

105TH CONGRESS  
1ST SESSION

# S. 1060

To restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States.

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## IN THE SENATE OF THE UNITED STATES

JULY 23, 1997

Mr. LAUTENBERG (for himself, Mr. WYDEN, Mr. DURBIN, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States.

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 “Worldwide Tobacco  
5 Disclosure Act of 1997”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) CIGARETTE.—The term “cigarette”  
2 means—

3           (A) any roll of tobacco wrapped in paper  
4 or in any substance not containing tobacco  
5 which is to be burned,

6           (B) any roll of tobacco wrapped in any  
7 substance containing tobacco which, because of  
8 its appearance, the type of tobacco used in the  
9 filler, or its packaging and labeling is likely to  
10 be offered to, or purchased by consumers as a  
11 cigarette described in subparagraph (A),

12           (C) little cigars which are any roll of to-  
13 bacco wrapped in leaf tobacco or any substance  
14 containing tobacco (other than any roll of to-  
15 bacco which is a cigarette within the meaning  
16 of subparagraph (A)) and as to which 1000  
17 units weigh not more than 3 pounds, and

18           (D) loose rolling tobacco and papers or  
19 tubes used to contain such tobacco.

20           (2) DOMESTIC CONCERN.—The term “domestic  
21 concern” means—

22           (A) any individual who is a citizen, na-  
23 tional, or resident of the United States; and

24           (B) any corporation, partnership, associa-  
25 tion, joint-stock company, business trust, unin-

1           corporated organization, or sole proprietorship  
2           which has its principal place of business in the  
3           United States, or which is organized under the  
4           laws of a State of the United States or a terri-  
5           tory, possession, or commonwealth of the Unit-  
6           ed States.

7           (3) NONDISCRIMINATORY LAW OR REGULA-  
8           TION.—The term “nondiscriminatory law or regula-  
9           tion” means a law or regulation of a foreign country  
10          that adheres to the principle of national treatment  
11          and applies no less favorable treatment to goods that  
12          are imported into that country than it applies to like  
13          goods that are the product, growth, or manufacture  
14          of that country.

15          (4) PACKAGE.—The term “package” means a  
16          pack, box, carton, or other container of any kind in  
17          which cigarettes or other tobacco products are of-  
18          fered for sale, sold, or otherwise distributed to cus-  
19          tomers.

20          (5) SALE OR DISTRIBUTION.—The term “sale  
21          or distribution” includes sampling or any other dis-  
22          tribution not for sale.

23          (6) STATE.—The term “State” includes, in ad-  
24          dition to the 50 States, the District of Columbia,  
25          Guam, the Commonwealth of Puerto Rico, the Com-

1 monwealth of the Northern Mariana Islands, the  
2 Virgin Islands, American Samoa, the Republic of the  
3 Marshall Islands, the Federated States of Microne-  
4 sia, and the Republic of Palau.

5 (7) TOBACCO PRODUCT.—The term “tobacco  
6 product” means—

7 (A) cigarettes;

8 (B) little cigars;

9 (C) cigars as defined in section 5702 of  
10 the Internal Revenue Code of 1986;

11 (D) pipe tobacco;

12 (E) loose rolling tobacco and papers used  
13 to contain such tobacco;

14 (F) products referred to as spit tobacco;  
15 and

16 (G) any other form of tobacco intended for  
17 human use or consumption.

18 (8) UNITED STATES.—The term “United  
19 States” includes the States and installations of the  
20 Armed Forces of the United States located outside  
21 a State.

1 **SEC. 3. RESTRICTIONS ON NEGOTIATIONS REGARDING**  
2 **FOREIGN LAWS REGULATING TOBACCO**  
3 **PRODUCTS.**

4 No funds appropriated by law may be used by any  
5 officer, employee, department, or agency of the United  
6 States—

7 (1) to seek, through negotiation or otherwise,  
8 the removal or reduction by any foreign country of  
9 any nondiscriminatory law or regulation, or any pro-  
10 posed nondiscriminatory law or regulation, in that  
11 country that restricts the advertising, manufacture,  
12 packaging, taxation, sale, importation, labeling, or  
13 distribution of tobacco products; or

14 (2) to encourage or promote the export, adver-  
15 tising, manufacture, sale, or distribution of tobacco  
16 products.

17 **SEC. 4. CIGARETTE EXPORT LABELING.**

18 (a) LABELING REQUIREMENTS FOR EXPORT OF  
19 CIGARETTES.—

20 (1) IN GENERAL.—It shall be unlawful for any  
21 domestic concern to export from the United States,  
22 or to sell or distribute in, or export from, any other  
23 country, any cigarettes whose package does not con-  
24 tain a warning label that—

25 (A) complies with Federal labeling require-  
26 ments for cigarettes manufactured, imported, or

1 packaged for sale or distribution within the  
2 United States; and

3 (B) is in the primary language of the coun-  
4 try in which the cigarettes are intended for con-  
5 sumption.

6 (2) LABELING FORMAT.—Federal labeling for-  
7 mat requirements shall apply to a warning label de-  
8 scribed in paragraph (1) in the same manner, and  
9 to the same extent, as such requirements apply to  
10 cigarettes manufactured, imported, or packaged for  
11 sale or distribution within the United States.

12 (3) ROTATION OF LABELING.—Federal rotation  
13 requirements for warning labels shall apply to a  
14 warning label described in paragraph (1) in the  
15 same manner, and to the same extent, as such re-  
16 quirements apply to cigarettes manufactured, im-  
17 ported, or packaged for sale or distributed within  
18 the United States.

19 (4) WAIVERS.—

20 (A) IN GENERAL.—The President may  
21 waive the labeling requirements required by this  
22 Act for cigarettes, if the cigarettes are exported  
23 to a foreign country included in the list de-  
24 scribed in subparagraph (B) and if that country  
25 is the country in which the cigarettes are in-

1 tended for consumption. A waiver under this  
2 subparagraph shall be in effect prior to the ex-  
3 portation of any cigarettes not in compliance  
4 with the requirements of this section by a per-  
5 son to a foreign country included in the list.

6 (B) LIST OF ELIGIBLE COUNTRIES FOR  
7 WAIVER.—

8 (i) IN GENERAL.—Not later than 90  
9 days after the date of enactment of this  
10 Act, the President shall develop and pub-  
11 lish in the Federal Register a list of for-  
12 eign countries that have in effect require-  
13 ments for the labeling of cigarette pack-  
14 ages substantially similar to or more strin-  
15 gent than the requirements for labeling of  
16 cigarette packages set forth in paragraphs  
17 (1) through (3). The President shall use  
18 the list to grant a waiver under subpara-  
19 graph (A).

20 (ii) UPDATE OF LIST.—The President  
21 shall—

22 (I) update the list described in  
23 clause (i) to include a foreign country  
24 on the list if the country meets the  
25 criteria described in clause (i), or to

1                   remove a foreign country from the list  
2                   if the country fails to meet the cri-  
3                   teria; and

4                   (II) publish the updated list in  
5                   the Federal Register.

6           (b) PENALTIES.—

7               (1) FINE.—Any person who violates the provi-  
8               sions of subsection (a) shall be fined not more than  
9               \$100,000 per day for each such violation. Any per-  
10              son who knowingly reexports from or transships  
11              cigarettes through a foreign country included in the  
12              list described in subsection (a)(4)(B) to avoid the re-  
13              quirements of this Act shall be fined not more than  
14              \$150,000 per day for each such occurrence.

15             (2) INJUNCTION PROCEEDINGS.—The district  
16             courts of the United States shall have jurisdiction,  
17             for cause shown, to prevent and restrain violations  
18             of subsection (a) upon the application of the Attor-  
19             ney General of the United States.

20             (c) REPEAL.—Section 12 of the Federal Cigarette  
21             Labeling and Advertising Act (15 U.S.C. 1340) is re-  
22             pealed.

23             (d) REGULATORY AUTHORITY.—Not later than 90  
24             days after the date of enactment of this Act, the President

1 shall promulgate such regulations and orders as may be  
2 necessary to carry out this section.

3 (e) EFFECTIVE DATE.—The provisions of subsections  
4 (a) through (c) shall take effect upon the effective date  
5 of the regulations promulgated under subsection (d).

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