

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5724

To prevent the sale of tobacco products to minors, and the circumvention of State tobacco taxes, by means of electronic sales, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2002

Mr. MEEHAN (for himself and Mr. HANSEN) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To prevent the sale of tobacco products to minors, and the circumvention of State tobacco taxes, by means of electronic sales, 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,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Tobacco Free Internet  
5        for Kids Act of 2002”.

6        **SEC. 2. DEFINITIONS.**

7        In this Act:

8            (1) The term “adjusted for inflation” means  
9            adjusted annually to account for inflation by using  
10          the percentage change in the consumer price index

1 for all urban consumers (all items; United States  
2 city average) for the 12-month period ending on the  
3 June 30 preceding the beginning of the fiscal year  
4 for which the adjustment is made.

5 (2) The term “authorized State tobacco dis-  
6 tributor” means a person—

7 (A) that is authorized or otherwise licensed  
8 by a State to account for and pay excise or  
9 other taxes imposed by the State on tobacco  
10 products sold, distributed, or otherwise deliv-  
11 ered in or into the State; and

12 (B) that has complied with the accounting  
13 and payment requirements relating to such li-  
14 cense or authorization with respect to the to-  
15 bacco products involved.

16 (3) The term “carrier” means any person who  
17 delivers transit tobacco products to consumers, in-  
18 cluding all private delivery services and the United  
19 States Postal Service, as defined by section 102 of  
20 title 39, United States Code.

21 (4) The term “consumer” means a human  
22 being who purchases or arranges or attempts to pur-  
23 chase a tobacco product either for the consumer or  
24 on behalf of some other person.

1           (5) The term “minor” means an individual who  
2           has not attained the age of 18 years or, if older, the  
3           minimum age for the purchase of a tobacco product  
4           under applicable State law or Indian tribal law.

5           (6) The term “person” means any corporation,  
6           company, partnership, joint stock companies, found-  
7           ation, association, organization, individual, State or  
8           local government, Indian tribal government, or any  
9           group thereof.

10          (7) The term “State” includes the District of  
11          Columbia, the Commonwealth of Puerto Rico, and  
12          any other commonwealth, territory, or possession of  
13          the United States.

14          (8) The term “tobacco product” has the mean-  
15          ing given that term in section 5702(c) of the Inter-  
16          nal Revenue Code of 1986, and also includes any  
17          other product that contains tobacco and is meant for  
18          human consumption.

19          (9) The term “tobacco supplier” means a per-  
20          son that distributes, sells, or otherwise supplies a to-  
21          bacco product to a transit tobacco seller.

22          (10)(A) The term “transit tobacco sale” means  
23          the sale or offering for sale of a tobacco product, in  
24          or affecting interstate commerce, in which—

1 (i) the product is not delivered directly to  
2 a consumer at the time and place of purchase;

3 or

4 (ii) the request for purchase is placed by a  
5 consumer or a person—

6 (I) through electronic means  
7 (including by telephone, facsimile, or the  
8 Internet);

9 (II) by mail; or

10 (III) through any other means in  
11 which the consumer is not in the transit  
12 tobacco seller's physical presence at the  
13 time the request for purchase is made.

14 (B) A tobacco product sale that would other-  
15 wise qualify as a “transit tobacco sale” is not a  
16 “transit tobacco sale” for the purposes of this Act  
17 if the transit tobacco seller verifies that the pur-  
18 chaser is a person—

19 (i) in the business of lawfully selling to-  
20 bacco products;

21 (ii) seeking to purchase a tobacco product  
22 for use in such business; and

23 (iii) licensed or otherwise authorized to sell  
24 tobacco products, as required by applicable  
25 Federal or State law;

1           (11) The term “transit tobacco seller” means  
2           any person making a transit tobacco sale.

3 **SEC. 3. DUTIES OF TRANSIT TOBACCO SELLERS.**

4           (a) PROHIBITIONS.—

5           (1) SALE TO MINORS.—No transit tobacco sell-  
6           er may sell a tobacco product to a minor.

7           (2) SALE WITHOUT STATE AUTHORIZATION.—  
8           No person may sell a tobacco product in a transit  
9           tobacco sale, offer a tobacco product for sale in a  
10          transit tobacco sale, deliver a tobacco product in a  
11          transit tobacco sale, or otherwise operate as a tran-  
12          sit tobacco seller, in, within, or into, a State unless  
13          such person is an authorized State tobacco dis-  
14          tributor in such State.

15          (b) VERIFICATION OF CONSUMER AGE, IDENTITY,  
16          AND ADDRESS.—

17           (1) DOCUMENTATION OF IDENTITY, AGE, AND  
18           ADDRESS.—Prior to accepting a tobacco product  
19           order in a transit tobacco sale, a transit tobacco sell-  
20           er shall verify the consumer’s age, identity, and resi-  
21           dential address by one of the following means:

22           (A) Obtaining a copy of an official form of  
23           identification of the consumer that is a valid,  
24           unexpired identification card or other docu-  
25           ment—

1 (i) issued by a Federal, State, or local  
2 government;

3 (ii) bearing a unique identification  
4 number; and

5 (iii) providing the identified individ-  
6 ual's—

7 (I) photograph;

8 (II) name;

9 (III) residential address; and

10 (IV) date of birth.

11 (B) Obtaining a statement from the con-  
12 sumer that provides the following:

13 (i) A description of the type of official  
14 form of identification possessed by the con-  
15 sumer.

16 (ii) The information described in sub-  
17 paragraph (A) from the official form of  
18 identification described in clause (i).

19 (iii) An assurance that the informa-  
20 tion provided under clause (ii) is the same  
21 information appearing on the official form  
22 of identification.

23 (C) Obtaining a written statement that in-  
24 cludes the following:

1 (i) The information described in sub-  
2 paragraph (A).

3 (ii) A statement that the consumer  
4 displayed documentation that established  
5 the accuracy of the information provided in  
6 clause (i) to a notary public.

7 (iii) A description of the documenta-  
8 tion referred to in clause (ii).

9 (iv) The signature of the consumer.

10 (v) The signature of a notary public,  
11 as provided under applicable State law.

12 (D) Using any other age and identity  
13 verification procedure established by the Sec-  
14 retary of the Treasury that employs new tech-  
15 nologies to provide even more stringent and ac-  
16 curate identity and age verification methods  
17 than the other methods described in this para-  
18 graph.

19 (2) AGE AND IDENTITY VERIFICATION USING  
20 DATABASE.—Each transit tobacco seller making a  
21 transit tobacco sale shall verify all identity, age, and  
22 residential address information provided by the con-  
23 sumer by use of a database, in accordance with sec-  
24 tion 7.

1           (3) CONSUMER IDENTIFICATION VERIFICATION  
2           STATEMENT.—In a transit tobacco sale, the transit  
3           tobacco seller shall obtain a statement signed by the  
4           consumer (which may be a statement provided or ob-  
5           tained and signed electronically) that states the fol-  
6           lowing: “I affirm the accuracy of the identifying in-  
7           formation I have provided in order to obtain a to-  
8           bacco product in a transit tobacco sale. I understand  
9           that forging another person’s signature, using false  
10          identification, or providing false information to ob-  
11          tain a tobacco product in a transit tobacco sale—es-  
12          pecially when done by a minor, to provide a tobacco  
13          product to a minor, or to avoid applicable taxes—  
14          violates Federal law, may violate State law, and may  
15          subject the violator to monetary fines or imprison-  
16          ment, or both.”.

17          (c) NOTICES.—

18           (1) NOTICE TO ADDRESSEE OF INTENDED TO-  
19           BACCO DELIVERY.—Not less than 7 days before  
20           placing a tobacco product for delivery in the initial  
21           transit tobacco sale to a consumer, the transit to-  
22           bacco seller shall send a notice addressed to the con-  
23           sumer at the residential address provided under sub-  
24           section (b)(1). The notice shall provide each of the  
25           following:



1 (A) A statement that the transit tobacco  
2 seller has received a request for purchase of a  
3 tobacco product to be placed by the consumer.

4 (B) The date of the request for purchase,  
5 a description of the tobacco product to be deliv-  
6 ered (including the quantity of such product),  
7 and the total price of the sale.

8 (C) The minimum age (stated as a nu-  
9 meral) for purchase of tobacco products under  
10 applicable law.

11 (D) A statement requesting that the recipi-  
12 ent of the notice inform the transit tobacco sell-  
13 er if the recipient—

14 (i) is not the addressee;

15 (ii) did not make the request for pur-  
16 chase; or

17 (iii) is a minor.

18 (E) The means by which the recipient may  
19 contact the transit tobacco seller, including—

20 (i) a mailing address;

21 (ii) a toll-free telephone number; and

22 (iii) an email address.

23 (2) EFFECT OF NOTIFICATION TO TRANSIT TO-  
24 BACCO SELLER OF IMPROPER SALE.—A transit to-  
25 bacco seller that receives a notice provided under

1 paragraph (1), pursuant to subparagraph (D) of  
2 such paragraph may not deliver or place for delivery  
3 any tobacco product related to that notice.

4 (3) NOTICES TO INTENDED TOBACCO CAR-  
5 RIERS.—When a transit tobacco seller places a to-  
6 bacco product for delivery with a carrier, the transit  
7 tobacco seller shall provide to the carrier both of the  
8 following:

9 (A) A notice that the transit tobacco seller  
10 is placing (or intends to place) for delivery by  
11 the carrier a tobacco product as part of a tran-  
12 sit tobacco sale.

13 (B) Documentation that the transit to-  
14 bacco seller is an authorized State tobacco dis-  
15 tributor in each State to which a parcel is  
16 placed for delivery with the carrier.

17 (4) NOTICES TO TOBACCO SUPPLIERS.—Before  
18 purchasing from a tobacco supplier a tobacco prod-  
19 uct that may be sold in a transit tobacco sale, a  
20 transit tobacco seller shall provide to the tobacco  
21 supplier each of the following:

22 (A) A notice that the transit tobacco seller  
23 intends to sell the tobacco product in a transit  
24 tobacco sale.

1 (B) Notice of each State to which the tran-  
2 sit tobacco seller may deliver the tobacco prod-  
3 uct in a transit tobacco sale.

4 (C) Documentation that the transit to-  
5 bacco seller is an authorized State tobacco dis-  
6 tributor in each State identified by the seller  
7 under subparagraph (B).

8 (d) METHODS OF PAYMENT.—

9 (1) FORM OF PAYMENT.—In a transit tobacco  
10 sale, the transit tobacco seller may accept payment  
11 from a consumer only by debit card, charge card, or  
12 credit card issued to the consumer identified under  
13 subsection (b).

14 (2) IDENTIFICATION OF TOBACCO TRANS-  
15 ACTION.—In a transit tobacco sale, the transit to-  
16 bacco seller shall ensure that any receipt, invoice, or  
17 summary of a payment made in accordance with  
18 paragraph (1) provided by a debit card, credit card,  
19 or charge card company to a consumer clearly indi-  
20 cates (by including the use of the word “tobacco”,  
21 “cigarette”, or “cigar” and by other means) at least  
22 one of the following:

23 (A) The transit tobacco seller is a seller of  
24 a tobacco product.

1           (B) The transaction is a sale of a tobacco  
2           product.

3           (3) CONFIRMATION OF ADDRESS.—Prior to  
4           making a transit tobacco sale, a transit tobacco sell-  
5           er shall confirm that the billing address on record  
6           with the issuer of the debit card, credit card, or  
7           charge card used by the consumer to make the pur-  
8           chase is the same address as the residential address  
9           provided by the consumer pursuant to subsection  
10          (b).

11          (e) METHODS OF DELIVERY.—A transit tobacco sell-  
12         er may not deliver or place for delivery a tobacco product  
13         unless the arrangements for delivery to a consumer pro-  
14         vide for the following:

15                 (1) ADDRESSEE.—The addressee for such a de-  
16                 livery shall be the consumer.

17                 (2) DELIVERY ADDRESS.—Delivery to the con-  
18                 sumer shall be made only to one of the following:

19                         (A) The residential address of the con-  
20                         sumer provided under subsection (b).

21                         (B) The workplace address of the con-  
22                         sumer, if the transit tobacco seller verifies the  
23                         following:

1 (i) The address is the address of a  
2 business or governmental or other nonindi-  
3 vidual entity.

4 (ii) The address is not a post office  
5 box or other location used by the consumer  
6 primarily to facilitate, or otherwise accept,  
7 deliveries.

8 (iii) The address is not more than 100  
9 miles from the residential address of the  
10 consumer provided under subsection (b)(1).

11 (3) RECEIPT.—

12 (A) AUTHORIZED RECEIVER.—No delivery  
13 shall be made unless the addressee (or another  
14 individual present at the delivery address) pro-  
15 vides to the person making the delivery—

16 (i) a signature acknowledging delivery;

17 (ii) an official form of identification  
18 showing that the person accepting delivery  
19 is of minimum age for purchase of tobacco  
20 products under applicable law; and

21 (iii) in the case of an individual other  
22 than the addressee, a signed statement, as  
23 follows: “I know the addressee of the to-  
24 bacco product delivery for which I am sign-  
25 ing and I affirm that the addressee has

1           reached the minimum legal age for pur-  
2           chase of tobacco products under applicable  
3           law.”.

4           (B) RECEIVER AGE AND IDENTITY  
5           VERIFICATION.—The age and identity of the in-  
6           dividual accepting delivery under subparagraph  
7           (A) shall be verified by the person making the  
8           delivery by using a database in accordance with  
9           section 7, whenever such verification is available  
10          to the Transit Seller or can be done by the  
11          Transit Seller at a cost of \$2.50 (adjusted for  
12          inflation) or less for each such verification.

13          (f) LIMITATIONS ON FREQUENCY, CONTENT, AND  
14          AMOUNT.—A transit tobacco seller may not sell, deliver,  
15          or place for delivery one or more tobacco products un-  
16          less—

17                 (1) the consumer has not purchased a tobacco  
18                 product from the transit tobacco seller within the  
19                 preceding 7-day period;

20                 (2) the amount of tobacco product sold in a sin-  
21                 gle transit tobacco sale does not exceed—

22                         (A) the lesser of—

23                                 (i) 2,000 cigarettes;

24                                 (ii) 200 cigars;

1 (iii) 100 ounces of smokeless tobacco  
2 or pipe tobacco; or

3 (iv) such amount of any tobacco prod-  
4 uct as the Secretary of the Treasury may,  
5 by regulation, establish in order to mini-  
6 mize—

7 (I) tax-avoidance by means of  
8 transit tobacco sales; or

9 (II) illegal resale of tobacco prod-  
10 ucts purchased in transit tobacco  
11 sales.

12 (B) For purchases of more than one type  
13 of tobacco product, the total of the purchased  
14 amounts of each type of product, calculated as  
15 percentages of the maximum amounts per-  
16 mitted under subparagraph (A), must not ex-  
17 ceed 100 percent.

18 (g) PRIVACY OF CONSUMER PERSONAL INFORMA-  
19 TION.—

20 (1) USE OF CONSUMER PERSONAL INFORMA-  
21 TION.—A transit tobacco seller may not use any in-  
22 formation about a consumer obtained in the course  
23 of a transit tobacco sale for a purpose unrelated to  
24 the sale, unless—

1 (A) the consumer affirmatively grants au-  
2 thorization for such use;

3 (B) the transit tobacco seller provides to a  
4 consumer—

5 (i) an option to revoke or otherwise  
6 limit an authorization granted under sub-  
7 paragraph (A); and

8 (ii) clear and conspicuous notice of  
9 such an option in any communication per-  
10 mitted by or otherwise relating to the au-  
11 thorization under subparagraph (A); and

12 (C) the consumer has not revoked or other-  
13 wise limited an authorization granted under  
14 subparagraph (A).

15 (2) OTHER PROTECTIONS NOT AFFECTED.—

16 This subsection may not be construed to limit the ef-  
17 fect of any other provision of Federal or State law  
18 protecting the disclosure or use of consumer per-  
19 sonal information.

20 (h) USE OF INTERNET WEBSITES.—A transit to-  
21 bacco seller may not offer a tobacco product for sale  
22 through an Internet website unless—

23 (1) a consumer cannot access any website page  
24 that offers tobacco products for sale or transacts  
25 any tobacco product sale until the transit tobacco



1 seller has first satisfied the requirements of sub-  
2 section (b) in relation to that consumer; and

3 (2) any Internet website pages used by the  
4 transit tobacco to comply with the requirements of  
5 subsection (b) (including any website pages a con-  
6 sumer must access prior to accessing the age and  
7 identify verification website pages)—

8 (A) are not used for any other purpose  
9 than to fulfill the requirements of section 3(b)  
10 (or to provide access to the website pages used  
11 to comply with those requirements); and

12 (B) consist only of nonmoving black text  
13 on a white background, with no graphics or  
14 other pictorial depictions.

15 (i) EXCEPTIONS FOR INDIAN TRIBE TOBACCO  
16 SALES.—Paragraph (2) of subsection (a) and paragraphs  
17 (3) and (4) of subsection (c) do not apply to a transit  
18 tobacco sale in which the transit tobacco seller and the  
19 consumer are each—

20 (1) a member of, or owned by, the same Indian  
21 tribe (as such term is defined in section 4(e) of the  
22 Indian Self Determination and Education Assistance  
23 Act (25 U.S.C. 450b(e))); and

1           (2) located in Indian country (as defined in sec-  
2           tion 1151 of title 18, United States Code) occupied  
3           by the same Indian tribe.

4 **SEC. 4. DUTIES OF CARRIERS.**

5           (a) ACCEPTANCE FOR DELIVERY.—A carrier may not  
6 knowingly accept a tobacco product for delivery from a  
7 transit tobacco seller unless the transit tobacco seller has  
8 provided the carrier with all notices required by section  
9 3(c)(3).

10          (b) UNAUTHORIZED TRANSIT TOBACCO SELLER.—  
11 Notwithstanding a carrier's receipt of complete notice  
12 under section 3(c)(3), the carrier may not accept the par-  
13 cel for delivery if the carrier has actual knowledge that  
14 the transit tobacco seller is not an authorized State to-  
15 bacco distributor in the State to which such parcel is ad-  
16 dressed.

17 **SEC. 5. DUTIES OF TOBACCO SUPPLIERS.**

18          A tobacco supplier shall not sell or otherwise supply  
19 a tobacco product to a transit tobacco seller if—

20           (1) the tobacco supplier has not received from  
21           the transit tobacco seller notice under section  
22           3(c)(4); or

23           (2) the tobacco supplier has actual knowledge  
24           that the transit tobacco seller is not an authorized  
25           State tobacco distributor in each State mentioned in

1 the notice provided by the transit tobacco seller  
2 under section 3(c)(4).

3 **SEC. 6. RECORDKEEPING.**

4 (a) MAINTENANCE.—(1) A transit tobacco seller in  
5 a transit tobacco sale and a tobacco supplier shall main-  
6 tain records (which may be through electronic means) of  
7 the information described in section 3(c)(4) for not less  
8 than 5 years.

9 (2) A transit tobacco seller shall maintain records in  
10 electronic form for not less than 5 years of all of its transit  
11 sales, segregated by State of delivery, that includes the  
12 information provided to the transit tobacco seller by each  
13 consumer through the transit tobacco sale process, includ-  
14 ing—

15 (A) the name and contact information of the  
16 consumer (including E-mail addresses for all transit  
17 sales made via the Internet),

18 (B) the amount purchased, the price paid  
19 (including subtotals for any collected State or other  
20 taxes),

21 (C) the delivery address,

22 (D) the name of the carrier, and

23 (E) all information provided by the consumer  
24 under section 3(b).

1 (b) ACCESS.—A transit tobacco seller in a transit to-  
2 bacco sale and a tobacco supplier shall provide access to  
3 the records described in subsection (a) upon the request  
4 of a Federal, State, or local government official authorized  
5 to administer or enforce Federal, State, or local laws per-  
6 taining to—

7 (1) the sale of tobacco products to minors; or

8 (2) taxes on tobacco products.

9 **SEC. 7. USE OF DATABASES.**

10 (a) DATABASE REQUIREMENTS.—Wherever in this  
11 Act verification of consumer information is required, such  
12 verification shall employ a database or aggregate of data-  
13 bases consisting of information obtained exclusively from  
14 government-issued identification that includes a photo-  
15 graph of the identified person (such as a State driver li-  
16 cense or United States passport) whenever each such  
17 verification is available to the Transit Seller or can be  
18 done by the Transit Seller at a cost of \$2.50 (adjusted  
19 for inflation) or less.

20 (b) ALTERNATIVE REQUIREMENT.—When the  
21 verification of subsection (a) is not available at a cost of  
22 \$2.50 (adjusted for inflation) or less for each such  
23 verification, the verification of consumer information re-  
24 quired by this Act shall either employ the verification of  
25 subsection (a), regardless of cost, or employ a database

1 or aggregate of databases consisting of information ob-  
2 tained from government-issued identification (such as a  
3 State driver license or United States passport), State voter  
4 registration lists, or other government data sources that  
5 provide reliable name, residential address, and birth date  
6 or other age information from which it is possible to deter-  
7 mine whether a person is not a minor.

8 (c) ALTERNATIVE VERIFICATION DATABASE ND RE-  
9 QUIREMENTS.—The Secretary of the Treasury, in con-  
10 sultation with the Attorney General, may—

11 (1) establish an alternative or supplementary  
12 verification database consisting entirely of informa-  
13 tion from government-issued identification that in-  
14 cludes a photograph of the identified person or some  
15 other personal identifier at least as reliable as the  
16 person's photograph (such as the person's finger-  
17 prints) that establishes the validity of the identifica-  
18 tion and its information to facilitate the verification  
19 required by this Act; and

20 (2) offer the database described in paragraph  
21 (1) as an alternative to either or both of the data-  
22 bases described in subsections (b) and (c) or require  
23 its use instead of either or both of the databases de-  
24 scribed in subsections (b) and (c) for any or all of

1 the verifications of consumer information required  
2 by this Act.

3 **SEC. 8. PENALTIES.**

4 (a) CIVIL PENALTIES.—A transit tobacco seller, car-  
5 rier, or tobacco supplier found to have violated this Act,  
6 shall be liable to the United States for the profit made  
7 (or loss avoided) by reason of the transaction that is the  
8 subject of such violation, together with an additional  
9 amount equal to—

10 (1) not less than \$500 or more than \$1,000 for  
11 each separate violation found in the first enforce-  
12 ment action resulting in such a finding; and

13 (2) not less than \$1,000 nor more than \$5,000  
14 for each separate violation found in a subsequent en-  
15 forcement action resulting in such a finding.

16 The Secretary of the Treasury may bring an action in the  
17 appropriate United States district court to assess and col-  
18 lect penalties under this section, and such court may im-  
19 pose such penalties. In addition, such court may order the  
20 violator to pay any unpaid Federal, State, or local taxes  
21 associated with the tobacco product or the transaction that  
22 is the subject to such violation to the Federal, State, or  
23 local government to which such taxes are due and payable,  
24 and the court may provide such other equitable and legal  
25 relief as the court, in its discretion, deems appropriate.

1 (b) PROHIBITION ON CERTAIN ACTIVITIES.—

2 (1) VIOLATIONS BY SELLERS.—A transit to-  
3 bacco seller found to have violated this Act shall be  
4 prohibited from selling tobacco products for the fol-  
5 lowing periods:

6 (A) For the first finding of one or more  
7 violations, a period of up to 10 years after the  
8 date of final determination of violation.

9 (B) For a second or subsequent finding of  
10 one or more violations, permanently.

11 (2) VIOLATIONS BY CARRIERS.—A carrier found  
12 to have violated this Act shall be prohibited from de-  
13 livering tobacco products in a transit tobacco sale  
14 into or within a State in which the carrier com-  
15 mitted a violation of this Act for the following peri-  
16 ods:

17 (A) For the first finding of one or more  
18 violations, a period up to 10 years after the  
19 date of final determination of violation.

20 (B) For a second or subsequent finding of  
21 one or more violations, a period from 1 year to  
22 permanently.

23 (3) VIOLATIONS BY SUPPLIERS.—A tobacco  
24 supplier found to have violated this Act shall be pro-

1       hibited from selling tobacco products to transit to-  
2       bacco sellers for the following periods:

3               (A) For the first finding of one or more  
4       violations, a period up to 10 years after the  
5       date of final determination of violation.

6               (B) For a second or subsequent finding  
7       one or more violations, a period from 1 year to  
8       permanently.

9       (c) **CRIMINAL PENALTIES.**—A transit tobacco seller  
10   that knowingly violates this Act (or any person willfully  
11   participating in any such violation, including but not lim-  
12   ited to any person who owns, controls, or manages the  
13   transit tobacco seller) shall be—

14           (1) fined under title 18, United States Code; or

15           (2) imprisoned for—

16               (A) not more than 3 years for the first of-  
17       fense; and

18               (B) not more than 5 years for a subse-  
19       quent offense; or

20           (3) both imprisoned and fined.

21 **SEC. 9. ENFORCEMENT.**

22       The Secretary of the Treasury, through the Bureau  
23   of Alcohol, Tobacco, and Firearms (or its successor agen-  
24   cy), shall investigate and administratively enforce this Act  
25   and the Act of October 19, 1949 (15 U.S.C. 375 et seq.;



1 Chapter 699; 63 Stat. 884; commonly known as the Jen-  
2 kins Act).

3 **SEC. 10. ACTIONS BY STATES AND FEDERAL REPORTING.**

4 (a) ACTION AUTHORIZED.—The attorney general of  
5 a State, or an official or agency designated by a State,  
6 may bring, in an appropriate United States district court,  
7 a civil action against a transit tobacco seller, carrier, or  
8 tobacco supplier that violates this Act—

9 (1) to enjoin such violation;

10 (2) to recover from a transit tobacco seller any  
11 taxes due to the State or to any of its political sub-  
12 divisions under an applicable State or local law re-  
13 lating to tobacco products sold or delivered into or  
14 within the State by the transit tobacco seller; and

15 (3) to obtain such other equitable or legal relief  
16 as the court, in its discretion, deems appropriate, in-  
17 cluding the prohibitions described in section 8(c) and  
18 a temporary or permanent injunction prohibiting  
19 carriers from delivering tobacco products to a transit  
20 tobacco seller that has violated any provision of this  
21 Act, or prohibiting tobacco product manufacturers,  
22 wholesalers, distributors, or retailers from selling to-  
23 bacco products to a transit tobacco seller that vio-  
24 lates any provision of this Act.

1 (b) NOTICE.—The State shall serve prior written no-  
2 tice of any civil action brought under this section upon  
3 the Secretary of the Treasury and provide the Secretary  
4 with a copy of the complaint, except in any case where  
5 such prior notice is not feasible, in which case the State  
6 shall serve such notice immediately upon instituting such  
7 action, and the State shall notify the Secretary of the out-  
8 come or other resolution of any such civil actions.

9 (c) PUBLICATION.—The Secretary of the Treasury  
10 shall promptly make freely available to the public  
11 (including through the Internet) information concerning  
12 all actions under this section or section 9, including the  
13 names of all parties to each action and the outcomes of  
14 all such actions.

15 **SEC. 11. RELATION TO OTHER LAWS.**

16 (a) MORE STRINGENT LAWS NOT AFFECTED.—  
17 Nothing in this Act may be construed to limit or interfere  
18 with any other Federal, State, or local law that place addi-  
19 tional, or more stringent, restrictions or penalties on tran-  
20 sit tobacco sales.

21 (b) EFFECT ON COORDINATED LAW ENFORCEMENT  
22 EFFORTS.—Nothing in this chapter may be construed to  
23 inhibit or otherwise affect any coordinated law enforce-  
24 ment effort by one or more States or other jurisdictions,  
25 through interstate compact or otherwise, that—

1           (1) provides for the administration of tobacco  
2           product tax laws or laws pertaining to transit to-  
3           bacco sales;

4           (2) provides for the seizure of tobacco products  
5           or other property related to a violation of such laws;  
6           or

7           (3) establishes cooperative programs for the ad-  
8           ministration of such laws.

9           (c) **BUSINESS ENTITIES NOT SUBJECT TO LIABIL-**  
10          **ITY.**—This Act does not create any new Federal require-  
11          ments or potential liability of any kind for business enti-  
12          ties providing communication technologies (e.g., phone  
13          companies or internet service providers), computer soft-  
14          ware or related services, or credit or debit card services;  
15          nor does this Act limit, amend, or expand any existing  
16          Federal requirements or potential liability for any such en-  
17          tities, except to the extent that those entities are Transit  
18          Sellers, Carriers, or Tobacco Suppliers.

19          **SEC. 12. SEVERABILITY.**

20           If any provision of this Act (or the application of that  
21          provision to particular persons or circumstances) is held  
22          invalid, the remainder of this Act (or the application of  
23          that provision to other persons or circumstances) shall not  
24          be affected.

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