

105TH CONGRESS
2D SESSION

H. R. 3889

To amend the Federal Food, Drug, and Cosmetic Act to strengthen controls over tobacco.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1998

Mr. UPTON introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to strengthen controls over tobacco.

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 “Teen Tobacco Use Pre-
5 vention Act of 1998”.

6 **SEC. 2. TOBACCO PRODUCT REGULATION.**

7 (a) AMENDMENT.—The Federal Food, Drug, and
8 Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

9 (1) by redesignating chapter IX as chapter X;

1 (2) by redesignating sections 901, 902, 903,
2 904, and 905 as sections 1001, 1002, 1003, 1004,
3 and 1005, respectively; and

4 (3) by adding after chapter VIII the following
5 new chapter:

6 “CHAPTER IX—HEALTH AND SAFETY REGU-
7 LATORY REQUIREMENTS RELATING TO TO-
8 BACCO PRODUCTS

9 “**SEC. 900. DEFINITIONS.**

10 “In this chapter:

11 “(1) CIGARETTE.—The term ‘cigarette’ means
12 any product which contains nicotine, is intended to
13 be burned under ordinary conditions of use, and con-
14 sists of—

15 “(A) any roll of tobacco wrapped in paper
16 or in any substance not containing tobacco; and

17 “(B) any roll of tobacco wrapped in any
18 substance containing tobacco which, because of
19 its appearance, the type of tobacco used in the
20 filler, or its packaging and labeling, is likely to
21 be offered to, or purchased by, consumers as a
22 cigarette described in subparagraph (A).

23 “(2) CIGARETTE TOBACCO.—The term ‘ciga-
24 rette tobacco’ means any product that consists of
25 loose tobacco that contains or delivers nicotine and

1 is intended for use by persons in a cigarette. Unless
2 otherwise stated, the requirements of this title per-
3 taining to cigarettes shall also apply to cigarette to-
4 bacco.

5 “(3) NICOTINE.—The term ‘nicotine’ means the
6 chemical substance named 3-(1-Methyl-2-
7 pyrrolidinyl)pyridine or $C_{10}H_{14}N_2$, including any salt
8 or complex of nicotine.

9 “(4) SMOKELESS TOBACCO.—The term ‘smoke-
10 less tobacco’ means any product that consists of cut,
11 ground, powdered, or leaf tobacco that contains nico-
12 tine and that is intended to be placed in the oral
13 or nasal cavity.

14 “(5) TAR.—The term ‘tar’ means mainstream
15 total particulate matter minus nicotine and water.

16 “(6) TOBACCO ADDITIVE.—The term ‘tobacco
17 additive’ means any substance the intended use of
18 which results or may reasonably be expected to re-
19 sult, directly or indirectly, in the substance becoming
20 a component of, or otherwise affecting the character-
21 istics of, any tobacco product, including any sub-
22 stance that may have been removed from the tobacco
23 product and then readded in the substance’s original
24 or modified form.

1 “(7) TOBACCO PRODUCT.—The term ‘tobacco
2 product’ means cigarettes and smokeless tobacco
3 products.

4 **“Subchapter A—Tobacco Product Regulation**

5 **“SEC. 902. CONSTITUENT LABELING.**

6 “(a) IN GENERAL.—The Secretary shall by regula-
7 tion require the manufacturer of tobacco products to in-
8 clude, in accordance with subsection (c), on a label on the
9 package of the products the amount of tar and nicotine
10 in the tobacco products and the amount of carbon mon-
11 oxide produced by such products.

12 “(b) REGULATIONS.—The Secretary may by regula-
13 tion require the manufacturer of tobacco products to in-
14 clude, in accordance with subsection (c), on a label on the
15 package of the products constituents in addition to the
16 constituents described in subsection (a) if the Secretary
17 determines that identification of such constituents is nec-
18 essary for the protection of the public health.

19 “(c) COMMON OR USUAL NAMES.—The Secretary
20 shall promulgate regulations requiring the disclosure to
21 the public of the common or usual name of each ingredient
22 (other than tobacco, water, or reconstituted tobacco sheet
23 made wholly from tobacco) contained in a tobacco product
24 in descending order of predominance by weight, except
25 that such regulations—

1 “(1) may provide for the disclosure of spices,
2 flavorings, and colorings without naming each spice,
3 flavoring, or coloring; and

4 “(2) may exempt from disclosure incidental ad-
5 ditives, including processing aids and chemical pre-
6 servatives, that are present in a tobacco product at
7 insignificant levels that the Secretary determines do
8 not have any functional effect or health risk.

9 **“SEC. 903. TOBACCO PRODUCT LABELING, WARNING, AND**
10 **PACKAGING STANDARDS.**

11 “(a) CIGARETTES.—

12 “(1) PACKAGING.—It shall be unlawful for any
13 person to manufacture, package, or import for sale
14 or distribution within the United States any ciga-
15 rettes the package of which fails to bear, in accord-
16 ance with the requirements of this subsection, one of
17 the following statements:

18 “WARNING: Cigarettes Are Addictive.

19 “WARNING: Tobacco Smoke Can Harm Your
20 Children.

21 “WARNING: Cigarettes Cause Fatal Lung
22 Disease.

23 “WARNING: Cigarettes Cause Cancer.

24 “WARNING: If You Think Smoking Is Cool,
25 You Are Dead Wrong.

1 “WARNING: Cigarettes Cause Strokes And
2 Heart Disease.

3 “WARNING: Smoking During Pregnancy Can
4 Harm Your Baby.

5 “WARNING: Smoking Can Kill You.

6 “WARNING: Tobacco Smoke Causes Fatal
7 Lung Disease In Nonsmokers.

8 “WARNING: Quitting Smoking Now Greatly
9 Reduces Serious Risks To Your Health.

10 “(2) REQUIREMENTS FOR LABEL STATE-
11 MENTS.—

12 “(A) LOCATION.—Each label statement re-
13 quired by paragraph (1) shall be located on the
14 upper portion of the front panel of the cigarette
15 package (or carton) and occupy not less than
16 25 percent of such front panel.

17 “(B) TYPE AND COLOR.—With respect to
18 each label statement required by paragraph (1),
19 the phrase ‘WARNING’ shall appear in capital
20 letters and the label statement shall be printed
21 in 17 point type with adjustments as deter-
22 mined appropriate by the Secretary to reflect
23 the length of the required statement. All the
24 letters in the label statement shall appear in
25 conspicuous and legible type, in contrast by ty-

1 pography, layout, or color with all other printed
2 material on the package, and be printed in an
3 alternating black-on-white and white-on-black
4 format as determined appropriate by the Sec-
5 retary.

6 “(C) EXCEPTION.—Paragraph (1) shall
7 not apply in the case of a flip-top cigarette
8 package (offered for sale on the date of enact-
9 ment of this title) where the front portion of
10 the flip-top does not comprise at least 25 per-
11 cent of the front panel. In the case of such a
12 package, the label statement required by sub-
13 paragraph (A) of paragraph (1) shall occupy
14 the entire front portion of the flip top.

15 “(3) REQUIREMENTS FOR ADVERTISING.—

16 “(A) IN GENERAL.—It shall be unlawful
17 for any manufacturer or importer of cigarettes
18 to advertise or cause to be advertised within the
19 United States any cigarette unless the advertis-
20 ing bears, in accordance with the requirements
21 of this subsection, one of the following state-
22 ments:

23 “WARNING: Cigarettes Are Addictive.

24 “WARNING: Tobacco Smoke Can Harm
25 Your Children.

1 “WARNING: Cigarettes Cause Fatal Lung
2 Disease.

3 “WARNING: Cigarettes Cause Cancer.

4 “WARNING: If You Think Smoking Is
5 Cool, You Are Dead Wrong.

6 “WARNING: Cigarettes Cause Strokes
7 And Heart Disease.

8 “WARNING: Smoking During Pregnancy
9 Can Harm Your Baby.

10 “WARNING: Smoking Can Kill You.

11 “WARNING: Tobacco Smoke Causes
12 Fatal Lung Disease In Nonsmokers.

13 “WARNING: Quitting Smoking Now
14 Greatly Reduces Serious Risks To Your
15 Health.

16 “(B) LOCATION.—Each label statement re-
17 quired by subparagraph (A) shall occupy not
18 less than 20 percent of the area of the adver-
19 tisement involved.

20 “(C) TYPE AND COLOR.—

21 “(i) TYPE.—With respect to each
22 label statement required by subparagraph
23 (A), the phrase ‘WARNING’ shall appear
24 in capital letters and the label statement
25 shall be printed in the following types:

1 “(I) With respect to whole page
2 advertisements on broadsheet news-
3 paper—45 point type.

4 “(II) With respect to half page
5 advertisements on broadsheet news-
6 paper—39 point type.

7 “(III) With respect to whole page
8 advertisements on tabloid news-
9 paper—39 point type.

10 “(IV) With respect to half page
11 advertisements on tabloid news-
12 paper—27 point type.

13 “(V) With respect to DPS maga-
14 zine advertisements—31.5 point type.

15 “(VI) With respect to whole page
16 magazine advertisements—31.5 point
17 type.

18 “(VII) With respect to 28cm x 3
19 column advertisements—22.5 point
20 type.

21 “(VIII) With respect to 20cm x 2
22 column advertisements—15 point
23 type.

1 The Secretary may revise the required type
2 sizes as the Secretary determines appro-
3 priate within the 20 percent requirement.

4 “(ii) COLOR.—All the letters in the
5 label statement under this subparagraph
6 shall appear in conspicuous and legible
7 type, in contrast by typography, layout, or
8 color with all other printed material in the
9 advertisement, and be printed in an alter-
10 nating black-on-white and white-on-black
11 format as determined appropriate by the
12 Secretary.

13 “(4) ROTATION OF LABEL STATEMENTS.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the label statements speci-
16 fied in paragraphs (1) and (2)(A) shall be ro-
17 tated by each manufacturer or importer of ciga-
18 rettes quarterly in alternating sequence on
19 packages of each brand of cigarettes manufac-
20 tured by the manufacturer or importer and in
21 the advertisements for each such brand of ciga-
22 rettes in accordance with a plan submitted by
23 the manufacturer or importer and approved by
24 the Secretary. The Secretary shall approve a
25 plan submitted by a manufacturer or importer

1 of cigarettes which will provide the rotation re-
2 quired by this paragraph and which assures
3 that all of the label statements required by
4 paragraphs (1) and (2)(A) will be displayed by
5 the manufacturer or importer at the same time.

6 “(B) APPLICATION OF OTHER ROTATION
7 REQUIREMENTS.—

8 “(i) IN GENERAL.—A manufacturer
9 or importer of cigarettes may apply to the
10 Secretary to have the rotation schedule de-
11 scribed in clause (iii) apply with respect to
12 a brand style of cigarettes manufactured
13 or imported by such manufacturer or im-
14 porter if—

15 “(I) the number of cigarettes of
16 such brand style sold in the fiscal year
17 of the manufacturer or importer pre-
18 ceding the submission of the applica-
19 tion is less than $\frac{1}{4}$ of 1 percent of all
20 the cigarettes sold in the United
21 States in such year; and

22 “(II) more than $\frac{1}{2}$ of the ciga-
23 rettes manufactured or imported by
24 such manufacturer or importer for
25 sale in the United States are pack-

1 aged into brand styles which meet the
2 requirements of subclause (I).

3 If an application is approved by the Sec-
4 retary, the rotation schedule described in
5 clause (iii) shall apply with respect to the
6 applicant during the 1-year period begin-
7 ning on the date of the application ap-
8 proval.

9 “(ii) PLAN.—An applicant under
10 clause (i) shall include in its application a
11 plan under which the label statements
12 specified in subparagraph (A) of paragraph
13 (1) will be rotated by the applicant manu-
14 facturer or importer in accordance with the
15 label rotation described in clause (iii).

16 “(iii) OTHER ROTATION REQUIRE-
17 MENTS.—Under the rotation schedule
18 which the manufacturer or importer with
19 an approved application may put into ef-
20 fect, each of the label statements specified
21 in paragraph (1) shall appear on the pack-
22 ages of each brand style of cigarettes with
23 respect to which the application was ap-
24 proved an equal number of times within
25 the 12-month period beginning on the date

1 of the approval by the Secretary of the ap-
2 plication.

3 “(5) APPLICATION OF REQUIREMENT.—Para-
4 graph (1) does not apply to a distributor or retailer
5 of cigarettes who does not manufacture, package, or
6 import cigarettes for sale or distribution within the
7 United States.

8 “(6) TELEVISION AND RADIO ADVERTISING.—It
9 shall be unlawful to advertise cigarettes and little ci-
10 gars on any medium of electronic communications
11 subject to the jurisdiction of the Federal Commu-
12 nications Commission.

13 “(b) SMOKELESS TOBACCO PRODUCTS.—

14 “(1) IN GENERAL.—

15 “(A) PACKAGING.—It shall be unlawful for
16 any person to manufacture, package, or import
17 for sale or distribution within the United States
18 any smokeless tobacco product the package of
19 which fails to bear, in accordance with the re-
20 quirements of this subsection, one of the follow-
21 ing statements:

22 “WARNING: This Product May Cause
23 Mouth Cancer.

24 “WARNING: This Product May Cause
25 Gum Disease And Tooth Loss.

1 “WARNING: This Product Is Not A Safe
2 Alternative To Cigarettes.

3 “WARNING: Smokeless Tobacco Is Ad-
4 dictive.

5 “(B) ADVERTISING.—It shall be unlawful
6 for any manufacturer or importer of smokeless
7 tobacco products to advertise or cause to be ad-
8 vertised within the United States any smokeless
9 tobacco product unless the advertising bears, in
10 accordance with the requirements of this sub-
11 section, one of the following statements:

12 “WARNING: This Product May Cause
13 Mouth Cancer.

14 “WARNING: This Product May Cause
15 Gum Disease And Tooth Loss.

16 “WARNING: This Product Is Not A Safe
17 Alternative To Cigarettes.

18 “WARNING: Smokeless Tobacco Is Ad-
19 dictive.

20 “(2) REQUIREMENTS FOR LABEL STATE-
21 MENTS.—

22 “(A) LOCATION.—Each label statement re-
23 quired by subparagraph (A) of paragraph (1)
24 shall be located on the principal display panel

1 of the product and occupy not less than 25 per-
2 cent of such panel.

3 “(B) TYPE AND COLOR.—With respect to
4 each label statement required by subparagraph
5 (A) of paragraph (1), the phrase ‘WARNING’
6 shall appear in capital letters and the label
7 statement shall be printed in 17 point type with
8 adjustments as determined appropriate by the
9 Secretary to reflect the length of the required
10 statement. All the letters in the label statement
11 shall appear in conspicuous and legible type in
12 contrast by typography, layout, or color with all
13 other printed material on the package and be
14 printed in an alternating black on white and
15 white on black format as determined appro-
16 priate by the Secretary.

17 “(3) ADVERTISING AND ROTATION.—The provi-
18 sions of paragraphs (3) and (4)(A) of subsection (a)
19 shall apply to advertisements for smokeless tobacco
20 products and the rotation of the statements required
21 under paragraph (1)(A) on such products.

22 “(4) APPLICATION OF REQUIREMENT.—Para-
23 graph (1) does not apply to a distributor or retailer
24 of smokeless tobacco products who does not manu-

1 facture, package, or import such products for sale or
2 distribution within the United States.

3 “(5) TELEVISION AND RADIO ADVERTISING.—It
4 shall be unlawful to advertise smokeless tobacco on
5 any medium of electronic communications subject to
6 the jurisdiction of the Federal Communications
7 Commission.

8 “(c) STATEMENT OF INTENDED USE.—

9 “(1) REQUIREMENT.—Each manufacturer, dis-
10 tributor, and retailer advertising or causing to be
11 advertised, disseminating or causing to be dissemi-
12 nated advertising concerning, tobacco products oth-
13 erwise permitted under this chapter shall include, in
14 a type size and format as the Secretary may pre-
15 scribe in a regulation promulgated under subsection
16 (d), the established name of the product and a state-
17 ment of the intended use of the product as provided
18 for in paragraph (2).

19 “(2) INTENDED USE STATEMENTS.—

20 “(A) CIGARETTES.—A statement of in-
21 tended use for cigarettes or cigarette tobacco is
22 as follows (whichever is appropriate):

23 “Cigarettes—A Dangerous Tobacco Product In-
24 tended For Use Only By Persons 18 or Older.

1 “Cigarette Tobacco—A Dangerous Tobacco
2 Product Intended For Use Only By Persons 18
3 or Older.

4 “(B) SMOKELESS TOBACCO.—A statement
5 of intended use for a smokeless tobacco product
6 is as follows (whichever is appropriate):

7 “Loose Leaf Chewing Tobacco—A Dangerous
8 Tobacco Product Intended For Use Only By
9 Persons 18 or Older.

10 “Plug Chewing Tobacco—A Dangerous To-
11 bacco Product Intended For Use Only By Per-
12 sons 18 or Older.

13 “Twist Chewing Tobacco—A Dangerous To-
14 bacco Product Intended For Use Only By Per-
15 sons 18 or Older.

16 “Moist Snuff—A Dangerous Tobacco Product
17 Intended For Use Only By Persons 18 or
18 Older.

19 “Dry Snuff—A Dangerous Tobacco Product In-
20 tended For Use Only By Persons 18 or Older.

21 “(d) REGULATIONS.—

22 “(1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this Act, the Sec-
24 retary shall promulgate such regulations as may be
25 necessary to implement subsections (a), (b), and (c).

1 “(2) AUTHORITY TO REVISE TOBACCO PRODUCT
2 LABELING STATEMENTS.—The Secretary may by
3 rule change the text of any of the statements re-
4 quired under subsections (a) and (b). A rule promul-
5 gated under this subparagraph shall not become ef-
6 fective prior to the expiration of the 1-year period
7 beginning on the date on which the final rule is pub-
8 lished in the Federal Register.

9 “(e) PREEMPTION.—No statement relating to the use
10 of cigarettes or smokeless tobacco products and health,
11 other than the statements required by subsections (a), (b),
12 or (c), shall be required on any package or in any adver-
13 tisement of cigarettes or a smokeless tobacco product.

14 “(f) EXPORTS.—Packages of cigarettes or smokeless
15 tobacco products manufactured, imported, or packaged—

16 “(1) for export from the United States; or

17 “(2) for delivery to a vessel or aircraft, as sup-
18 plies, for consumption beyond the jurisdiction of the
19 internal revenue laws of the United States;

20 shall be exempt from the requirements of this chapter, but
21 such exemptions shall not apply to cigarettes or smokeless
22 tobacco products manufactured, imported, or packaged for
23 sale or distribution to members or units of the Armed
24 Forces of the United States located outside of the United
25 States.

1 **“SEC. 904. VENDING MACHINES.**

2 “(a) IN GENERAL.—No manufacturer, distributor, or
3 retailer may distribute or cause to be distributed any to-
4 bacco product through a vending machine, except that dis-
5 tribution may be made through vending machines that are
6 located in facilities where the retailer ensures that no indi-
7 viduals under 18 years of age are present or permitted
8 to enter at any time.

9 “(b) MONITORING.—The Secretary shall, during the
10 2 year period beginning on the effective date of this Act,
11 monitor compliance with subsection (a). The Secretary
12 may propose additional restrictions on vending machine
13 sales if there is evidence that individuals under the age
14 of 18 are continuing to purchase tobacco products from
15 vending machines.

16 **“SEC. 905. MINIMUM AGE.**

17 “(a) PROHIBITION.—No person shall sell or distrib-
18 ute a tobacco product to an individual under the age of
19 18 or such higher age as may be prescribed by applicable
20 State law.

21 “(b) VERIFICATION.—A retailer of tobacco products
22 shall verify that an individual is 18 or older by checking
23 identification that includes the individual’s date of birth
24 and photograph. Such verification shall be made of any
25 individual age 26 or younger. If a State has in effect a
26 law which prohibits the sale of tobacco products to individ-

1 uals under age 18, the Secretary may not take enforce-
2 ment action against a retailer of tobacco products for the
3 sale in such State of tobacco products without checking
4 identification as required by this subsection if such a sale
5 is a face-to-face transaction and is conducted in accord-
6 ance with such State law to an individual who is of legal
7 age.

8 “(c) NOTICE.—The Secretary shall notify any retailer
9 who is found not to be routinely complying with subsection
10 (b) of such failure of the retailer and of the penalties
11 under this section.

12 “(d) PENALTIES.—For a violation of subsection
13 (a)—

14 “(1) if it is a first offense, the Secretary shall
15 notify the retailer of the violation and warn the re-
16 tailer of penalties for subsequent violations;

17 “(2) for the second violation, be subject to a
18 civil penalty of \$250; and

19 “(3) for each subsequent violation, be subject to
20 a civil penalty which is twice the amount of the pre-
21 ceding civil penalty.

22 “(e) ENFORCEMENT.—A State shall—

23 “(1) enforce the law described in subsection (a)
24 systematically and conscientiously and in a manner
25 that can reasonably be expected to reduce the extent

1 to which tobacco products are available in such
2 State to individuals under the age of 18;

3 “(2) certify that the State requires enforcement
4 of such law to be treated as a priority by State and
5 local law enforcement authorities;

6 “(3) conduct random, unannounced inspections
7 to ensure compliance with the law described in sub-
8 section (a); and

9 “(4) annually submit to the Secretary a report
10 describing—

11 “(A) the activities carried out by the State
12 to enforce such law;

13 “(B) the steps taken by the State to en-
14 sure that enforcement of such law was treated
15 as a priority by State and local law enforcement
16 authorities;

17 “(C) the extent of success the State has
18 achieved in reducing the availability of tobacco
19 products to individuals under the age of 18;
20 and

21 “(D) the strategies to be utilized by the
22 State for enforcing such law

23 If a State does not comply with this subsection, the
24 Secretary may reduce the amount of a grant that the
25 State is eligible for under section 1926 of the Public

1 Health Service Act. The reduction shall stay in effect until
2 the State demonstrates to the Secretary that it is comply-
3 ing with this subsection.

4 **“SEC. 906. SMALL SALES AND SAMPLES.**

5 “(a) PROHIBITION.—No person may distribute or sell
6 a cigarette individually or in packages of less than 20 and
7 no person may distribute samples of cigarettes.

8 “(b) PENALTIES.—The penalties prescribed by sec-
9 tion 905(d) shall apply to violations of subsection (a).

10 **“SEC. 907. DISTRIBUTION THROUGH THE MAIL.**

11 “(a) IN GENERAL.—No person may distribute a to-
12 bacco product through the mail.

13 “(b) AUTHORITY TO USE MAIL.—A person who
14 wants to distribute a tobacco product through the mail
15 shall submit to the Secretary a plan which will ensure that
16 the tobacco product will only go to individuals who are
17 18 or older. If the Secretary approves the plan, such per-
18 son may make such distribution.

19 “(c) MONITORING.—The Secretary shall after 2 years
20 after the effective date of this Act review distributions of
21 tobacco products through the mail to determine if individ-
22 uals under the age of 18 are receiving tobacco products
23 so distributed.

24 “(d) PENALTIES.—The penalties prescribed by sec-
25 tion 905(d) shall apply to violations of subsection (a).

1 **“SEC. 908. TOBACCO PRODUCT USE REDUCTION TARGETS.**

2 “(a) IN GENERAL.—The Secretary shall determine
3 the average annual incidence of the daily use of tobacco
4 products by individuals who are under 18 years of age and
5 the Secretary shall determine the underage use base per-
6 centage for tobacco products which shall be a percentage
7 determined by the Secretary, weighted by the population
8 of the age group involved as determined using data com-
9 piled in 1995 by the Bureau of the Census. The Secretary
10 shall report to the Congress the average annual incidence
11 and underage use base percentage.

12 “(b) GOALS.—With respect to the average annual in-
13 cidence of the daily use of tobacco products by individuals
14 who are under 18 years of age, it shall be the national
15 goals of the United States that such use be reduced as
16 follows:

17 “(1) in the fifth calendar year after the date of
18 enactment of this Act the percentage decrease in the
19 use of tobacco products shall be at least 35 percent;

20 “(2) in the seventh calendar year after the date
21 of enactment of this Act the percentage decrease in
22 the use of tobacco products shall be at least 50 per-
23 cent; and

24 “(3) in the tenth and subsequent calendar years
25 after the date of enactment of this Act the percent-

1 age decrease in the use of tobacco products shall be
2 at least 80 percent.

3 “(c) DETERMINATION.—The Secretary shall deter-
4 mine whether the required percentage reduction in the un-
5 derage use of tobacco products in the fifth calendar year
6 after the date of enactment of this Act (based on sub-
7 section (b)) has been achieved for the year involved. If it
8 has not, the Secretary may make recommendations to the
9 Congress with respect to a different goal of reduction in
10 underage use of tobacco products.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect January 1, 1999.

○