

109TH CONGRESS  
2D SESSION

# S. 3872

To prohibit cigarette manufacturers from making claims regarding tar or nicotine yield levels of cigarettes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7 (legislative day, SEPTEMBER 6), 2006

Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. HARKIN, Mr. MENENDEZ, Mr. REED, Mr. DURBIN, Mr. KENNEDY, and Mr. LEAHY) 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 prohibit cigarette manufacturers from making claims regarding tar or nicotine yield levels of cigarettes, 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 “Truth in Cigarette La-  
5       beling Act of 2006”.

6       **SEC. 2. PROHIBITION ON CLAIMS REGARDING TAR OR NIC-**  
7       **OTINE YIELD LEVELS OF CIGARETTES.**

8       (a) FINDINGS.—Congress finds the following:

1           (1) Cigarette manufacturers (through use of  
2 words, graphics, and color) have sold, distributed,  
3 and falsely marketed brands of cigarettes to con-  
4 sumers as “light”, “low-tar”, “ultra light”, “mild”,  
5 “natural”, and “low-nicotine” cigarettes, implying  
6 that the cigarettes are less harmful than other  
7 brands of cigarettes.

8           (2) The National Cancer Institute has found  
9 that many smokers mistakenly believe that cigarettes  
10 with the labels described in paragraph (1) cause  
11 fewer health problems than other cigarettes, and this  
12 belief misleads smokers who may choose these ciga-  
13 rettes as an alternative to not smoking.

14           (3) The Federal Trade Commission has con-  
15 cluded that “cigarette tar and nicotine ratings can-  
16 not predict the amount of tar and nicotine [a per-  
17 son] get[s] from any particular cigarette.”.

18           (4) Recent studies have demonstrated that  
19 there has been no reduction in risk on a population-  
20 wide basis from the cigarettes described in para-  
21 graph (1), and such cigarettes may actually increase  
22 the risk of tobacco use.

23           (5) The dangers of marketing one brand of  
24 cigarettes as less harmful than another brand of  
25 cigarettes when in fact there are no reduced risks,

1 is a compelling reason for the Government to ensure  
2 statements, claims, or other representations about  
3 cigarettes are truthful and not deceptive.

4 (b) DEFINITIONS.—In this section:

5 (1) HEALTH DESCRIPTOR.—The term “health  
6 descriptor” includes the words “light”, “low”, “low  
7 tar”, “ultralight”, “mild”, “natural”, or any other  
8 word, or any graphic or color, which reasonably  
9 could be expected to result in a consumer believing  
10 that smoking such brand may result in a lower risk  
11 of disease or be less hazardous to health than smok-  
12 ing another brand of cigarette.

13 (2) BRAND.—The term “brand” means a vari-  
14 ety of tobacco product distinguished by the type of  
15 tobacco used, tar content, nicotine content, the fla-  
16 voring used, size, filtration, packaging, logo, reg-  
17 istered trademark or brand name, identifiable pat-  
18 tern of colors, or any combination thereof.

19 (3) CIGARETTE.—The term “cigarette” has the  
20 meaning given such term in section 3(1) of the Fed-  
21 eral Cigarette Labeling and Advertising Act (15  
22 U.S.C. 1332(1)), but also includes tobacco, in any  
23 form, that is functional in the product, which, be-  
24 cause of its appearance, the type of tobacco used in  
25 the filler, or its packaging and labeling, is likely to

1 be offered to, or purchased by, consumers as a ciga-  
2 rette or as roll-your-own tobacco.

3 (4) ROLL-YOUR-OWN TOBACCO.—The term  
4 “roll-your-own tobacco” means any tobacco which,  
5 because of its appearance, type, packaging, or label-  
6 ing, is suitable for use and likely to be offered to,  
7 or purchased by, consumers as tobacco for making  
8 cigarettes.

9 (c) PROHIBITION ON USE OF HEALTH DESCRIPTORS  
10 AND FEDERAL TRADE COMMISSION TESTING METHOD.—

11 (1) IN GENERAL.—Notwithstanding any other  
12 provision of law, effective 120 days after the date of  
13 the enactment of this Act, a cigarette manufacturer  
14 may not use a health descriptor on the label or the  
15 advertising of any brand of cigarette.

16 (2) PROHIBITION ON USE OF FEDERAL TRADE  
17 COMMISSION TESTING METHOD.—Notwithstanding  
18 any other provision of law, effective 120 days after  
19 the date of the enactment of this Act, a cigarette  
20 manufacturer may not make any claims or any other  
21 representations based on data derived from the ciga-  
22 rette testing method established by the Federal  
23 Trade Commission in effect on the day before the  
24 date of the enactment of this Act.

25 (3) ENFORCEMENT.—

1 (A) UNFAIR OR DECEPTIVE ACT OR PRAC-  
2 TICE.—A violation of the prohibition described  
3 in paragraphs (1) or (2) shall be treated as a  
4 violation of a rule defining an unfair or decep-  
5 tive act or practice prescribed under section  
6 18(a)(1)(B) of the Federal Trade Commission  
7 Act (15 U.S.C. 57a(a)(1)(B)).

8 (B) ACTIONS BY THE COMMISSION.—The  
9 Federal Trade Commission shall enforce this  
10 section in the same manner, by the same  
11 means, and with the same jurisdiction, powers,  
12 and duties as though all applicable terms and  
13 provisions of the Federal Trade Commission  
14 Act (15 U.S.C. 41 et seq.) were incorporated  
15 into and made a part of this section.

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