

105TH CONGRESS
2D SESSION

H. R. 3738

To establish a responsible United States international tobacco policy, to prevent tobacco companies from targeting tobacco products to children, to ensure no government promotion of tobacco overseas, to curb smuggling of tobacco products, to establish the American Center on Global Health and Tobacco, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1998

Mr. DOGGETT (for himself, Mr. KENNEDY of Massachusetts, Mrs. LOWEY, Ms. PELOSI, Mr. HANSEN, Mr. MCDERMOTT, Mr. OLVER, Ms. DEGETTE, Ms. ROYBAL-ALLARD, Mr. STARK, Ms. MILLENDER-MCDONALD, Mr. VENTO, Mr. UNDERWOOD, Mrs. TAUSCHER, and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means, International Relations, National Security, Resources, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a responsible United States international tobacco policy, to prevent tobacco companies from targeting tobacco products to children, to ensure no government promotion of tobacco overseas, to curb smuggling of tobacco products, to establish the American Center on Global Health and Tobacco, 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 **TITLE I—PROHIBITIONS RELAT-**
2 **ING TO TOBACCO PRODUCTS**
3 **AND CHILDREN**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “International Tobacco
6 Responsibility Act”.

7 **SEC. 102. PROHIBITIONS RELATING TO TOBACCO PROD-**
8 **UCTS AND CHILDREN.**

9 Chapter VIII of the Federal Food, Drug, and Cos-
10 metic Act is amended by adding at the end the following:

11 **“SEC. 804. PROHIBITION ON SALE OR DISTRIBUTION OF TO-**
12 **BACCO PRODUCTS TO CHILDREN.**

13 “(a) GENERAL RULE.—It shall be unlawful for any
14 domestic concern or any officer, director, employee, or
15 agent of such concern to make use of the mails or any
16 means or instrumentality of interstate commerce to cause
17 or contribute, either directly or through a foreign subsidi-
18 ary, joint venture, affiliate, or licensee, to—

19 “(1) the sale or distribution of tobacco products
20 in a foreign country to children; or

21 “(2) the advertising or promotion of tobacco
22 products in a foreign country in a manner that does
23 not comply with Federal requirements for the adver-
24 tisement or promotion of tobacco products in the
25 United States.

1 “(b) DEFENSE.—In an action brought to enforce
2 subsection (a), it shall be an affirmative defense that the
3 tobacco products involved were sold, distributed, adver-
4 tised, or promoted in the foreign country involved in a
5 manner that would be lawful if such conduct occurred in
6 the United States.

7 **“SEC. 805. LABELING.**

8 “‘It shall be unlawful for any domestic concern or any
9 officer, director, employee, or agent of such concern, either
10 directly or through a foreign subsidiary, joint venture, af-
11 filiate, or licensee, to make use of the mails or any means
12 or instrumentality of interstate commerce to cause or con-
13 tribute to the export from the United States or the sale
14 or distribution in, or export from, any other country any
15 tobacco product the package of which does not contain a
16 warning label that—

17 “(1) is in the primary language or languages of
18 the country in which the tobacco product is sold or
19 distributed to consumers; and

20 “(2) except for the requirement of paragraph
21 (1)—

22 “(A) complies with Federal requirements
23 for labeling of similar tobacco products manu-
24 factured, imported, or packaged for sale or dis-
25 tribution in the United States; or

1 “(B) complies with the labeling require-
2 ments of the foreign country in which the prod-
3 uct is sold or distributed to consumers and
4 which labeling requirements the Secretary de-
5 termines are substantially similar to Federal re-
6 quirements and are adequately enforced by such
7 country.”.

8 **SEC. 103. ENFORCEMENT.**

9 Section 301 of the Federal Food, Drug, and Cosmetic
10 Act (21 U.S.C. 331) is amended by adding at the end the
11 following:

12 “(aa) To carry out an act made unlawful by section
13 804 or 805.

14 **SEC. 104. REWARD.**

15 Section 303(b)(5) of the Federal Food, Drug, and
16 Cosmetic Act (21 U.S.C. 333(b)(5)) is amended by add-
17 ing at the end the following: “If a person provides infor-
18 mation leading to the institution of a criminal proceeding
19 against, and conviction of, a person for a violation of sec-
20 tion 301(aa), such person shall be entitled to one-half of
21 the criminal fine imposed and collected for such violation
22 but not more than \$125,000.”.

1 **SEC. 105. DEFINITIONS.**

2 Section 201 of the Federal Food, Drug, and Cosmetic
3 Act (21 U.S.C. 321) is amended by adding at the end the
4 following:

5 “(kk) The term ‘domestic concern’ means—

6 “(1) any individual who is a citizen, national, or
7 resident of the United States; and

8 “(2) any corporation, partnership, association,
9 joint-stock company, business trust, unincorporated
10 organization, or sole proprietorship which has its
11 principal place of business in the United States or
12 which is organized under the laws of a State of the
13 United States or a territory, possession, or common-
14 wealth of the United States.

15 “(ll) The term ‘children’ means an individual under
16 the age of 18.”.

17 **TITLE II—PROHIBITION ON USE**
18 **OF FUNDS TO FACILITATE**
19 **THE EXPORTATION OR PRO-**
20 **MOTION OF TOBACCO**

21 **SEC. 201. PROHIBITION ON USE OF FUNDS TO FACILITATE**
22 **THE EXPORTATION OR PROMOTION OF TO-**
23 **BACCO.**

24 (a) IN GENERAL.—No funds made available by ap-
25 propriations or otherwise made available may be used by

1 any officer, employee, department, or agency of the United
2 States—

3 (1) to promote or encourage the export, re-ex-
4 port, sale, manufacture, advertising, promotion, dis-
5 tribution, or use of tobacco or tobacco products to
6 or in a foreign country; or

7 (2) to seek, through negotiation or otherwise,
8 the removal or reduction by any foreign country of
9 any restriction or proposed restriction in that coun-
10 try on the importation, export, re-export, sale, man-
11 ufacture, advertising, promotion, distribution, pack-
12 aging, labeling, use, content, imposition of tariffs, or
13 taxation, of tobacco or tobacco products.

14 (b) EXCEPTION.—Subsection (a)(2) shall not apply
15 to any restriction or proposed restriction by a foreign
16 country if—

17 (1) the restriction is applied in a manner which
18 constitutes a means of arbitrary or unjustifiable dis-
19 crimination between countries;

20 (2) the Secretary of Commerce certifies in writ-
21 ing to Congress that the restriction is being applied
22 in a manner that constitutes a means of arbitrary or
23 unjustifiable discrimination between countries; and

24 (3) the Secretary of Health and Human Serv-
25 ices certifies to Congress in writing that the restric-

1 tion is not a reasonable means of protecting the pub-
2 lic health.

3 (c) DEFINITION.—In this section, the term “arbi-
4 trary or unjustifiable discrimination” means a restriction
5 or proposed restriction by a foreign country that—

6 (1) is arbitrary or unjustifiable; and

7 (2) does not adhere to the principle of national
8 treatment and applies less favorable treatment to
9 goods that are imported into that country than the
10 country applies to like goods that are the product,
11 growth, or manufacture of that country.

12 **TITLE III—AMERICAN CENTER**
13 **ON GLOBAL HEALTH AND TO-**
14 **BACCO**

15 **SEC. 301. INTERNATIONAL TOBACCO CONTROL EFFORTS.**

16 Of the funds paid to the United States by tobacco
17 manufacturers in accordance with Federal law to imple-
18 ment the proposed resolution of the controversy between
19 the tobacco manufacturers and the States adopted June
20 20, 1997, or an increase in the Federal excise tax on to-
21 bacco products, two percent shall be made available as fol-
22 lows:

23 (1) Of the funds to be made available, 50 per-
24 cent shall be used to carry out the purpose of the

1 American Center on Global Health and Tobacco
2 under section 302.

3 (2) Of the funds to be made available, 50 per-
4 cent shall be made available to the Secretary of
5 Health and Human Services for grants and other
6 forms of assistance to foreign governments, non-
7 governmental organizations, and international orga-
8 nizations to support tobacco control activities in for-
9 eign countries.

10 **SEC. 302. AMERICAN CENTER ON GLOBAL HEALTH AND TO-**
11 **BACCO.**

12 (a) FINDINGS AND PURPOSE.—

13 (1) FINDINGS.—Congress makes the following
14 findings:

15 (A) Tobacco use is estimated to have
16 caused nearly 3,000,000 deaths a year world-
17 wide in the early 1990's, and is projected to
18 cause in excess of 10,000,000 additional deaths
19 a year globally by 2030, more than any single
20 disease. More than 70 percent of those deaths
21 are expected in developing countries.

22 (B) Many countries are unprepared to ad-
23 dress increases in tobacco deaths, including the
24 impact on health systems and health costs.
25 While tobacco consumption in the United States

1 and other established market economies has
2 fallen over the last decade, consumption is ris-
3 ing in China, India, East Asia, and former so-
4 cialist economies. Tobacco companies in the
5 United States and elsewhere have increasingly
6 targeted those markets.

7 (C) Tobacco use markedly reduces good
8 health and threatens to erode the major health
9 gains in life expectancy of the last century.
10 Only HIV/AIDS infection and tobacco are large
11 and growing causes of death and disease world-
12 wide. The total projected deaths from tobacco
13 over the next 10 years likely will exceed deaths
14 from HIV/AIDS, maternal and childhood condi-
15 tions, and tuberculosis combined.

16 (D) The United States consistently has
17 provided leadership and funding to address the
18 world's most pressing public health needs, in-
19 cluding HIV/AIDS, hunger, maternal and child
20 health, and immunization.

21 (E) Through exports and overseas oper-
22 ations, United States tobacco companies sell
23 more cigarettes overseas than they do in the
24 United States. Foreign sales now account for

1 more than half of all sales for the 2 leading
2 United States tobacco manufacturers.

3 (F) United States companies spend billions
4 of dollars on aggressive tobacco marketing cam-
5 paigns overseas that associate smoking with the
6 United States, affluence, freedom, and libera-
7 tion. In many markets, American companies
8 reach youthful audiences through television and
9 radio advertising, free samples, and other meth-
10 ods that are outlawed in the United States.

11 (G) In light of the role the United States
12 tobacco companies have played in spreading to-
13 bacco use globally, and in light of the large fi-
14 nancial benefits they continue to enjoy from to-
15 bacco exports, it is appropriate that this section
16 be enacted in order to provide assistance and
17 funding for international public education and
18 mass media programs to inform the public
19 about the hazards of tobacco use.

20 (2) PURPOSE.—The purpose of this section is
21 to establish the American Center on Global Health
22 and Tobacco. The Center shall assist organizations
23 in other countries to reduce and prevent the use of
24 tobacco. Activities that the Center shall support in-
25 clude—

1 (A) public education programs that inform
2 the public about the hazards of tobacco use and
3 of environmental tobacco smoke;

4 (B) mass media campaigns, including
5 counter-tobacco advertisements, to reverse the
6 image appeal of pro-tobacco messages, espe-
7 cially those that glamorize and “Westernize” to-
8 bacco use to young people; and

9 (C) education about the economic and soci-
10 etal costs of tobacco use, and effective tobacco
11 use prevention and cessation strategies that are
12 appropriate for the country involved.

13 (b) ESTABLISHMENT.—

14 (1) IN GENERAL.—There is established in the
15 District of Columbia a private, nonprofit corporation
16 to be known as the American Center on Global
17 Health and Tobacco (in this section referred to as
18 “ACT”). ACT shall—

19 (A) not be an agency or establishment of
20 the United States; and

21 (B) except as otherwise provided in this
22 section, be subject to, and have all the powers
23 conferred upon a nonprofit corporation by the
24 District of Columbia Nonprofit Corporation Act
25 (D.C. Code section 29–501 et seq.).

1 (2) RELATION TO UNITED STATES.—Nothing in
2 this section shall be construed as making ACT an
3 agency or establishment of the United States, or as
4 making the members of the Board of ACT, or its
5 employees, officers or employees of the United
6 States.

7 (3) RELATION TO NONGOVERNMENTAL ORGANI-
8 ZATIONS.—ACT shall have a limited staff, and, to
9 the maximum extent practicable, utilize the available
10 experience and talents of nongovernmental organiza-
11 tions with specialized experience in health, edu-
12 cation, media, and tobacco.

13 (4) GOVERNING BOARD.—ACT shall be gov-
14 erned by a board of up to 25 members including—

15 (A) on a bipartisan basis, Members of the
16 Senate and of the House of Representatives;

17 (B) the heads of American public health
18 organizations;

19 (C) the heads of American media, market-
20 ing, and other nongovernment institutions and
21 corporations; and

22 (D) individuals active in education, public
23 health, and other relevant activities.

24 (5) ELIGIBILITY FOR SERVICE ON THE GOV-
25 ERNING BOARD.—No person who receives benefits,

1 either directly or indirectly, from a company which
2 sells or manufactures tobacco products may serve on
3 the Governing Board of ACT.

4 (6) INTERNATIONAL ADVISORY COUNCIL.—An
5 International Advisory Council consisting of rep-
6 resentatives from key global, regional, and national
7 public health organizations, and leading individual
8 educators and health professionals shall provide ad-
9 visory assistance to ACT.

10 (c) REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL
11 APPROPRIATIONS.—

12 (1) OVERSIGHT.—ACT and its grantees shall
13 be subject to the oversight and supervision of Con-
14 gress, and shall annually submit a report of its ac-
15 tivities to Congress in accordance with paragraph
16 (5)(A)(iii).

17 (2) COMPLIANCE.—

18 (A) FUNDING CONTINGENT ON COMPLI-
19 ANCE.—Annual appropriations may be made to
20 ACT under this section only if ACT complies
21 with the requirements specified in this section.

22 (B) USE OF FUNDS.—ACT may only fund
23 programs for private sector groups, and may
24 not carry out programs directly. ACT may pro-

1 vide funding only for programs which are con-
2 sistent with the purposes of this section.

3 (3) SALARIES AND COMPENSATION.—

4 (A) NO OTHER SOURCE OF COMPENSA-
5 TION.—Officers and employees of ACT may not
6 receive any salary or other compensation from
7 any source other than ACT for services per-
8 formed for ACT.

9 (B) UNITED STATES OFFICERS AND EM-
10 PLOYEES.—An individual who is an officer or
11 employee of the United States who also serves
12 on the Board of Directors or as an officer or
13 employee of ACT, may not receive any com-
14 pensation or travel expenses in connection with
15 services performed for ACT.

16 (4) STOCKS AND DIVIDENDS.—ACT shall not
17 issue any shares of stock or declare or pay any divi-
18 dends.

19 (5) AUDITS.—

20 (A) INDEPENDENT PUBLIC ACCOUNT-
21 ANTS.—

22 (i) IN GENERAL.—The accounts of
23 ACT shall be audited annually in accord-
24 ance with generally accepted auditing
25 standards by independent certified public

1 accountants or independent licensed public
2 accountants certified or licensed by a regu-
3 latory authority of a State or other politi-
4 cal subdivision of the United States. The
5 audits shall be conducted at the place or
6 places where the accounts of ACT are nor-
7 mally kept. All books, accounts, financial
8 records, reports, files, and all other papers,
9 things, or property belonging to or in use
10 by ACT and necessary to facilitate the au-
11 dits shall be made available to the person
12 or persons conducting the audits, and full
13 facilities for verifying transactions with
14 any assets held by depositories, fiscal
15 agents, and custodians shall be afforded to
16 such person or persons.

17 (ii) CONTENT OF AUDIT.—The report
18 of each audit conducted under clause (i)
19 shall be included in the annual report re-
20 quired under this subsection. The audit re-
21 port shall set forth the scope of the audit
22 and include such statements as are nec-
23 essary to present fairly ACT's assets and
24 liabilities, surplus or deficit, with an analy-
25 sis of the changes therein during the year,

1 supplemented in reasonable detail by a
2 statement of the income and expenses of
3 ACT during the year, and a statement of
4 the application of funds, together with the
5 independent auditor's opinion of those
6 statements.

7 (iii) REPORT.—Not later than Decem-
8 ber 31 of each year, ACT shall submit an
9 annual report for the preceding fiscal year
10 to the President for transmittal to Con-
11 gress. The report shall include a com-
12 prehensive and detailed report of ACT's
13 operations, activities, financial condition,
14 and accomplishments under this section
15 and may include such recommendations as
16 ACT deems appropriate.

17 (B) COMPTROLLER GENERAL.—

18 (i) IN GENERAL.—The financial trans-
19 actions of ACT for each fiscal year may be
20 audited by the Comptroller General in ac-
21 cordance with such principles and proce-
22 dures and under such rules and regulations
23 as the Comptroller General may prescribe.
24 Any such audit shall be conducted at the
25 place or places where accounts of ACT are

1 normally kept. The Comptroller General
2 shall have access to all books, accounts,
3 records, reports, files, and all other papers,
4 things, or property belonging to or in use
5 by ACT pertaining to its financial trans-
6 actions and necessary to facilitate the
7 audit. All books, accounts, records, reports,
8 files, papers, and property of ACT shall re-
9 main in the possession and custody of
10 ACT.

11 (ii) REPORT.—A report of each audit
12 shall be made by the Comptroller General
13 to Congress. A copy of each report shall be
14 furnished to the President and to ACT at
15 the time the report is submitted to Con-
16 gress.

17 (6) RECORDKEEPING.—

18 (A) IN GENERAL.—ACT shall ensure that
19 each recipient of assistance from ACT under
20 this section keeps such records as may be rea-
21 sonably necessary to fully disclose the amount
22 and the disposition by such recipient of the pro-
23 ceeds of such assistance, the total cost of the
24 project or undertaking in connection with which
25 such assistance is given or used, and the

1 amount and nature of that portion of the cost
2 of the project or undertaking supplied by other
3 sources, and such other records as will facilitate
4 an effective audit.

5 (B) ACCESS.—ACT shall ensure that it, or
6 any of its duly authorized representatives, shall
7 have access for the purpose of audit and exam-
8 ination to any books, documents, papers, and
9 records of each recipient of assistance from
10 ACT that are pertinent to assistance provided
11 through ACT under this section.

12 **TITLE IV—PREVENTION OF** 13 **TOBACCO SMUGGLING**

14 **SEC. 401. DEFINITIONS.**

15 (a) INCORPORATION OF CERTAIN DEFINITIONS.—In
16 this title, the terms “cigar”, “cigarette”, “person”, “pipe
17 tobacco”, “smokeless tobacco”, “State”, “tobacco prod-
18 uct”, and “United States” shall have the meanings given
19 such terms in sections 5702(a), 5702(b), 7701(a)(1),
20 5702(o), 5702(n)(1), 3306(j)(1), 5702(e), and 3306(j)(2)
21 respectively of the Internal Revenue Code of 1986.

22 (b) OTHER DEFINITIONS.—In this title:

23 (1) AFFILIATE.—The term “affiliate” means
24 any one of 2 or more persons if 1 of such persons
25 has actual or legal control, directly or indirectly,

1 whether by stock ownership or otherwise, of the
2 other or others of such persons, and any one of 2
3 or more persons subject to common control, actual
4 or legal, directly or indirectly, whether by stock own-
5 ership or otherwise.

6 (2) INTERSTATE OF FOREIGN COMMERCE.—The
7 term “interstate or foreign commerce” means com-
8 merce between any State and any place outside
9 thereof, or commerce within any Territory or the
10 District of Columbia, or between points within the
11 same State but through any place outside thereof.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of the Treasury.

14 (4) PACKAGE.—The term “package” means the
15 innermost sealed container irrespective of the mate-
16 rial from which such container is made, in which a
17 tobacco product is placed by the manufacturer and
18 in which such tobacco product is offered for sale to
19 a member of the general public.

20 (5) RETAILER.—The term “retailer” means any
21 dealer who sells, or offers for sale, any tobacco prod-
22 uct to any person other than a wholesaler.

23 **SEC. 402. TOBACCO PRODUCT LABELING REQUIREMENTS.**

24 (a) IN GENERAL.—It shall be unlawful for any per-
25 son to sell or ship or deliver for sale or shipment, or other-

1 wise introduce in interstate or foreign commerce, to re-
2 ceive therein, or to remove from customs custody for use,
3 any tobacco product unless such product is packaged and
4 labeled in conformity with this section.

5 (b) LABELING.—

6 (1) IDENTIFICATION.—Not later than 1 year
7 after the date of enactment of this title, the Sec-
8 retary shall promulgate regulations that require each
9 manufacturer of tobacco products to legibly print a
10 unique serial number on all packages of tobacco
11 products manufactured for sale or distribution. Such
12 serial number shall be designed to enable the Sec-
13 retary to identify the manufacturer of the product,
14 and the location and date of manufacture. The Sec-
15 retary shall determine the size and location of the
16 serial number.

17 (2) COUNTRY OF FINAL DESTINATION.—Each
18 package of a tobacco product that is exported shall
19 be labeled with the name of the country of final des-
20 tination. The Secretary shall promulgate regulations
21 to determine the size and location of the label and
22 under what circumstances a waiver of this para-
23 graph shall be granted.

24 (c) PROHIBITION ON ALTERATION.—It shall be un-
25 lawful for any person to alter, mutilate, destroy, obliterate,

1 or remove any mark or label required under this title upon
2 a tobacco product in or affecting commerce, except as au-
3 thorized by Federal law or except pursuant to regulations
4 of the Secretary authorizing relabeling for purposes of
5 compliance with the requirements of this section or of
6 State law.

7 **SEC. 403. REQUIREMENTS FOR THE TRACKING OF TO-**
8 **BACCO PRODUCTS.**

9 (a) POSTING OF BOND.—

10 (1) IN GENERAL.—It shall be unlawful for any
11 person to export any tobacco product unless such
12 person—

13 (A) has posted with the Secretary a to-
14 bacco product bond in accordance with this sec-
15 tion for such product that contains a disclosure
16 of the country to which such product will be ex-
17 ported; and

18 (B) receives a written statement from the
19 recipient of the tobacco products involved that
20 such person—

21 (i) will not knowingly and willfully vio-
22 late any law or regulation of such country
23 with respect to such products; and

24 (ii) has never been convicted of any
25 offense with respect to tobacco products.

1 (2) REGULATIONS.—The Secretary shall pro-
2 mulgate regulations that determine the frequency
3 and the amount of each bond that must be posted
4 under paragraph (1), but in no case shall such
5 amount be less than an amount equal to the Federal
6 tax imposed under chapter 52 of the Internal Reve-
7 nue Code of 1986 on the value of the shipment of
8 the products involved if such products were con-
9 sumed within the United States.

10 (b) RETURN OF BOND.—The Secretary shall return
11 a bond posted under subsection (a) upon a determination
12 by the Secretary (based on documentation provided by the
13 person who posted the bond in accordance with regulations
14 promulgated by the Secretary) that the tobacco products
15 to which the bond applies—

16 (1) have been received in the country of final
17 destination as designated in the bond; or

18 (2) have been stolen or destroyed.

19 **SEC. 404. TOBACCO PRODUCT PERMITS.**

20 (a) IN GENERAL.—Not later than 1 year after the
21 date of enactment of this title, the Secretary shall estab-
22 lish a program under which tobacco product permits are
23 issued to persons desiring to sell or ship, or deliver for
24 sale or shipment, or otherwise introduce in interstate or

1 foreign commerce, or to receive therein, or to remove from
2 customs custody for use, any tobacco product.

3 (b) CONDITIONS.—The issuance of a permit to a
4 manufacturer under this section shall be conditioned upon
5 the compliance of the manufacturer with the requirements
6 of this title and with all Federal laws relating to tobacco
7 products.

8 (c) REVOCATION, SUSPENSION, AND ANNULMENT.—
9 The program established under subsection (a) shall permit
10 the Secretary to revoke, suspend, or annul a permit issued
11 under this section if the Secretary determines that the
12 terms or conditions of the permit have not been complied
13 with. Prior to any action under this subsection, the Sec-
14 retary shall provide the permittee with due notice and the
15 opportunity for a hearing.

16 (d) RECORDS AND AUDITS.—The Secretary may,
17 under the program established under subsection (a), re-
18 quire permit holders to keep records concerning the chain
19 of custody of the tobacco products that are the subject
20 of the permit and make such records available to the Sec-
21 retary for inspection and audit.

22 (e) RETAILERS.—This section shall not apply to re-
23 tailers of tobacco products, except that retailers shall
24 maintain commercial records of receipt, and such records
25 shall be available to the Secretary for inspection and audit.

1 **SEC. 405. PROHIBITIONS.**

2 (a) IMPORTATION AND SALE.—It shall be unlawful,
3 except pursuant to a permit issued by the Secretary under
4 section 504—

5 (1) to engage in the business of importing into
6 the United States tobacco products; or

7 (2) for any person so engaged to sell, offer, or
8 deliver for sale, contract to sell, or ship, in or affect-
9 ing commerce, directly or indirectly or through affili-
10 ate, tobacco products so imported.

11 (b) MANUFACTURE AND SALE.—It shall be unlawful,
12 except pursuant to a permit issued by the Secretary under
13 section 504—

14 (1) to engage in the business of manufacturing,
15 packaging or warehousing tobacco products; or

16 (2) for any person so engaged to sell, offer, or
17 deliver for sale, contract to sell, or ship, in interstate
18 or foreign commerce, directly or indirectly or
19 through an affiliate, tobacco products so manufac-
20 tured, packaged or warehoused.

21 (c) WHOLESALE.—It shall be unlawful, except pursu-
22 ant to a permit issued by the Secretary under section
23 504—

24 (1) to engage in the business of purchasing for
25 resale at wholesale tobacco products; or

1 (2) for any person so engaged to receive or sell,
2 offer or deliver for sale, contract to sell, or ship, in
3 interstate or foreign commerce, directly or indirectly
4 or through an affiliate, tobacco products so pur-
5 chased.

6 (d) EFFECTIVE DATE.—The provisions of this sec-
7 tion shall become effective on the date that is 180 days
8 after the date of enactment of this title.

9 **SEC. 406. PRICING AND LABELING OF PRODUCTS SOLD ON**
10 **MILITARY INSTALLATIONS OR ON INDIAN**
11 **RESERVATIONS.**

12 (a) MILITARY INSTALLATIONS.—

13 (1) IN GENERAL.—The Secretary of Defense, in
14 consultation with the Secretary, shall promulgate
15 regulations to limit the sale of tobacco products on
16 a military installation (as defined in section
17 2801(e)(2) of title 10, United States Code) to—

18 (A) with respect to cigarettes, 1 carton per
19 individual per day; and

20 (B) with respect to noncigarette tobacco
21 products, a reasonable amount per day as de-
22 termined appropriate by the Secretary of De-
23 fense under such regulations.

24 (2) LABEL.—The regulations under paragraph
25 (1) shall require that each package of a tobacco

1 product that is sold on a military installation be la-
2 beled as such. Such regulations shall include require-
3 ments for the size and location of the label.

4 (b) INDIAN TRIBES.—The Secretary, in consultation
5 with the Secretary of Interior, shall promulgate regula-
6 tions that require that each package of a tobacco product
7 that is sold on an Indian reservation (as defined in section
8 403(9) of the Indian Child Protection and Family Violence
9 Prevention Act (25 U.S.C. 3202(9))) be labeled as such.
10 Such regulations shall include requirements for the size
11 and location of the label.

12 **SEC. 407. PROHIBITION AGAINST SALE OF TOBACCO PROD-**
13 **UCTS IN OR TO DUTY-FREE SHOPS OR FOR-**
14 **WARDING THROUGH OR MANUFACTURE IN**
15 **TRADE ZONES.**

16 (a) DUTY-FREE SHOPS.—The Secretary shall pro-
17 mulgate regulations to enforce a reasonable per day limit
18 on the sale of tobacco products at duty-free shops.

19 (b) TRADE ZONES.—No person may forward through
20 or manufacture a tobacco product in any foreign trade
21 zone, as defined for purposes of the Act of June 18, 1934
22 (19 U.S.C. 81a et seq.).

1 **SEC. 408. JURISDICTION; PENALTIES; COMPROMISE OF LI-**
2 **ABILITY.**

3 (a) JURISDICTION.—The district courts of the United
4 States, and the United States court for any Territory or
5 of the District where the offense is committed or threat-
6 ened or of which the offender is an inhabitant or has its
7 principal place of business, are vested with jurisdiction of
8 any suit brought by the Attorney General in the name of
9 the United States, to prevent and restrain violations of
10 any of the provisions of this title.

11 (b) PENALTIES.—The provisions of section 3571 of
12 title 18, United States Code, shall apply to any person
13 convicted of violating any of the provisions of this title
14 as if such person were convicted of a felony under such
15 title.

16 (c) COMPROMISE OF LIABILITY.—The Secretary is
17 authorized, with respect to any violation of this title, to
18 compromise the liability arising with respect to a violation
19 of this title—

20 (1) upon payment of a sum not in excess of
21 \$10,000 for each offense, to be collected by the Sec-
22 retary and to be paid into the Treasury as mis-
23 cellaneous receipts; and

24 (2) in the case of repetitious violations and in
25 order to avoid multiplicity of criminal proceedings,
26 upon agreement to a stipulation, that the United

1 States may, on its own motion upon 5 days' notice
2 to the violator, cause a consent decree to be entered
3 by any court of competent jurisdiction enjoining the
4 repetition of such violation.

5 **SEC. 409. AMENDMENTS TO THE CONTRABAND CIGARETTE**
6 **TRAFFICKING ACT.**

7 (a) DEFINITIONS.—Section 2341 of title 18, United
8 States Code, is amended—

9 (1) in paragraph (2)—

10 (A) by striking “60,000” and inserting
11 “30,000”; and

12 (B) by inserting after “payment of ciga-
13 rette taxes,” the following: “or in the case of a
14 State that does not require any such indication
15 of tax payment, if the person in possession of
16 the cigarettes is unable to provide any evidence
17 that the cigarettes are moving legally in inter-
18 state commerce,”; and

19 (2) in paragraph (4), by striking “and” at the
20 end;

21 (3) in paragraph (5), by striking the period and
22 inserting a semicolon; and

23 (4) by adding at the end the following:

1 “(6) the term ‘tobacco product’ means cigars,
2 cigarettes, smokeless tobacco, and pipe tobacco (as
3 such terms are defined in section 501); and

4 “(7) the term ‘contraband tobacco product’
5 means a quantity in excess of 30,000 of any tobacco
6 product that is manufactured, sold, shipped, deliv-
7 ered, transferred, or possessed in violation of Fed-
8 eral laws relating to the distribution of tobacco prod-
9 ucts.”.

10 (b) UNLAWFUL ACTS.—Section 2342 of title 18,
11 United States Code, is amended—

12 (1) in subsection (a), by inserting “or contra-
13 band tobacco products” before the period;

14 (2) in subsection (b)—

15 (A) by striking “cigarettes” and inserting
16 “tobacco products”;

17 (B) by striking “60,000” and inserting
18 “30,000”; and

19 (C) by inserting before the period the fol-
20 lowing: “or knowingly to fail to maintain dis-
21 tribution records, alter or obliterate required
22 markings, or interfere with any inspection as
23 required or prohibited under Federal law with
24 respect to such quantity of tobacco products”;
25 and

1 (3) by adding at the end the following:

2 “(c) It shall be unlawful for any person knowingly
3 to transport tobacco products under a false bill of lading
4 or without any bill of lading.”.

5 (c) RECORDKEEPING.—Section 2343 of title 18,
6 United States Code, is amended—

7 (1) by striking “cigarettes” each place that
8 such appears and inserting “tobacco products”;

9 (2) in subsection (a), by striking “60,000” and
10 inserting “30,000”;

11 (3) in subsection (b), by striking “60,000” and
12 inserting “30,000”.

13 (d) PENALTIES.—Section 2344 of title 18, United
14 States Code, is amended—

15 (1) in subsection (c), by inserting “or contra-
16 band tobacco products” after “cigarettes”; and

17 (2) by adding at the end the following:

18 “(d) Any proceeds from the unlawful distribution of
19 tobacco products shall be subject to seizure and forfeiture
20 under this chapter.”.

21 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated such sums
23 as may be necessary to carry out this title.

1 TITLE V—SENSE OF CONGRESS**2 SEC. 501. SENSE OF CONGRESS.**

3 It is the sense of Congress that the United States
4 Government should support the development, adoption,
5 and implementation of the International Framework Con-
6 vention on Tobacco Control through all available re-
7 sources, including direct financial support, technical as-
8 sistance, and any other appropriate measure.

○