health, in coordination with other appropriate agencies, shall conduct a study on the short-term and long-term health impacts of e-cigarette use by youth and young adults under 21 years of age, that includes the following:

(1) An examination of the health impacts of using liquids obtained from the legal market, including liquids that may not have pre-market approval from the Food and Drug Administration, compared to liquids obtained illicitly.

(2) A determination of the precise relationship between underage vaping and underage smoking, which may include using national survey data, in which the reporting of smoking and vaping usage classifications (such as current users, former users, or never users) shall be integrated and not treated as separate or unrelated categories.

(3) A determination of the precise relationship between vaping and smoking among young adults, who are 21 to 24 years of age, using national survey data, in which the reporting of smoking and vaping usage classifications (such as current users, former users, or never users) shall be integrated and not treated as separate or unrelated categories.

(4) An examination of e-cigarette usage data from cities, localities, and States that have adopted e-cigarette product bans to evaluate—

(A) the proportion of e-cigarette users in those areas who return to smoking combustible cigarettes;

(B) the proportion of e-cigarette users in those areas who access products from illicit markets; and

(C) the proportion of e-cigarette users in those areas who stop using all nicotine products or reduce their overall nicotine product use.

(5) A determination of the frequency of use of each specific and multiple tobacco products among high school students in the United States, including—

(A) the number of high school students who use each specific and multiple tobacco products less than 20 days per month; and

(B) the number of high school students who use each specific and multiple tobacco products 20 or more days per month.

(6) An examination of the rates of underage e-cigarette use in cities, localities, and States that have adopted Tobacco 21 laws prior to the date of enactment of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94).

(7) An examination of illegal smuggling of tobacco products in cities, localities, and States that have—

(A) banned such products;

(B) enacted taxes on such products that are higher than the national median; or

(C) enacted other legal restrictions on such products.

(8) A determination of how prevalence estimates of tobacco use in the National Youth Tobacco Survey differ from prevalence estimates of tobacco use in other national surveys, including the Population Assessment of Tobacco and Health and the Knowledge Panel.

(9) A determination of the prevalence of the following high-risk behaviors among

high school students, and their relationship, if any, to vaping and smoking:

- (A) Using marijuana or alcohol.
- (B) Binge drinking.
- (C) Underage sexual activity.
- (D) Using an electronic device while driving.

(E) Knowingly riding in a motor vehicle with a driver who was recently drinking.

(F) Seriously considering suicide.

(10) An examination of the role flavors play in youth initiation and use of e-cigarettes and other tobacco products.

(11) An examination of the risk of youth addiction to nicotine, including the impact of e-cigarettes that use nicotine salts.

(12) An examination of risks to youth of nicotine use and exposure to harmful and potentially harmful constituents emitted from some e-cigarettes, including flavorings used in e-cigarettes.

(13) A determination of a credible estimate of the difference in health risks between combustible cigarette smoking and vaping, if a valid estimate can be made, to inform tobacco regulation in the United States, taking into account—

(A) the findings of the British Royal College of Physicians in their 2016 report, “Nicotine without smoke: Tobacco harm reduction”;

(B) the article entitled “Invalidity of an Off-Cited Estimate of the Relative Harms of Electronic Cigarettes” published in the American Journal of Public Health in February 2020;

(C) the findings of the National Academies of Sciences, Engineering, and Medicine in their 2018 report, “Public Health Consequences of E-Cigarettes”;

(D) relevant reports and advisories of the Surgeon General; and

(E) other peer reviewed research.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Institutes of Health shall submit a report to Congress on the findings of the study required to be conducted under subsection (a).

(2) REQUIREMENT.—Not later than 90 days after the date on which the report required under paragraph (1) is submitted, all data, research products, and reports from the study required to be conducted under subsection (a) shall be made publicly available online.

(c) NO NEW FUNDS AUTHORIZED.—No additional funds are authorized to be appropriated to carry out this section.

The bill (S. 1253), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1253

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

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

#### SEC. 2. AMENDMENTS TO THE JENKINS ACT.

(a) IN GENERAL.—The Act entitled “An Act to assist States in collecting sales and use taxes on cigarettes”, approved October 19, 1949 (commonly known as the “Jenkins Act”) (15 U.S.C. 375 et seq.), is amended—

(1) in section 1 (15 U.S.C. 375)—

(A) in paragraph (2)(A)(ii)—

(i) by striking “includes roll-your-own tobacco” and inserting the following: “includes—

“(I) roll-your-own tobacco”;

(ii) in subclause (I), as so designated, by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(II) an electronic nicotine delivery system.”;

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

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

“(7) ELECTRONIC NICOTINE DELIVERY SYSTEM.—The term ‘electronic nicotine delivery system’—

“(A) means any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device;

“(B) includes—

“(i) an e-cigarette;

“(ii) an e-hookah;

“(iii) an e-cigar;

“(iv) a vape pen;

“(v) an advanced refillable personal vaporizer;

“(vi) an electronic pipe; and

“(vii) any component, liquid, part, or accessory of a device described in subparagraph (A), without regard to whether the component, liquid, part, or accessory is sold separately from the device; and

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

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

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

“(II) any other therapeutic purpose; and

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

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

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

(c) RULE OF CONSTRUCTION.—Nothing in this section, or an amendment made by this section, may be construed to affect or otherwise alter any provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including its implementing regulations.

#### SEC. 3. NONMAILABILITY OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

(a) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to clarify the applicability of the prohibition on mailing of cigarettes under section 1716E of title 18, United States Code, to electronic nicotine delivery systems, in accordance with the amendment to the definition of “cigarette” made by section 2.

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

#### SEC. 4. UNDERSTANDING THE IMPACT OF E-CIGARETTE USE BY ADOLESCENTS AND YOUNG ADULTS.

(a) STUDY.—The National Institutes of Health, in coordination with other appropriate agencies, shall conduct a study on the short-term and long-term health impacts of e-cigarette use by youth and young adults under 21 years of age, that includes the following:

(1) An examination of the health impacts of using liquids obtained from the legal market, including liquids that may not have pre-market approval from the Food and Drug Administration, compared to liquids obtained illicitly.

(2) A determination of the precise relationship between underage vaping and underage smoking, which may include using national survey data, in which the reporting of smok-

ing and vaping usage classifications (such as current users, former users, or never users) shall be integrated and not treated as separate or unrelated categories.

(3) A determination of the precise relationship between vaping and smoking among young adults, who are 21 to 24 years of age, using national survey data, in which the reporting of smoking and vaping usage classifications (such as current users, former users, or never users) shall be integrated and not treated as separate or unrelated categories.

(4) An examination of e-cigarette usage data from cities, localities, and States that have adopted e-cigarette product bans to evaluate—

(A) the proportion of e-cigarette users in those areas who return to smoking combustible cigarettes;

(B) the proportion of e-cigarette users in those areas who access products from illicit markets; and

(C) the proportion of e-cigarette users in those areas who stop using all nicotine products or reduce their overall nicotine product use.

(5) A determination of the frequency of use of each specific and multiple tobacco products among high school students in the United States, including—

(A) the number of high school students who use each specific and multiple tobacco products less than 20 days per month; and

(B) the number of high school students who use each specific and multiple tobacco products 20 or more days per month.

(6) An examination of the rates of underage e-cigarette use in cities, localities, and States that have adopted Tobacco 21 laws prior to the date of enactment of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94).

(7) An examination of illegal smuggling of tobacco products in cities, localities, and States that have—

(A) banned such products;

(B) enacted taxes on such products that are higher than the national median; or

(C) enacted other legal restrictions on such products.

(8) A determination of how prevalence estimates of tobacco use in the National Youth Tobacco Survey differ from prevalence estimates of tobacco use in other national surveys, including the Population Assessment of Tobacco and Health and the Knowledge Panel.

(9) A determination of the prevalence of the following high-risk behaviors among high school students, and their relationship, if any, to vaping and smoking:

(A) Using marijuana or alcohol.

(B) Binge drinking.

(C) Underage sexual activity.

(D) Using an electronic device while driving.

(E) Knowingly riding in a motor vehicle with a driver who was recently drinking.

(F) Seriously considering suicide.

(10) An examination of the role flavors play in youth initiation and use of e-cigarettes and other tobacco products.

(11) An examination of the risk of youth addiction to nicotine, including the impact of e-cigarettes that use nicotine salts.

(12) An examination of risks to youth of nicotine use and exposure to harmful and potentially harmful constituents emitted from some e-cigarettes, including flavorings used in e-cigarettes.

(13) A determination of a credible estimate of the difference in health risks between combustible cigarette smoking and vaping, if a valid estimate can be made, to inform tobacco regulation in the United States, taking into account—

(A) the findings of the British Royal College of Physicians in their 2016 report, "Nicotine without smoke: Tobacco harm reduction";

(B) the article entitled "Invalidity of an Off-Cited Estimate of the Relative Harms of Electronic Cigarettes" published in the American Journal of Public Health in February 2020;

(C) the findings of the National Academies of Sciences, Engineering, and Medicine in their 2018 report, "Public Health Consequences of E-Cigarettes";

(D) relevant reports and advisories of the Surgeon General; and

(E) other peer reviewed research.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Institutes of Health shall submit a report to Congress on the findings of the study required to be conducted under subsection (a).

(2) REQUIREMENT.—Not later than 90 days after the date on which the report required under paragraph (1) is submitted, all data, research products, and reports from the study required to be conducted under subsection (a) shall be made publicly available online.

(c) NO NEW FUNDS AUTHORIZED.—No additional funds are authorized to be appropriated to carry out this section.

Mrs. FEINSTEIN. Thank you, Mr. President.

I yield the floor to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I am delighted to be here today with my friend, the Senator from California, with whom I have worked so closely on so many issues. We are both members of the Senate Committee on the Judiciary and the Senate Select Committee on Intelligence, and it is always a pleasure to work with her and her staff.

Today is really an important day. It has been long in coming, but finally the Senate has now passed legislation that requires the same proof-of-age requirement that is needed for tobacco products to e-cigarettes and vaping products, particularly those that are sold over the internet. That is what we are focused on.

Last December, I met a 16-year-old young woman named Anna Carey, who is one of my personal heroes. She was one of the students at her high school who became addicted to e-cigarettes.

E-cigarettes are nicotine delivery devices. The only difference between it and smoking a cigarette is the fire, the products of combustion, but it is just as addictive as cigarettes.

Anna started experiencing symptoms that are uncommon in an otherwise healthy teenager. She became extremely lethargic. She experienced random and severe chest pains. Two initial x rays came back clear, so doctors released her, but her health struggles continued. Eventually, she was admitted to the hospital and diagnosed with chemical-induced pneumonia in both of her lungs.

While I am glad to report that she is fully recovered and is now using her

story to prevent more teens from going down the same path, what she told me in Fort Worth not that long ago is that these e-cigarettes and vaping devices are everywhere. They are everywhere and can be easily purchased even though you are not supposed to use tobacco products or nicotine when you are under the age of 21.

So all this bill requires, and it is really rather modest—it is unbelievable that it took us this long to get it here today, as modest as it is. At the time of delivery, if you buy a product online, the buyer has to sign and show an ID proving their age. It is the same requirement you would have if you made a physical purchase at a retail establishment or if you were buying tobacco online. For some reason, e-cigarettes and vaping devices have been operating on a different playing field, but no longer. That is why I am so pleased to be here with Senator FEINSTEIN to pass the Preventing Online Sales of E-Cigarettes to Children Act.

To summarize, this legislation would put the same safeguards in place for e-cigarettes as there are for traditional cigarettes purchased online.

For those who think that we can never do anything on a bipartisan basis, that we can't pass laws because we are hopelessly polarized and dysfunctional, maybe this will provide some source of encouragement to the American people, but it also demonstrates that we are doing our best to try to protect children's health, particularly against addictive substances that are delivered through e-cigarettes and vaping devices.

Thank you, Senator FEINSTEIN, for your leadership on this and for your partnership.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas. I have the pleasure of serving with him on the Committee on the Judiciary. We have been there for a long time, and over the years, I have come to have great respect for him. So it is a particular asset for me to be able to share the authorship of this bill.

Mr. President, I rise to speak on the Preventing Online Sales of E-Cigarettes to Children Act. Our common-sense bill would treat e-cigarettes the same as traditional cigarettes and other tobacco products when it comes to purchasing them online. Can you believe it? E-cigarettes can be purchased online by someone 12 years old. There is no age requirement.

This bill would help prevent children from illegally obtaining e-cigarettes by ensuring that online vendors are verifying the age of their customers, properly labeling packages, and checking identification upon delivery. The law exists today, as I stated, for traditional cigarettes, and there is no reason e-cigarettes should be treated differently.

An annual survey by the Centers for Disease Control and Prevention found

that nearly 5.3 million students are using e-cigarettes—over 5 million students.

Besides being illegal, the rate of e-cigarette use among teenagers is growing. In 2019, almost 30 percent of high school students reported using an e-cigarette in the previous 30 days. That is a 50-percent increase from the year before. So the popularity of them for younger and younger children is going up and up.

According to the U.S. Surgeon General report, the developing adolescent brain is uniquely sensitive to nicotine. Other studies have shown that children exposed to nicotine may be at greater risk for experiencing deficits in attention and cognition, suffering from mood disorders, and engaging in drug-seeking behavior. These effects may continue into adulthood, long after e-cigarette use has stopped.

Further, new research shows that young people who use e-cigarettes are five times more likely to smoke traditional cigarettes within 1 year. Clearly, it is a come-on to children to graduate from the e-cigarette to the real cigarette.

Given the effects of nicotine on children and the likelihood of their transitioning to traditional cigarette smoking, it is critical that we close any legal loopholes that allows underage youth to use e-cigarettes. Studies show that one of the easiest ways for underage users to purchase e-cigarettes is online. Our bipartisan bill would require e-cigarette retailers to meet the same requirements as those that sell traditional cigarettes online.

I believe we have 27 cosponsors equally divided between our two parties, so I am very pleased about that.

By applying the same safeguards we have worked on with online sales of traditional cigarettes, our bill would ensure that online e-cigarette sellers are verifying the age of their customers, properly labeling packages, and checking identification at delivery.

While there is limited research on the effects that vaping has had on coronavirus patients, the virus is known to attack the lungs. People with underlying conditions are particularly susceptible. Last year, we saw a mysterious lung illness sicken thousands of people that had a history of vaping. So it stands to reason that any damage already caused by vaping may further compromise a person's ability to fight off the coronavirus.

I want to thank Senator CORNYN for working with me on this important legislation and our 26 colleagues who joined as cosponsors to address the epidemic of e-cigarette use among American youth.

I yield the floor.

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Nebraska.