

Calendar No. 241

108TH CONGRESS
1ST SESSION

S. 1177

To ensure the collection of all cigarette taxes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2003

Mr. HATCH (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SESSIONS, Mr. CHAMBLISS, Mr. LEAHY, Mr. KENNEDY, Mr. DEWINE, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 31 (legislative day, JULY 21), 2003

Reported by Mr. HATCH, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To ensure the collection of all cigarette taxes, 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 “~~Prevent All Cigarette~~
5 ~~Trafficking Act~~” or “~~PACT Act~~”.

1 **SEC. 2. COLLECTION OF STATE CIGARETTE TAXES.**

2 (a) DEFINITIONS.—Section 1 of the Act of October
3 19, 1949 (15 U.S.C. 375; commonly referred to as the
4 “Jenkins Act”), is amended—

5 (1) in paragraph (1), by inserting “and other
6 legal entities” after “individuals”;

7 (2) by striking paragraph (3);

8 (3) by redesignating paragraphs (4) through
9 (7) as paragraphs (3) through (6), respectively; and
10 (4) by adding at the end the following new
11 paragraphs:

12 “(7) The term ‘delivery sale’ means any sale of
13 cigarettes to a consumer if—

14 “(A) the consumer submits the order for
15 such sale by means of a telephone or other
16 method of voice transmission, the mails, or the
17 Internet or other online service; or

18 “(B) the cigarettes are delivered by use of
19 a common carrier.

20 “(8) The term ‘common carrier’ means any per-
21 son (other than a local messenger service or the
22 United States Postal Service (as defined in section
23 102 of title 39, United States Code)) that holds
24 itself out to the general public as a provider for hire
25 of the transportation by water, land, or air of mer-
26 chandise, whether or not the person actually oper-

1 ates the vessel, vehicle, or aircraft by which the
 2 transportation is provided, between a port or place
 3 and a port or place in the United States.”.

4 (b) REPORTS TO STATE TOBACCO TAX ADMINISTRA-
 5 TORS.—Section 2 of that Act (15 U.S.C. 376) is amend-
 6 ed—

7 (1) in subsection (a)—

8 (A) by striking “or transfers” and insert-
 9 ing “; transfers, or ships”; and

10 (B) by striking “to other than a dis-
 11 tributor licensed by or located in such State,”;
 12 and

13 (2) in subsection (b)—

14 (A) by striking “(1)”; and

15 (B) by striking “, and (2)” and all that
 16 follows and inserting a period.

17 (c) REQUIREMENTS FOR DELIVERY SALES.—That
 18 Act is further amended by inserting after section 2 the
 19 following new section:

20 “SEC. 2A. (a) Each person making a delivery sale
 21 into a State shall comply with—

22 “(1) the shipping requirements set forth in sub-
 23 section (b);

24 “(2) the recordkeeping requirements set forth
 25 in subsection (c); and

1 ~~“(3) all laws of the State generally applicable to~~
2 ~~sales of cigarettes that occur entirely within the~~
3 ~~State, including laws imposing—~~

4 ~~“(A) excise taxes;~~

5 ~~“(B) sales taxes;~~

6 ~~“(C) licensing and tax-stamping require-~~
7 ~~ments; and~~

8 ~~“(D) other payment obligations.~~

9 ~~“(b)(1) Each person who takes a delivery sale order~~
10 ~~shall include on the bill of lading included with the ship-~~
11 ~~ping package containing cigarettes sold pursuant to such~~
12 ~~order a clear and conspicuous statement providing as fol-~~
13 ~~lows: ‘CIGARETTES: FEDERAL LAW REQUIRES~~
14 ~~THE PAYMENT OF ALL APPLICABLE EXCISE~~
15 ~~AND SALES TAXES, AND COMPLIANCE WITH AP-~~
16 ~~PLICABLE LICENSING AND TAX-STAMPING OB-~~
17 ~~LIGATIONS.’.~~

18 ~~“(2) Any shipping package described in paragraph~~
19 ~~(1) that is not labeled in accordance with that paragraph~~
20 ~~shall be treated as non-deliverable matter by common ear-~~
21 ~~riers.~~

22 ~~“(c)(1) Each person making delivery sales into a~~
23 ~~State shall keep a record of all delivery sales so made,~~
24 ~~organized by State into which such delivery sales are so~~
25 ~~made.~~

1 “(2) Records of delivery sales shall be kept under
2 paragraph (1) in the year in which made and for the next
3 four years.

4 “(3) Records kept under paragraph (1) shall be made
5 available to tobacco tax administrators of the States in
6 order to ensure the compliance of persons making delivery
7 sales with the requirements of this Act.

8 “(d) Each State shall have the authority to require
9 any person making a delivery sale of cigarettes into such
10 State—

11 “(1) to collect or pay the taxes referred to in
12 subsection (a)(3); and

13 “(2) to provide evidence that the manufacturer
14 of the cigarettes sold in such State is in compliance
15 with all Federal, State, or local laws generally appli-
16 cable to the sale or distribution of cigarettes.”.

17 (d) PENALTIES.—Section 3 of that Act (15 U.S.C.
18 377) is amended—

19 (1) by inserting “(a)” before “Whoever”;

20 (2) in subsection (a), as so designated, by strik-
21 ing “shall be guilty of a misdemeanor and shall be
22 fined not more than \$1,000, or imprisoned not more
23 than 6 months” and inserting “shall be fined not
24 more than \$100,000, imprisoned not more than 2
25 years”; and

1 (3) by adding at the end the following new sub-
2 section:

3 “(b)(1) Whoever violates any provision of this Act
4 shall be subject to a civil penalty in an amount not to
5 exceed 2 percent of the gross sales of cigarettes of such
6 person during the one-year period ending on the date of
7 the violation.

8 “(2) A civil penalty under paragraph (1) for a viola-
9 tion of this Act is in addition to any criminal penalty
10 under subsection (a) for the violation.”.

11 (e) INJUNCTIONS.—Section 4 of that Act (15 U.S.C.
12 378) is amended—

13 (1) by inserting “(a)” before “The United
14 States district courts”; and

15 (2) by adding at the end the following new sub-
16 sections:

17 “(b)(1) A State, through its attorney general, or any
18 person who holds a permit under section 5712 of the In-
19 ternal Revenue Code of 1986, may bring an action in the
20 United States district courts to prevent and restrain viola-
21 tions of this Act by any person (or by any person control-
22 ling such person).

23 “(2) Nothing in this section shall be construed to pro-
24 hibit an authorized State official from proceeding in State
25 court on the basis of an alleged violation of State law.

1 “(c) The Attorney General, acting through the Direc-
 2 tor of the Bureau of Alcohol, Tobacco, Firearms, and Ex-
 3 plosives, shall administer and enforce the provisions of this
 4 Act.”.

5 **SEC. 3. TREATMENT OF CIGARETTES AS NONMAILABLE**
 6 **MATTER.**

7 Section 1716 of title 18, United States Code, is
 8 amended—

9 (1) by redesignating subsection (j) as sub-
 10 section (k); and

11 (2) by inserting after subsection (i) the fol-
 12 lowing new subsection (j):

13 “(j) The transmission in the mails of cigarettes (as
 14 that term is defined in section 2341(1) of this title) for
 15 purposes of sale is prohibited, and cigarettes for such pur-
 16 poses are nonmailable and shall not be deposited in or car-
 17 ried through the mails.”.

18 **SEC. 4. PENAL PROVISIONS REGARDING TRAFFICKING IN**
 19 **CONTRABAND CIGARETTES.**

20 (a) **THRESHOLD QUANTITY FOR TREATMENT AS**
 21 **CONTRABAND.**—(1) Section 2341(2) of title 18, United
 22 States Code, is amended by striking “60,000 cigarettes”
 23 and inserting “10,000 cigarettes”.

24 (2) Section 2342(b) of that title is amended by strik-
 25 ing “60,000” and inserting “10,000”.

1 ~~(3)~~ Section ~~2343~~ of that title is amended—

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

4 (B) in subsection (b), by striking “60,000” and
5 inserting “10,000”.

6 ~~(b)~~ RECORDKEEPING, REPORTING, AND INSPEC-
7 TION.—Section ~~2343~~ of that title, as amended by sub-
8 section ~~(a)(3)~~ of this section, is further amended—

9 ~~(1)~~ in subsection (a)—

10 (A) in the matter preceding paragraph ~~(1)~~,
11 by striking “only—” and inserting “such infor-
12 mation as the Attorney General considers ap-
13 propriate for purposes of enforcement of this
14 chapter, including—”; and

15 ~~(B)~~ in the flush matter following para-
16 graph ~~(3)~~, by striking the second sentence;

17 ~~(2)~~ by redesignating subsection ~~(b)~~ as sub-
18 section ~~(e)~~;

19 ~~(3)~~ by inserting after subsection (a) the fol-
20 lowing new subsection ~~(b)~~:

21 “~~(b)~~ Any person who engages in a delivery sale, and
22 who ships, sells, distributes, or receives any quantity in
23 excess of 10,000 cigarettes within a single month, shall
24 submit to the Attorney General, pursuant to rules or regu-

1 lations prescribed by the Attorney General, a report that
2 sets forth the following:

3 “(1) The person’s beginning and ending inven-
4 tory of cigarettes (in total) for such month.

5 “(2) The total quantity of cigarettes that the
6 person received within such month from each other
7 person (itemized by name and address).

8 “(3) The total quantity of cigarettes that the
9 person distributed within such month to each person
10 (itemized by name and address) other than a retail
11 purchaser.”; and

12 (4) by adding at the end the following new sub-
13 sections:

14 “(d) Any report required to be submitted under this
15 chapter to the Attorney General shall also be submitted
16 to the Secretary of the Treasury.

17 “(e) In this section:

18 “(1) The term ‘delivery sale’ means any sale of
19 cigarettes to a consumer if—

20 “(A) the consumer submits the order for
21 such sale by means of a telephone or other
22 method of voice transmission, the mails, or the
23 Internet or other online service; or

24 “(B) the cigarettes are delivered by use of
25 a common carrier.

1 “(2) The term ‘common carrier’ means any per-
 2 son (other than a local messenger service or the
 3 United States Postal Service (as defined in section
 4 102 of title 39, United States Code)) that holds
 5 itself out to the general public as a provider for hire
 6 of the transportation by water, land, or air of mer-
 7 chandise, whether or not the person actually oper-
 8 ates the vessel, vehicle, or aircraft by which the
 9 transportation is provided, between a port or place
 10 and a port or place in the United States.”.

11 (e) DISPOSAL OR USE OF FORFEITED CIGA-
 12 RETTES.—Section 2344(e) of that title is amended by
 13 striking “seizure and forfeiture,” and all that follows and
 14 inserting “seizure and forfeiture, and any cigarettes so
 15 seized and forfeited shall be either—

16 “(1) destroyed and not resold; or

17 “(2) used for undercover investigative oper-
 18 ations for the detection and prosecution of crimes,
 19 and then destroyed and not resold.”.

20 (d) ENFORCEMENT.—Section 2346 of that title is
 21 amended—

22 (1) by inserting “(a)” before “The Attorney
 23 General”; and

24 (2) by adding at the end the following new sub-
 25 section:

1 “(b) A State, through its attorney general, or any
 2 person who holds a permit under section 5712 of the In-
 3 ternal Revenue Code of 1986, may bring an action in the
 4 United States district courts to prevent and restrain viola-
 5 tions of this chapter by any person (or by any person con-
 6 trolling such person).”.

7 (c) CONFORMING AND CLERICAL AMENDMENTS.—
 8 (1) The section heading for section 2343 of that title is
 9 amended to read as follows:

10 **“§ 2343. Recordkeeping, reporting, and inspection”.**

11 (2) The table of sections at the beginning of chapter
 12 114 of that title is amended by striking the item relating
 13 to section 2343 and inserting the following new item:

“2343. Recordkeeping, reporting, and inspection.”.

14 **SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALI-**
 15 **FYING STATUTE.**

16 (a) IN GENERAL.—An interstate tobacco seller may
 17 not sell in, deliver to, or place for delivery to a State that
 18 is a party to the Master Settlement Agreement any eiga-
 19 rette manufactured by a Tobacco Product Manufacturer
 20 that is not in full compliance with the terms of the Model
 21 Statute or Qualifying Statute enacted by such State re-
 22 quiring funds to be placed into a qualified escrow account
 23 under specified conditions, or any regulations promulgated
 24 pursuant to such statute.

1 (b) PENALTIES.—(1) Whoever shall knowingly and
2 willfully violate subsection (a) shall be fined not more than
3 \$100,000, imprisoned not more than 2 years, or both.

4 (2) Whoever shall violate subsection (a) shall be sub-
5 ject to a civil penalty in an amount not to exceed 2 percent
6 of the gross sales of cigarettes of such person during the
7 one-year period ending on the date of the violation.

8 (3) A civil penalty under paragraph (2) for a violation
9 of subsection (a) is in addition to any criminal penalty
10 under paragraph (1) for the violation.

11 (c) JURISDICTION TO PREVENT AND RESTRAIN VIO-
12 LATIONS.—(1) The United States district courts shall
13 have jurisdiction to prevent and restrain violations of sub-
14 section (a).

15 (2) A State, through its attorney general, or any per-
16 son who holds a permit under section 5712 of the Internal
17 Revenue Code of 1986, may bring an action in the United
18 States district courts to prevent and restrain violations of
19 subsection (a) by any person (or by any person controlling
20 such person).

21 (3) Nothing in this subsection shall be construed to
22 prohibit an authorized State official from proceeding in
23 State court on the basis of an alleged violation of State
24 law.

1 (4) The Attorney General, acting through the Direc-
 2 tor of the Bureau of Alcohol, Tobacco, Firearms, and Ex-
 3 plosives, shall administer and enforce subsection (a).

4 (d) DEFINITIONS.—In this section:

5 (1) MASTER SETTLEMENT AGREEMENT.— The
 6 term “Master Settlement Agreement” means the
 7 agreement executed November 23, 1998, by the At-
 8 torneys General of 46 States, the District of Colum-
 9 bia, the Commonwealth of Puerto Rico, and four
 10 Territories of the United States, on the one hand,
 11 and certain tobacco manufacturers on the other
 12 hand.

13 (2) TOBACCO PRODUCT MANUFACTURER.—The
 14 term “Tobacco Product Manufacturer” has the
 15 meaning given that term in section H(uu) of the
 16 Master Settlement Agreement.

17 (3) MODEL STATUTE; QUALIFYING STATUTE.—
 18 The terms “Model Statute” and “Qualifying Stat-
 19 ute” means a statute as defined in section
 20 IX(d)(2)(e) of the Master Settlement Agreement.

21 **SEC. 6. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE**
 22 **BUREAU OF ALCOHOL, TOBACCO, FIREARMS,**
 23 **AND EXPLOSIVES.**

24 (a) IN GENERAL.—(1) Commencing as of the date
 25 of the enactment of this Act and without fiscal year limita-

1 tion, the authorities in section 102(b) of the Department
2 of Justice and Related Agencies Appropriations Act, 1993
3 (title I of Public Law 102-395; 106 Stat. 1838) shall be
4 available to the Bureau of Alcohol, Tobacco, Firearms,
5 and Explosives for undercover investigative operations of
6 the Bureau which are necessary for the detection and
7 prosecution of crimes against the United States.

8 (2) For purposes of the exercise of the authorities
9 referred to in paragraph (1) by the Bureau, a reference
10 in such section 102(b) to the Federal Bureau of Investiga-
11 tion shall be deemed to be a reference to the Bureau of
12 Alcohol, Tobacco, Firearms, and Explosives, and a ref-
13 erence to the Director of the Federal Bureau of Investiga-
14 tion shall be deemed to be a reference to the Director of
15 the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

16 (b) LIMITATIONS IN APPROPRIATIONS ACTS.—The
17 exercise of the authorities referred to in subsection (a)(1)
18 by the Bureau of Alcohol, Tobacco, Firearms, and Explo-
19 sives shall be subject to the provisions of appropriations
20 Acts.

21 **SEC. 7. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO,**
22 **FIREARMS, AND EXPLOSIVES OF RECORDS**
23 **OF CERTAIN CIGARETTE SELLERS.**

24 (a) IN GENERAL.—Any officer of the Bureau of Alco-
25 hol, Tobacco, Firearms and Explosives may, during nor-

1 mal business hours, enter the premises of any person de-
2 scribed in subsection (b) for the purposes of inspecting—

3 (1) any records or information required to be
4 maintained by such person under the provisions of
5 law referred to in subsection (c); or

6 (2) any cigarettes kept or stored by such person
7 at such premises.

8 (b) COVERED PERSONS.—A person described in this
9 subsection is any person who engages in a delivery sale,
10 and who ships, sells, distributes, or receives any quantity
11 in excess of 10,000 cigarettes within a single month.

12 (c) COVERED PROVISIONS OF LAW.—The provisions
13 of law referred to in this subsection are as follows:

14 (1) The Act of October 19, 1949 (15 U.S.C.
15 375; commonly referred to as the “Jenkins Act”).

16 (2) Chapter 114 of title 18, United States
17 Code.

18 (3) This Act.

19 (d) DELIVERY SALE DEFINED.—In this section, the
20 term “delivery sale” has the meaning given that term in
21 2343(e)(1) of title 18, United States Code, as amended
22 by section 4(b)(3) of this Act.

1 **SEC. 8. EFFECTIVE DATE.**

2 (a) ~~IN GENERAL.~~—Except as provided in subsection
 3 (b), this Act shall take effect 90 days after the date of
 4 the enactment of this Act.

5 (b) ~~ATFE AUTHORITY.~~—

6 (1) ~~IN GENERAL.~~—Sections 6 and 7 shall take
 7 effect on the date of the enactment of this Act.

8 (2) ~~DEFINITION.~~—For purposes of section 7,
 9 the definition of delivery sale in section 2343(e)(1)
 10 of title 18, United States Code, as amended by sec-
 11 tion 4(b)(3) of this Act, shall take effect on the date
 12 of the enactment of this Act.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Prevent All Cigarette*
 15 *Trafficking Act” or “PACT Act”.*

16 **SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKE-**
 17 **LESS TOBACCO TAXES.**

18 (a) *DEFINITIONS.*—*Section 1 of the Act of October 19,*
 19 *1949 (15 U.S.C. 375; commonly referred to as the “Jenkins*
 20 *Act”), is amended—*

21 (1) *by striking paragraphs (1), (2), and (3) and*
 22 *inserting the following new paragraphs:*

23 “(1) *The term ‘attorney general’, with respect to*
 24 *a State, means the attorney general or other chief law*
 25 *enforcement officer of the State, or the designee of that*
 26 *officer.*”

1 “(2) *The term ‘cigarette’ means—*

2 “(A) *any roll of tobacco wrapped in paper*
3 *or in any substance not containing tobacco*
4 *which is to be heated or burned;*

5 “(B) *any roll of tobacco wrapped in any*
6 *substance containing tobacco that, because of its*
7 *appearance, the type of tobacco used in the filler,*
8 *or its packaging or labeling, is likely to be of-*
9 *fered to, or purchased by, consumers as a ciga-*
10 *rette described in subparagraph (A);*

11 “(C) *any roll of tobacco wrapped in any*
12 *substance that because of its appearance, the*
13 *type of tobacco used in the filler, or its pack-*
14 *aging or labeling, is likely to be offered to, or*
15 *purchased by, consumers as a cigarette; or*

16 “(D) *loose rolling tobacco that, because of*
17 *its appearance, type, packaging, or labeling, is*
18 *likely to be offered to, or purchased by, con-*
19 *sumers as tobacco for making cigarettes.*

20 “(3) *The term ‘smokeless tobacco’ means any*
21 *finely cut, ground, powdered, or leaf tobacco that is*
22 *intended to be placed in the oral or nasal cavity or*
23 *otherwise consumed without being combusted.”;*

24 (2) *by striking paragraph (6) and inserting the*
25 *following new paragraph (6):*

1 “(6) The term ‘delivery sale’ means any sale of
2 cigarettes or smokeless tobacco in interstate commerce
3 to a consumer if—

4 “(A) the consumer submits the order for
5 such sale by means of a telephone or other meth-
6 od of voice transmission, the mails, or the Inter-
7 net or other online service, or the seller is other-
8 wise not in the physical presence of the buyer
9 when the request for purchase or order is made;
10 or

11 “(B) the cigarettes or smokeless tobacco are
12 delivered by use of a common carrier, private de-
13 livery service, or the mails, or the seller is not
14 in the physical presence of the buyer when the
15 buyer obtains personal possession of the delivered
16 cigarettes or smokeless tobacco.”; and

17 (3) by adding at the end the following new para-
18 graphs:

19 “(8) The term ‘delivery seller’ means a person
20 who makes a delivery sale.

21 “(9) The term ‘common carrier’ means any per-
22 son (other than a local messenger service or the
23 United States Postal Service (as defined in section
24 102 of title 39, United States Code)) that holds itself
25 out to the general public as a provider for hire of the

1 *transportation by water, land, or air of merchandise,*
2 *whether or not the person actually operates the vessel,*
3 *vehicle, or aircraft by which the transportation is*
4 *provided, between a port or place and a port or place*
5 *in the United States.*

6 “(10) *The term ‘interstate commerce’ means com-*
7 *merce between a State and any place outside the*
8 *State, commerce between a State and any Indian*
9 *lands in the State, or commerce between points in the*
10 *same State but through any place outside the State or*
11 *through any Indian lands.*

12 “(11) *The term ‘person’ means an individual,*
13 *corporation, company, association, firm, partnership,*
14 *society, State government, local government, Indian*
15 *tribal government, governmental organization of such*
16 *government, or joint stock company.*

17 “(12) *The term ‘State’ means a State of the*
18 *United States, the District of Columbia, the Common-*
19 *wealth of Puerto Rico, or any territory or possession*
20 *of the United States.”.*

21 **(b) REPORTS TO STATE TOBACCO TAX ADMINISTRA-**
22 **TORS.—Section 2 of that Act (15 U.S.C. 376) is amended—**

23 **(1) by striking “cigarettes” each place it appears**
24 **and inserting “cigarettes or smokeless tobacco”;**

25 **(2) in subsection (a)—**

1 (A) in the matter preceding paragraph

2 (1)—

3 (i) by striking “or transfers” and in-
4 serting “, transfers, or ships”; and

5 (ii) by striking “to other than a dis-
6 tributor licensed by or located in such
7 State,”;

8 (B) in paragraph (1), by inserting before
9 the semicolon the following: “, as well as tele-
10 phone numbers for each place of business, a prin-
11 cipal electronic mail address, any website ad-
12 dresses, and the name, address, and telephone
13 number of an agent in the State authorized to
14 accept service on behalf of such person”; and

15 (C) in paragraph (2), by striking “and the
16 quantity thereof” and inserting “the quantity
17 thereof, and the name, address, and phone num-
18 ber of the person delivering the shipment to the
19 recipient on behalf of the delivery seller”; and

20 (3) in subsection (b)—

21 (A) by striking “(1)”; and

22 (B) by striking “, and (2)” and all that fol-
23 lows and inserting a period.

1 (c) *REQUIREMENTS FOR DELIVERY SALES.*—*That Act*
2 *is further amended by inserting after section 2 the following*
3 *new section:*

4 “*SEC. 2A. (a) Each delivery seller shall comply with—*

5 “(1) *the shipping requirements set forth in sub-*
6 *section (b);*

7 “(2) *the recordkeeping requirements set forth in*
8 *subsection (c);*

9 “(3) *all State and other laws generally applica-*
10 *ble to sales of cigarettes or smokeless tobacco that*
11 *occur entirely within the State, including laws impos-*
12 *ing—*

13 “(A) *excise taxes;*

14 “(B) *sales taxes;*

15 “(C) *licensing and tax-stamping require-*
16 *ments; and*

17 “(D) *other payment obligations or legal re-*
18 *quirements relating to the sale, distribution, or*
19 *delivery of cigarettes or smokeless tobacco; and*

20 “(4) *the tax collection requirements set forth in*
21 *subsection (d).*

22 “(b)(1) *Each delivery seller shall include on the bill*
23 *of lading included with the shipping package containing*
24 *cigarettes or smokeless tobacco sold pursuant to such order*
25 *a clear and conspicuous statement providing as follows:*

1 *‘CIGARETTES/SMOKELESS TOBACCO: FEDERAL*
2 *LAW REQUIRES THE PAYMENT OF ALL APPLICA-*
3 *BLE EXCISE AND SALES TAXES, AND COMPLI-*
4 *ANCE WITH APPLICABLE LICENSING AND TAX-*
5 *STAMPING OBLIGATIONS’.*

6 *“(2) Any shipping package described in paragraph (1)*
7 *that is not labeled in accordance with that paragraph shall*
8 *be treated as non-deliverable matter by a common carrier*
9 *or the United States Postal Service if the common carrier*
10 *or the United States Postal Service, as the case may be,*
11 *knows or should know the contents of the package.*

12 *“(c)(1) Each delivery seller shall keep a record of all*
13 *delivery sales so made, including all of the information de-*
14 *scribed in section 2(a)(2), organized by State into which*
15 *such delivery sales are so made.*

16 *“(2) Records of delivery sales shall be kept under para-*
17 *graph (1) in the year in which made and for the next four*
18 *years.*

19 *“(3) Records kept under paragraph (1) shall be made*
20 *available to tobacco tax administrators of the States, attor-*
21 *neys general of the States, and the Attorney General of the*
22 *United States in order to ensure the compliance of persons*
23 *making delivery sales with the requirements of this Act.*

24 *“(d) Unless the law of the State and place in which*
25 *cigarettes or smokeless tobacco are delivered pursuant to a*

1 *delivery sale in interstate commerce requires otherwise for*
2 *the payment to the government of an excise tax imposed*
3 *on the delivery sale, or provides, for delivery sales of smoke-*
4 *less tobacco, for the delivery seller to collect the excise tax*
5 *from the consumer and remit the excise tax to the govern-*
6 *ment, the cigarettes or smokeless tobacco may not be deliv-*
7 *ered to the buyer unless in advance of the delivery—*

8 “(1) *the excise tax has been paid to the govern-*
9 *ment; and*

10 “(2) *any required stamps or other indicia that*
11 *the excise tax has been paid are properly affixed or*
12 *applied to the cigarettes or smokeless tobacco.*

13 “(e)(1) *Each State may compile a list of delivery sell-*
14 *ers who are in compliance with this Act with respect to*
15 *such State. If a State posts a list pursuant to this subsection*
16 *that specifically refers to this subsection, no common carrier*
17 *or other person may knowingly deliver cigarettes or smoke-*
18 *less tobacco to consumers in such State unless the delivery*
19 *seller is on the list at the time of delivery.*

20 “(2)(A) *Each State may compile a list of delivery sell-*
21 *ers who are not in compliance with this Act with respect*
22 *to such State.*

23 “(B) *A State may provide such a list to a common*
24 *carrier, the United States Postal Service, or other person.*
25 *Such a list shall be confidential, and a common carrier,*

1 *the United States Postal Service, or other person that re-*
2 *ceives such a list shall maintain the confidentiality of such*
3 *list.*

4 “(C) *If a State provides such a list pursuant to this*
5 *subsection that specifically refers to this subsection, no com-*
6 *mon carrier, the United States Postal Service, or other per-*
7 *son may knowingly deliver any item to a consumer in such*
8 *State for a delivery seller on such list unless the common*
9 *carrier, the United States Postal Service, or person in good*
10 *faith determines that the item does not include cigarettes*
11 *or smokeless tobacco.*

12 “(f) *For purposes of this Act, a delivery sale shall be*
13 *deemed to have occurred in the State and place where the*
14 *buyer obtains personal possession of the cigarettes or smoke-*
15 *less tobacco, and a delivery pursuant to a delivery sale is*
16 *deemed to have been initiated or ordered by the delivery*
17 *seller.*”.

18 (d) *PENALTIES.—Section 3 of that Act (15 U.S.C. 377)*
19 *is amended—*

20 (1) *by inserting “(a)” before “Whoever”;*

21 (2) *in subsection (a), as so designated, by strik-*
22 *ing “shall be guilty of a misdemeanor and shall be*
23 *fined not more than \$1,000, or imprisoned not more*
24 *than 6 months” and inserting “shall be guilty of a*
25 *felony, fined under subchapter C of chapter 227 of*

1 *title 18, imprisoned not more than three years, or*
2 *both”; and*

3 *(3) by adding at the end the following new sub-*
4 *section:*

5 *“(b)(1) Whoever violates any provision of this Act shall*
6 *be subject to a civil penalty in an amount not to exceed*
7 *the greater of—*

8 *“(A) \$5,000 in the case of the first violation, or*
9 *\$10,000 for any other violation; or*

10 *“(B) for any violation, 2 percent of the gross*
11 *sales of cigarettes or smokeless tobacco of such person*
12 *during the one-year period ending on the date of the*
13 *violation.*

14 *“(2) A civil penalty under paragraph (1) for a viola-*
15 *tion of this Act is in addition to any criminal penalty*
16 *under subsection (a) for the violation.”.*

17 *(e) ENFORCEMENT.—Section 4 of that Act (15 U.S.C.*
18 *378) is amended—*

19 *(1) by inserting “(a)” before “The United States*
20 *district courts”;*

21 *(2) in subsection (a), as so designated, by insert-*
22 *ing before the period the following: “, and to provide*
23 *other appropriate injunctive or equitable relief, in-*
24 *cluding money damages, for such violations”; and*

1 (3) by adding at the end the following new sub-
2 sections:

3 “(b)(1) A State, through its attorney general, or any
4 person who holds a permit under section 5712 of the Inter-
5 nal Revenue Code of 1986, may bring an action in the
6 United States district courts to prevent and restrain viola-
7 tions of this Act by any person (or by any person control-
8 ling such person).

9 “(2) A State, through its attorney general, may in a
10 civil action under this Act obtain any other appropriate
11 relief for violations of this Act by any person (or from any
12 person controlling such person), including civil penalties,
13 money damages, and injunctive or other equitable relief.

14 “(3) The remedies available under paragraphs (1) and
15 (2) are in addition to any other remedies available under
16 Federal, State, or other law.

17 “(4) Nothing in this Act shall be construed to prohibit
18 an authorized State official from proceeding in State court,
19 or taking other enforcement actions, on the basis of an al-
20 leged violation of State or other law.

21 “(c) The Attorney General shall administer and en-
22 force the provisions of this Act.

23 “(d)(1) Any person who holds a permit under section
24 5712 of the Internal Revenue Code of 1986 who commences

1 a civil action under paragraph (1) shall inform the Attor-
 2 ney General of the United States of the action.

3 “(2) It is the sense of Congress that any attorney gen-
 4 eral of a State who commences a civil action under para-
 5 graph (1) or (2) should inform the Attorney General of the
 6 United States of the action.

7 “(e) The Attorney General of the United States shall
 8 make available to the public information about all actions
 9 under subsection (a), and the resolution of such actions, in-
 10 cluding by posting such information on the Internet and
 11 by other means.”.

12 **SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TO-**
 13 **BACCO AS NONMAILABLE MATTER.**

14 Section 1716 of title 18, United States Code, is amend-
 15 ed—

16 (1) by redesignating subsections (j) and (k) as
 17 subsections (k) and (l), respectively; and

18 (2) by inserting after subsection (i) the following
 19 new subsection (j):

20 “(j) The transmission in the mails of any tobacco
 21 product, including cigarettes (as that term is defined in sec-
 22 tion 1(2) of the Act of October 19, 1949 (15 U.S.C. 375;
 23 commonly referred to as the ‘Jenkins Act’)) and smokeless
 24 tobacco (as that term is defined in section 1(3) of that Act),

1 *is prohibited, and tobacco products are nonmailable and*
 2 *shall not be deposited in or carried through the mails.”.*

3 **SEC. 4. PENAL PROVISIONS REGARDING TRAFFICKING IN**
 4 **CONTRABAND CIGARETTES OR SMOKELESS**
 5 **TOBACCO.**

6 (a) *THRESHOLD QUANTITY FOR TREATMENT AS CON-*
 7 *TRABAND CIGARETTES.—(1) Section 2341(2) of title 18,*
 8 *United States Code, is amended by striking “60,000 ciga-*
 9 *rettes” and inserting “10,000 cigarettes”.*

10 (2) *Section 2342(b) of that title is amended by striking*
 11 *“60,000” and inserting “10,000”.*

12 (3) *Section 2343 of that title is amended—*

13 (A) *in subsection (a), by striking “60,000” and*
 14 *inserting “10,000”; and*

15 (B) *in subsection (b), by striking “60,000” and*
 16 *inserting “10,000”.*

17 (b) *CONTRABAND SMOKELESS TOBACCO.—(1) Section*
 18 *2341 of that title is amended—*

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

21 (B) *in paragraph (5), by striking the period at*
 22 *the end and inserting a semicolon; and*

23 (C) *by adding at the end the following new para-*
 24 *graphs:*

1 “(6) the term ‘smokeless tobacco’ means any fine-
2 ly cut, ground, powdered, or leaf tobacco that is in-
3 tended to be placed in the oral or nasal cavity or oth-
4 erwise consumed without being combusted; and

5 “(7) the term ‘contraband smokeless tobacco’
6 means a quantity in excess of 500 single-unit con-
7 sumer-sized cans or packages of smokeless tobacco, or
8 their equivalent, that are in the possession of any per-
9 son other than—

10 “(A) a person holding a permit issued pur-
11 suant to chapter 52 of the Internal Revenue Code
12 of 1986 as manufacturer of tobacco products or
13 as an export warehouse proprietor, a person op-
14 erating a customs bonded warehouse pursuant to
15 section 311 or 555 of the Tariff Act of 1930 (19
16 U.S.C. 1311, 1555), or an agent of such person;

17 “(B) a common carrier transporting such
18 smokeless tobacco under a proper bill of lading
19 or freight bill which states the quantity, source,
20 and designation of such smokeless tobacco;

21 “(C) a person who—

22 “(i) is licensed or otherwise authorized
23 by the State where such smokeless tobacco is
24 found to engage in the business of selling or
25 distributing tobacco products; and

1 “(ii) has complied with the accounting,
2 tax, and payment requirements relating to
3 such license or authorization with respect to
4 such smokeless tobacco; or

5 “(D) an officer, employee, or agent of the
6 United States or a State, or any department,
7 agency, or instrumentality of the United States
8 or a State (including any political subdivision of
9 a State), having possession of such smokeless to-
10 bacco in connection with the performance of offi-
11 cial duties.”.

12 (2) Section 2342(a) of that title is amended by insert-
13 ing “or contraband smokeless tobacco” after “contraband
14 cigarettes”.

15 (3) Section 2343(a) of that title is amended by insert-
16 ing “, or any quantity of smokeless tobacco in excess of 500
17 single-unit consumer-sized cans or packages,” before “in a
18 single transaction”.

19 (4) Section 2344(c) of that title is amended by insert-
20 ing “or contraband smokeless tobacco” after “contraband
21 cigarettes”.

22 (5) Section 2345 of that title is amended by inserting
23 “or smokeless tobacco” after “cigarettes” each place it ap-
24 pears.

1 (c) *RECORDKEEPING, REPORTING, AND INSPECTION.*—
2 *Section 2343 of that title, as amended by this section, is*
3 *further amended—*

4 (1) *in subsection (a)—*

5 (A) *in the matter preceding paragraph (1),*
6 *by striking “only—” and inserting “such infor-*
7 *mation as the Attorney General considers appro-*
8 *priate for purposes of enforcement of this chap-*
9 *ter, including—”; and*

10 (B) *in the flush matter following paragraph*
11 *(3), by striking the second sentence;*

12 (2) *by redesignating subsection (b) as subsection*
13 *(c);*

14 (3) *by inserting after subsection (a) the following*
15 *new subsection (b):*

16 “(b) *Any person who engages in a delivery sale, and*
17 *who ships, sells, or distributes any quantity in excess of*
18 *10,000 cigarettes, or any quantity in excess of 500 single-*
19 *unit consumer-sized cans or packages of smokeless tobacco,*
20 *or their equivalent, within a single month, shall submit to*
21 *the Attorney General, pursuant to rules or regulations pre-*
22 *scribed by the Attorney General, a report that sets forth the*
23 *following:*

1 “(1) *The person’s beginning and ending inven-*
2 *tory of cigarettes and cans or packages of smokeless*
3 *tobacco (in total) for such month.*

4 “(2) *The total quantity of cigarettes and cans or*
5 *packages of smokeless tobacco that the person received*
6 *within such month from each other person (itemized*
7 *by name and address).*

8 “(3) *The total quantity of cigarettes and cans or*
9 *packages of smokeless tobacco that the person distrib-*
10 *uted within such month to each person (itemized by*
11 *name and address) other than a retail purchaser.”;*
12 *and*

13 (4) *by adding at the end the following new sub-*
14 *sections:*

15 “(d) *Any report required to be submitted under this*
16 *chapter to the Attorney General shall also be submitted to*
17 *the Secretary of the Treasury and to the attorneys general*
18 *and the tax administrators of the States from where the*
19 *shipments, deliveries, or distributions both originated and*
20 *concluded.*

21 “(e) *In this section, the term ‘delivery sale’ means any*
22 *sale of cigarettes or smokeless tobacco in interstate com-*
23 *merce to a consumer if—*

24 “(A) *the consumer submits the order for*
25 *such sale by means of a telephone or other meth-*

1 *od of voice transmission, the mails, or the Inter-*
 2 *net or other online service, or by any other*
 3 *means where the consumer is not in the same*
 4 *physical location as the seller when the purchase*
 5 *or offer of sale is made; or*

6 “(B) *the cigarettes or smokeless tobacco are*
 7 *delivered by use of the mails, common carrier,*
 8 *private delivery service, or any other means*
 9 *where the consumer is not in the same physical*
 10 *location as the seller when the consumer obtains*
 11 *physical possession of the cigarettes or smokeless*
 12 *tobacco.*

13 “(f) *In this section, the term ‘interstate commerce’*
 14 *means commerce between a State and any place outside the*
 15 *State, commerce between a State and any Indian lands in*
 16 *the State, or commerce between points in the same State*
 17 *but through any place outside the State or through any In-*
 18 *dian lands.”.*

19 (d) *DISPOSAL OR USE OF FORFEITED CIGARETTES*
 20 *AND SMOKELESS TOBACCO.—Section 2344(c) of that title,*
 21 *as amended by this section, is further amended by striking*
 22 *“seizure and forfeiture,” and all that follows and inserting*
 23 *“seizure and forfeiture, and any cigarettes or smokeless to-*
 24 *bacco so seized and forfeited shall be either—*

25 *“(1) destroyed and not resold; or*

1 “(2) used for undercover investigative operations
2 for the detection and prosecution of crimes, and then
3 destroyed and not resold.”.

4 (e) *ENFORCEMENT.*—Section 2346 of that title is
5 amended—

6 (1) by inserting “(a)” before “The Attorney Gen-
7 eral”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b)(1) A State, through its attorney general, or any
11 person who holds a permit under section 5712 of the Inter-
12 nal Revenue Code of 1986, may bring an action in the
13 United States district courts to prevent and restrain viola-
14 tions of this chapter by any person (or by any person con-
15 trolling such person).

16 “(2) A State, through its attorney general, may in a
17 civil action under paragraph (1) also obtain any other ap-
18 propriate relief for violations of this chapter from any per-
19 son (or by any person controlling such person), including
20 civil penalties, money damages, and injunctive or other eq-
21 uitable relief.

22 “(3) The remedies under paragraphs (1) and (2) are
23 an addition to any other remedies under Federal, State,
24 or other law.

1 “(4) *Nothing in this subsection shall be construed to*
 2 *prohibit an authorized State official from proceeding in*
 3 *State court, or taking other enforcement actions, on the*
 4 *basis of an alleged violation of State or other law.”.*

5 (f) *CONFORMING AND CLERICAL AMENDMENTS.—(1)*
 6 *The section heading for section 2343 of that title is amended*
 7 *to read as follows:*

8 **“§ 2343. Recordkeeping, reporting, and inspection”.**

9 (2) *The table of sections at the beginning of chapter*
 10 *114 of that title is amended by striking the item relating*
 11 *to section 2343 and inserting the following new item:*

 “2343. *Recordkeeping, reporting, and inspection.*”.

12 (3)(A) *The heading for chapter 114 of that title is*
 13 *amended to read as follows:*

14 **“CHAPTER 114—TRAFFICKING IN CONTRA-**
 15 **BAND CIGARETTES AND SMOKELESS**
 16 **TOBACCO”.**

17 (B) *The table of chapters at the beginning of part I*
 18 *of that title is amended by striking the item relating to sec-*
 19 *tion 114 and inserting the following new item:*

“114. *Trafficking in contraband cigarettes and smokeless*
 ***tobacco* 2341”.**

20 **SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALI-**
 21 **FYING STATUTE.**

22 (a) *IN GENERAL.—An interstate tobacco seller may*
 23 *not sell in, deliver to, or place for delivery sale in a State*

1 *that is a party to the Master Settlement Agreement any*
2 *cigarette manufactured by a Tobacco Product Manufacturer*
3 *that is not in full compliance with the terms of the Model*
4 *Statute or Qualifying Statute enacted by such State requir-*
5 *ing funds to be placed into a qualified escrow account under*
6 *specified conditions, or any regulations promulgated pursu-*
7 *ant to such terms.*

8 (b) *PENALTIES.—(1) Whoever shall knowingly and*
9 *willfully violate subsection (a) shall be fined not more than*
10 *\$100,000, imprisoned not more than 2 years, or both.*

11 (2) *Whoever shall violate subsection (a) shall be subject*
12 *to a civil penalty in an amount not to exceed 2 percent*
13 *of the gross sales of cigarettes of such person during the one-*
14 *year period ending on the date of the violation.*

15 (3) *A civil penalty under paragraph (2) for a violation*
16 *of subsection (a) is in addition to any criminal penalty*
17 *under paragraph (1) for the violation and in addition to*
18 *any other damages or relief available under law.*

19 (c) *JURISDICTION TO PREVENT AND RESTRAIN VIOLA-*
20 *TIONS.—(1) The United States district courts shall have ju-*
21 *risdiction to prevent and restrain violations of subsection*
22 *(a).*

23 (2) *A State, through its attorney general, or any per-*
24 *son who holds a permit under section 5712 of the Internal*
25 *Revenue Code of 1986, may bring an action in the United*

1 *States district courts to prevent and restrain violations of*
2 *subsection (a) by any person (or by any person controlling*
3 *such person).*

4 (3) *A State, through its attorney general, may in a*
5 *civil action against any person violating subsection (a) ob-*
6 *tain any appropriate relief for violations of this section*
7 *from any person (or by any person controlling such person),*
8 *including civil penalties, money damages, and injunctive*
9 *or other equitable relief.*

10 (4) *The remedies available under paragraphs (2) and*
11 *(3) are in addition to any other remedies available under*
12 *Federal, State, or other law.*

13 (5) *Nothing in this subsection shall be construed to*
14 *prohibit an authorized State official from proceeding in*
15 *State court or taking other enforcement actions on the basis*
16 *of an alleged violation of State or other law.*

17 (6) *The Attorney General shall administer and enforce*
18 *subsection (a).*

19 (d) *DEFINITIONS.—In this section:*

20 (1) *MASTER SETTLEMENT AGREEMENT.— The*
21 *term “Master Settlement Agreement” means the*
22 *agreement executed November 23, 1998, by the Attor-*
23 *neys General of 46 States, the District of Columbia,*
24 *the Commonwealth of Puerto Rico, and four Terri-*

1 *tories of the United States, on the one hand, and cer-*
2 *tain tobacco manufacturers on the other hand.*

3 (2) *TOBACCO PRODUCT MANUFACTURER.*—*The*
4 *term “Tobacco Product Manufacturer” has the mean-*
5 *ing given that term in section II(iii) of the Master*
6 *Settlement Agreement.*

7 (3) *MODEL STATUTE; QUALIFYING STATUTE.*—
8 *The terms “Model Statute” and “Qualifying Statute”*
9 *means a statute as defined in section IX(d)(2)(e) of*
10 *the Master Settlement Agreement.*

11 (4) *DELIVERY SALE.*—*The term “delivery sale”*
12 *means any sale of cigarettes or smokeless tobacco in*
13 *interstate commerce to a consumer if—*

14 (A) *the consumer submits the order for such*
15 *sale by means of a telephone or other method of*
16 *voice transmission, the mails, or the Internet or*
17 *other online service, or the seller is otherwise not*
18 *in the physical presence of the buyer when the*
19 *request for purchase or order is made; or*

20 (B) *the cigarettes or smokeless tobacco are*
21 *delivered by use of a common carrier, private de-*
22 *livery service, or the mails, or the seller is not*
23 *in the physical presence of the buyer when the*
24 *buyer obtains personal possession of the delivered*
25 *cigarettes or smokeless tobacco.*

1 (5) *INTERSTATE COMMERCE.*—*The term “inter-*
2 *state commerce” means commerce between a State*
3 *and any place outside the State, commerce between a*
4 *State and any Indian lands in the State, or com-*
5 *merce between points in the same State but through*
6 *any place outside the State or through any Indian*
7 *lands.*

8 **SEC. 6. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE**
9 **BUREAU OF ALCOHOL, TOBACCO, FIREARMS,**
10 **AND EXPLOSIVES.**

11 (a) *IN GENERAL.*—(1) *Commencing as of the date of*
12 *the enactment of this Act and without fiscal year limita-*
13 *tion, the authorities in section 102(b) of the Department*
14 *of Justice and Related Agencies Appropriations Act, 1993*
15 *(title I of Public Law 102–395; 106 Stat. 1838) shall be*
16 *available to the Bureau of Alcohol, Tobacco, Firearms, and*
17 *Explosives for undercover investigative operations of the*
18 *Bureau which are necessary for the detection and prosecu-*
19 *tion of crimes against the United States.*

20 (2) *For purposes of the exercise of the authorities re-*
21 *ferred to in paragraph (1) by the Bureau, a reference in*
22 *such section 102(b) to the Federal Bureau of Investigation*
23 *shall be deemed to be a reference to the Bureau of Alcohol,*
24 *Tobacco, Firearms, and Explosives, and a reference to the*
25 *Director of the Federal Bureau of Investigation shall be*

1 *deemed to be a reference to the Director of the Bureau of*
 2 *Alcohol, Tobacco, Firearms, and Explosives.*

3 (b) *LIMITATIONS IN APPROPRIATIONS ACTS.*—*The ex-*
 4 *ercise of the authorities referred to in subsection (a)(1) by*
 5 *the Bureau of Alcohol, Tobacco, Firearms, and Explosives*
 6 *shall be subject to the provisions of appropriations Acts.*

7 **SEC. 7. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO,**
 8 **FIREARMS, AND EXPLOSIVES OF RECORDS OF**
 9 **CERTAIN CIGARETTE AND SMOKELESS TO-**
 10 **BACCO SELLERS.**

11 (a) *IN GENERAL.*—*Any officer of the Bureau of Alco-*
 12 *hol, Tobacco, Firearms, and Explosives may, during nor-*
 13 *mal business hours, enter the premises of any person de-*
 14 *scribed in subsection (b) for the purposes of inspecting—*

15 (1) *any records or information required to be*
 16 *maintained by such person under the provisions of*
 17 *law referred to in subsection (d); or*

18 (2) *any cigarettes or smokeless tobacco kept or*
 19 *stored by such person at such premises.*

20 (b) *COVERED PERSONS.*—*A person described in this*
 21 *subsection is any person who engages in a delivery sale,*
 22 *and who ships, sells, distributes, or receives any quantity*
 23 *in excess of 10,000 cigarettes, or any quantity in excess of*
 24 *500 single-unit consumer-sized cans or packages of smoke-*
 25 *less tobacco, within a single month.*

1 (c) *RELIEF.*—(1) *The district courts of the United*
2 *States shall have the authority in a civil action under this*
3 *subsection to compel inspections authorized by subsection*
4 *(a).*

5 (2) *Whoever violates subsection (a) or an order issued*
6 *pursuant to paragraph (1) shall be subject to a civil penalty*
7 *in an amount not to exceed \$10,000 for each violation.*

8 (d) *COVERED PROVISIONS OF LAW.*—*The provisions of*
9 *law referred to in this subsection are as follows:*

10 (1) *The Act of October 19, 1949 (15 U.S.C. 375;*
11 *commonly referred to as the “Jenkins Act”).*

12 (2) *Chapter 114 of title 18, United States Code.*

13 (3) *This Act.*

14 (e) *DELIVERY SALE DEFINED.*—*In this section, the*
15 *term “delivery sale” has the meaning given that term in*
16 *2343(e)(1) of title 18, United States Code, as amended by*
17 *section 4(b)(3) of this Act.*

18 **SEC. 8. EFFECTIVE DATE.**

19 (a) *IN GENERAL.*—*Except as provided in subsection*
20 *(b), this Act shall take effect 90 days after the date of the*
21 *enactment of this Act.*

22 (b) *BATFE AUTHORITY.*—

23 (1) *IN GENERAL.*—*Sections 6 and 7 shall take ef-*
24 *fect on the date of the enactment of this Act.*

1 (2) *DEFINITION.*—*For purposes of section 7, the*
2 *definition of delivery sale in section 2343(e)(1) of title*
3 *18, United States Code, as amended by section 4(b)(3)*
4 *of this Act, shall take effect on the date of the enact-*
5 *ment of this Act.*

Amend the title so as to read: “A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.”.

Calendar No. 241

108TH CONGRESS
1ST SESSION

S. 1177

A BILL

To ensure the collection of all cigarette taxes, and
for other purposes.

JULY 31 (legislative day, JULY 21), 2003

Reported with an amendment and an amendment to the
title