

113TH CONGRESS
1ST SESSION

H. R. 2990

To amend the Internal Revenue Code of 1986 to reduce tobacco smuggling,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

Mr. DOGGETT (for himself, Mr. KING of New York, Mr. BLUMENAUER, Mr. CONNOLLY, Mr. DEFazio, Ms. DEGETTE, Mr. ELLISON, Mr. GENE GREEN of Texas, Mr. GUTIÉRREZ, Mr. LANGEVIN, Mr. LOEBSACK, Mr. McDERMOTT, Mr. MORAN, Ms. NORTON, Mr. PIERLUISI, Mr. RANGEL, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Ms. TSONGAS, Mr. VAN HOLLEN, Mr. WAXMAN, Ms. DELAURO, Mr. LYNCH, Mr. MATHESON, Mr. NADLER, Mr. MCGOVERN, Mr. FARR, Ms. LEE of California, Ms. ROYBAL-ALLARD, Mr. TIERNEY, Mr. WELCH, Mr. LEVIN, Mr. ANDREWS, Mr. LEWIS, Ms. BASS, Mr. GARAMENDI, Mrs. CAPPS, Mr. HONDA, Ms. CLARKE, Mrs. DAVIS of California, and Ms. KAPTUR) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to reduce
tobacco smuggling, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Smuggled Tobacco Prevention Act of 2013” or the
6 “STOP Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

Sec. 101. Amendment of 1986 code.

Sec. 102. Machines used to manufacture or package tobacco products or processed tobacco.

Sec. 103. Improved marking and labeling.

Sec. 104. Wholesalers and manufacturers, importers, and sellers of tobacco production machines required to have permit.

Sec. 105. Conditions of permit.

Sec. 106. Records to be maintained.

Sec. 107. Reports.

Sec. 108. Fraudulent offenses.

Sec. 109. Penalties.

Sec. 110. Coordination with other government officials.

Sec. 111. Definitions.

Sec. 112. Conforming amendments.

Sec. 113. Effective date.

TITLE II—IMPORT FRAUD

Sec. 201. Maximum penalty for importation of tobacco products and cigarette papers and tubes by fraudulent means.

TITLE III—EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS

Sec. 301. Exclusions regarding Indian Tribes and Tribal matters.

3 **TITLE I—AMENDMENTS TO IN-**
 4 **TERNAL REVENUE CODE OF**
 5 **1986**

6 **SEC. 101. AMENDMENT OF 1986 CODE.**

7 Except as otherwise expressly provided, whenever in
 8 this title an amendment or repeal is expressed in terms
 9 of an amendment to, or repeal of, a section or other provi-
 10 sion, the reference shall be considered to be made to a
 11 section or other provision of the Internal Revenue Code
 12 of 1986.

1 **SEC. 102. MACHINES USED TO MANUFACTURE OR PACKAGE**
2 **TOBACCO PRODUCTS OR PROCESSED TO-**
3 **BACCO.**

4 (a) IN GENERAL.—Section 5762 is amended—

5 (1) by redesignating subsection (b) as sub-
6 section (c), and

7 (2) by inserting after subsection (a) the fol-
8 lowing new subsection:

9 “(b) MACHINES USED TO MANUFACTURE OR PACK-
10 AGE TOBACCO PRODUCTS OR PROCESSED TOBACCO.—

11 “(1) TRANSFER OF MANUFACTURING MACHINES
12 TO LICENSED PERSONS.—Any tobacco production
13 machine may be sold, leased, imported, exported, de-
14 livered, or otherwise made available only to per-
15 sons—

16 “(A) lawfully engaged in—

17 “(i) the sale, lease, importation, ex-
18 portation, or delivery of such machines,

19 “(ii) the manufacture or packaging of
20 tobacco products or processed tobacco, or

21 “(iii) the application of unique identi-
22 fication markings onto tobacco product or
23 processed tobacco packages pursuant to
24 section 5723, and

25 “(B) that have all Federal, State, local,
26 and Indian tribal government permits, registra-

1 tions, and licenses required to engage in such
2 activities.

3 “(2) TRANSFER OF MACHINES TO PERSONS EN-
4 GAGED IN ILLEGAL MANUFACTURE OF CONTRA-
5 BAND.—No tobacco production machine shall know-
6 ingly be manufactured for or be (directly or indi-
7 rectly) sold, leased, imported, exported, delivered, or
8 otherwise made available to any person engaged in
9 the illegal manufacture, distribution, or sale of coun-
10 terfeit or contraband tobacco products or processed
11 tobacco, unique identification markings, or other
12 tax-payment indicia.

13 “(3) REGISTRATION OF MACHINES.—

14 “(A) IN GENERAL.—Every person having
15 possession or custody of, or having control over,
16 the installation of any tobacco production ma-
17 chine shall register such machine with the Sec-
18 retary immediately on its being installed, by
19 subscribing and filing with the Secretary a
20 statement, in writing, setting forth the par-
21 ticular place where such machine is installed,
22 the kind of machine and its capacity, the owner
23 thereof, the owner’s place of residence, and the
24 purpose for which the machine has been or is
25 intended to be used.

1 “(B) EXCEPTION.—Under regulations pre-
2 scribed by the Secretary, this paragraph shall
3 not apply to any tobacco production machine
4 not used or intended to be used—

5 “(i) for the manufacture or produc-
6 tion of cigarette or cigars, or to manufac-
7 ture any other tobacco product or proc-
8 essed tobacco,

9 “(ii) to package any tobacco product
10 or processed tobacco, or

11 “(iii) to apply unique identification
12 markings to any package.

13 “(4) RECORDS.—

14 “(A) IN GENERAL.—Any person selling,
15 leasing, importing, exporting, delivering, or oth-
16 erwise making available a tobacco production
17 machine shall maintain and keep records, as the
18 Secretary prescribes by regulation, relating to
19 any transfers of the machine, including the
20 name, address, other contact information, and
21 any permit, registration, or license number of
22 the person receiving delivery of the machine, or
23 to whom the machine is otherwise transferred,
24 as the case may be.

1 “(B) 5-YEAR HOLDING PERIOD FOR
2 RECORDS.—Any record required to be main-
3 tained and kept under subparagraph (A) shall
4 be kept for the 5-year period beginning on the
5 first date such record is required to be so main-
6 tained and kept.

7 “(C) AVAILABILITY OF RECORDS.—Such
8 records shall be available for inspection by any
9 internal revenue officer during business hours.

10 “(D) SAFE HARBOR.—An ordinary com-
11 mercial record or invoice shall satisfy the re-
12 quirements of this paragraph if such record or
13 invoice contains all of the information required
14 under subparagraph (A).

15 “(5) VIOLATIONS.—

16 “(A) IN GENERAL.—Whoever knowingly
17 violates paragraph (1), (2), or (3) shall, for
18 each offense, be fined not more than \$10,000 or
19 an amount equal to 3 times the fair market
20 value of the tobacco product machine involved
21 (whichever is greater), or imprisoned not more
22 than five years, or both.

23 “(B) RECORDKEEPING.—Whoever know-
24 ingly violates paragraph (4) shall, for each of-
25 fense, be fined not more than \$10,000.”.

1 (b) TOBACCO PRODUCTION MACHINE.—Section 5702
2 is amended by adding at the end the following new sub-
3 section:

4 “(q) TOBACCO PRODUCTION MACHINE.—The term
5 ‘tobacco production machine’ means any machine (or com-
6 ponent integral to the operation of such a machine) used
7 to manufacture or package tobacco products or processed
8 tobacco or to apply unique identification markings or
9 other tax-payment indicia to packages of tobacco products
10 or processed tobacco. Such term includes any machine
11 used to produce tobacco products for compensation, lease,
12 or hire, or otherwise used in a commercial setting.”.

13 (c) CONFORMING AMENDMENT.—Subsection (c) of
14 section 5762 (as so redesignated) is amended by striking
15 “subsection (a)” and inserting “subsections (a) and (b)”.

16 (d) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to transfers more than 6 months
18 after the date of the enactment of this Act.

19 **SEC. 103. IMPROVED MARKING AND LABELING.**

20 (a) IN GENERAL.—Subsection (b) of section 5723 is
21 amended to read as follows:

22 “(b) MARKS, LABELS, AND NOTICES.—

23 “(1) IN GENERAL.—Subject to paragraphs (2),
24 (3), and (4), every package of tobacco products,
25 processed tobacco, or cigarette papers or tubes shall,

1 before removal, bear the marks, labels, and notices
2 that the Secretary by regulation prescribes.

3 “(2) MARKING REQUIREMENTS FOR DOMESTIC
4 MARKET.—

5 “(A) IN GENERAL.—Each person who is a
6 manufacturer or importer of tobacco products
7 or processed tobacco shall (in accordance with
8 regulations prescribed by the Secretary) ensure
9 that, before any product intended for sale or
10 distribution within the United States is re-
11 moved, a unique identification marking is af-
12 fixed to or forms part of each package of to-
13 bacco product or processed tobacco manufac-
14 tured or imported by such person for sale or
15 distribution.

16 “(B) MARKINGS ON INDIVIDUAL PACK-
17 AGES.—Any markings required to be placed on
18 a tobacco product or processed tobacco package
19 by this subsection shall be placed on the inner-
20 most sealed container visible from the outside
21 of the individual package. For any tobacco
22 product or processed tobacco package that con-
23 tains multiple smaller packages of tobacco prod-
24 ucts or processed tobacco, any markings re-
25 quired to be so placed on tobacco product or

1 processed tobacco packages shall be placed on
2 all the individual tobacco product or processed
3 tobacco packages.

4 “(C) MARKINGS ON AGGREGATE PACKING
5 MODES.—To facilitate efficient tracking and
6 tracing of tobacco products or processed to-
7 bacco through the distribution system, all man-
8 ufacturers or importers of tobacco products or
9 processed tobacco shall, in addition to such
10 unique identification marking, also, in accord-
11 ance with regulations prescribed by the Sec-
12 retary, ensure that unique identification mark-
13 ings are affixed to or form part of aggregate
14 packing modes (such as cartons, cases, and
15 master cases for cigarettes). The Secretary
16 shall determine the size, location, and methods
17 for such markings. The Secretary shall estab-
18 lish regulations requiring that all persons with-
19 in the distribution chain, up to but not includ-
20 ing the ultimate retailer, utilize the unique
21 identification markings on aggregate packing
22 modes to facilitate the tracking and tracing of
23 tobacco products or processed tobacco through
24 the distribution system.

1 “(3) MARKING REQUIREMENTS FOR EX-
2 PORTS.—A unique identification marking shall be af-
3 fixed to or form part of each package of tobacco
4 product or processed tobacco that is exported, or
5 sold for export, that distinguishes it from those
6 products or processed tobacco intended for sale or
7 distribution within the United States. The Secretary
8 shall by regulation prescribe the size, location, and
9 other characteristics of such marking, and it may
10 contain a serial number that is assigned to the coun-
11 try of export, except that no such serial number
12 shall be required on tobacco products or processed
13 tobacco sold at retail to consumers by duty free
14 stores for consumption beyond the jurisdiction of the
15 internal revenue laws of the United States. Such to-
16 bacco products or processed tobacco shall instead
17 bear markings indicating the tobacco product or
18 processed tobacco is only for duty-free sale to con-
19 sumers, as prescribed through regulation by the Sec-
20 retary, before the product or processed tobacco is re-
21 moved.

22 “(4) AUTHORIZATION OF FEDERAL UNIQUE
23 IDENTIFICATION MARKING.—Not later than 3 years
24 after the date of the enactment of the Smuggled To-
25 bacco Prevention Act of 2013, the Secretary shall by

1 regulation require the use of a unique identification
2 marking on all products subject to tax under this
3 chapter.”.

4 (b) UNIQUE IDENTIFICATION MARKING.—Section
5 5723 is amended by adding at the end the following new
6 subsection:

7 “(f) UNIQUE IDENTIFICATION MARKING.—

8 “(1) IN GENERAL.—No tobacco product or
9 processed tobacco may be sold, offered for sale, dis-
10 tributed, mailed, or otherwise delivered for final sale
11 to any consumer in the United States unless the
12 unique identification marking that meets the re-
13 quirements of this section (and any regulations pre-
14 scribed thereunder) is affixed to or forms part of the
15 package in which it is contained.

16 “(2) SYSTEM SPECIFICATIONS.—

17 “(A) The Secretary shall design such sys-
18 tem to coordinate and avoid interference with
19 State, local, and Indian tribal tax stamps and
20 markings, facilitate collection of the tax im-
21 posed by this chapter, impede contraband to-
22 bacco trafficking, minimize counterfeit marking,
23 allow for more effective tracking and tracing of
24 tobacco products and processed tobacco, facili-
25 tate the enforcement of related Federal laws,

1 and utilize such available technology as may
2 promote the purposes of this chapter.

3 “(B) The Secretary shall prescribe the
4 method and manner in which such unique iden-
5 tification markings are to be distributed, pur-
6 chased, and applied to or made part of tobacco
7 product and processed tobacco packages, and
8 may provide for the cancellation of such mark-
9 ings.

10 “(C) The unique identification marking
11 must provide (through the marking or record
12 associated with the marking) such information
13 as the Secretary by regulation prescribes, in-
14 cluding:

15 “(i) A unique serial number or track-
16 ing code for each tobacco product or proc-
17 essed tobacco package or aggregate pack-
18 age.

19 “(ii) The name and address of the
20 person purchasing the marking (and, if dif-
21 ferent, of the person ensuring the marking
22 is affixed to or made part of the package).

23 “(iii) The name and address of the
24 first unrelated person purchasing or other-
25 wise receiving the tobacco product or proc-

1 essed tobacco from the person who ensures
2 the marking is affixed to or made part of
3 the package and the date of such purchase
4 or receipt.

5 “(D) The information described in sub-
6 paragraph (C) may be required to, to the extent
7 practicable—

8 “(i) be cryptographically encrypted,
9 and

10 “(ii)(I) be readable by a portable
11 scanning device (or similar device) to be
12 utilized by regulatory and law enforcement
13 officials at the time and place of inspec-
14 tion, or

15 “(II) be otherwise accessible remotely
16 at such time and place.

17 “(3) UNRELATED PERSON.—For purposes of
18 this subsection, the term ‘unrelated person’ means a
19 person other than a related person within the mean-
20 ing of section 267(b) or 707(b)(1).”.

21 (c) DEFINITIONS.—Section 5723, as amended by
22 subsection (b), is amended by adding at the end the fol-
23 lowing new subsections:

24 “(g) PACKAGE DEFINED.—For purposes of this sec-
25 tion, the term ‘package’ means a pack, box, carton, or con-

1 tainer of any kind or, if no other container, any wrapping
2 (including cellophane), in which a tobacco product or proc-
3 essed tobacco is sold, offered for sale, distributed, or oth-
4 erwise delivered for final sale to any consumer.

5 “(h) UNIQUE IDENTIFICATION MARKING DE-
6 FINED.—For purposes of this section, the term ‘unique
7 identification marking’ means a device in such design and
8 denomination as the Secretary authorizes by regulation
9 that is affixed to or made part of a package of a tobacco
10 product or processed tobacco. Such markings shall contain
11 overt security features for public authentication and covert
12 security features embedding a unique, secure, encrypted
13 identifier onto the marking, enabling law enforcement au-
14 thentication, production control, and tracking and tracing
15 of the product or processed tobacco bearing the marking.”.

16 (d) REGULATIONS.—The Secretary of the Treasury
17 shall consult with the Secretary of Health and Human
18 Services as may be appropriate to carry out the purposes
19 of subsection (f), and paragraphs (2), (3), and (4) of sub-
20 section (b), of section 5723 of the Internal Revenue Code
21 of 1986 (as added by this section).

1 **SEC. 104. WHOLESALERS AND MANUFACTURERS, IMPORT-**
2 **ERS, AND SELLERS OF TOBACCO PRODUC-**
3 **TION MACHINES REQUIRED TO HAVE PER-**
4 **MIT.**

5 (a) WHOLESALERS.—Section 5712 is amended by in-
6 serting “, as a wholesaler,” after “or processed tobacco”.

7 (b) MANUFACTURERS, IMPORTERS, AND SELLERS OF
8 TOBACCO PRODUCTION MACHINES.—Section 5712 is
9 amended by striking “or as an export warehouse propri-
10 etor” and inserting “, as an export warehouse proprietor,
11 or as a manufacturer, seller, or importer of tobacco pro-
12 duction machines”.

13 **SEC. 105. CONDITIONS OF PERMIT.**

14 (a) ISSUANCE.—Subsection (a) of section 5713 is
15 amended to read as follows:

16 “(a) ISSUANCE.—

17 “(1) IN GENERAL.—A person shall not engage
18 in business as a manufacturer or importer of tobacco
19 products or processed tobacco, as a wholesaler, as an
20 export warehouse proprietor, or as a manufacturer,
21 seller, lessor, or importer of tobacco production ma-
22 chines without a permit to engage in such business.
23 Such permit, conditioned upon compliance with this
24 chapter and regulations issued thereunder, shall be
25 issued in such form and in such manner as the Sec-
26 retary shall by regulation prescribe, to every person

1 properly qualified under sections 5711 and 5712.
2 Any entity granted such a permit is not eligible to
3 provide any services the Secretary may elect to pro-
4 cure to facilitate the purposes of section 5723. Per-
5 mit holders shall automatically count output and
6 register, record, and transmit the quantities meas-
7 ured, in the form, conditions, and time limits estab-
8 lished by the Secretary. A new permit may be re-
9 quired at such other time as the Secretary shall by
10 regulation prescribe.

11 “(2) CONDITIONS.—The Secretary shall not
12 issue a permit under this section unless—

13 “(A) the applicant is in compliance with
14 the requirements of—

15 “(i) this chapter,

16 “(ii) chapter 114 of title 18, United
17 States Code,

18 “(iii) the Act of October 19, 1949 (15
19 U.S.C. 375 et seq.; commonly referred to
20 as the ‘Jenkins Act’),

21 “(iv) the Fair and Equitable Tobacco
22 Reform Act of 2004, and any amendments
23 made thereby,

1 “(v) the Family Smoking Prevention
2 and Tobacco Control Act, and any amend-
3 ments made thereby,

4 “(vi) the Prevent All Cigarette Traf-
5 ficking Act of 2009, and any amendments
6 made thereby, and

7 “(vii) any related regulations there-
8 under,

9 as in effect on the date of the issuance of the
10 permit,

11 “(B) the applicant certifies that the appli-
12 cant is in compliance with all other Federal,
13 State, local, and Indian tribal laws relating to
14 the taxation, manufacture, importation, expor-
15 tation, distribution, marketing, sale, or trans-
16 portation of tobacco products, processed to-
17 bacco, or tobacco production machines, as in ef-
18 fect on the date of the issuance of the permit,
19 and

20 “(C) the applicant identifies in the applica-
21 tion any violation of a law described in subpara-
22 graph (A) or (B) by the applicant resulting in
23 a penalty under any such law during the 5-year
24 period ending on the date of the application.”.

1 (b) SUSPENSION OR REVOCATION.—Subparagraph
2 (A) of section 5713(b)(1) is amended by inserting “or any
3 other law described in subparagraph (A) or (B) of sub-
4 section (a)(2)” after “this chapter”.

5 **SEC. 106. RECORDS TO BE MAINTAINED.**

6 (a) IN GENERAL.—Section 5741 is amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “Every manufacturer”,

9 (2) by inserting “every wholesaler,” after
10 “every importer,”,

11 (3) by striking “such records” and inserting
12 “records concerning the chain of custody of the to-
13 bacco products and processed tobacco (including the
14 foreign country of final destination for packages
15 marked for export) and the serial numbers, marks,
16 labels, and notices required under section 5723, and
17 such other records”, and

18 (4) by adding at the end the following new sub-
19 sections:

20 “(b) RETAILERS.—Retailers shall maintain records
21 of receipt, and any non-retail sale or delivery, of tobacco
22 products and processed tobacco. Such records shall be
23 available to the Secretary for inspection and audit. An or-
24 dinary commercial record or invoice shall satisfy the re-
25 quirements of this subsection if such record shows the date

1 of receipt, from whom tobacco products or processed to-
2 bacco were received, and the quantity of tobacco products
3 or processed tobacco received (or, in the case of non-retail
4 sale or delivery, the date of sale or delivery, to whom the
5 tobacco products or processed tobacco were sold or deliv-
6 ered, and the quantity of the tobacco products or proc-
7 essed tobacco sold or delivered). To the extent the Sec-
8 retary determines that the records maintained by retail
9 entities licensed pursuant to section 555(b) of the Tariff
10 Act of 1930 (19 U.S.C. 1555(b)) satisfy the recordkeeping
11 requirements of this section, no additional records shall
12 be required for such entities under this section. The pre-
13 ceding provisions of this subsection shall not be construed
14 to limit or preclude other recordkeeping requirements im-
15 posed on any retailer.

16 “(c) RECORDS CONCERNING MARKS AND CHAIN OF
17 CUSTODY.—Records concerning the chain of custody and
18 the marks, labels, and notices required under section 5723
19 shall be available for inspection by any internal revenue
20 officer during business hours.”.

21 (b) CONSULTATION WITH HEALTH AND HUMAN
22 SERVICES.—The Secretary of the Treasury shall consult
23 with the Secretary of Health and Human Services as may
24 be appropriate to carry out the purposes of section 5741
25 of the Internal Revenue Code of 1986.

1 **SEC. 107. REPORTS.**

2 Section 5722 is amended—

3 (1) by inserting “(a) IN GENERAL.—” before
4 “Every manufacturer”, and

5 (2) by adding at the end the following new sub-
6 section:

7 “(b) REPORTS BY EXPORT WAREHOUSE PROPRI-
8 ETORS.—Prior to exportation of tobacco products or proc-
9 essed tobacco from the United States, the export ware-
10 house proprietor shall submit a report (in such manner
11 and form as the Secretary may by regulation prescribe)
12 to enable the Secretary to identify the shipment and as-
13 sure that it reaches its intended destination.”.

14 **SEC. 108. FRAUDULENT OFFENSES.**

15 (a) IN GENERAL.—Subsection (a) of section 5762 is
16 amended—

17 (1) by striking paragraph (1) and redesignating
18 paragraphs (2) through (6) as paragraphs (1)
19 through (5), respectively, and

20 (2) by striking “not more than \$10,000” and
21 inserting “not more than \$10,000 or an amount
22 equal to 3 times the amount of the tax imposed
23 under this chapter on the tobacco product involved
24 (whichever is greater)”.

25 (b) OFFENSES RELATING TO DISTRIBUTION OF TO-
26 BACCO PRODUCTS, ETC.—

1 (1) IN GENERAL.—Section 5762 (as amended
2 by section 102 of this Act) is amended—

3 (A) by redesignating subsection (c) as sub-
4 section (d), and

5 (B) by inserting after subsection (b) the
6 following new subsection:

7 “(c) OFFENSES RELATING TO DISTRIBUTION OF TO-
8 BACCO PRODUCTS, ETC.—It shall be unlawful—

9 “(1) for any person to engage in business as a
10 manufacturer or importer of tobacco products, proc-
11 essed tobacco, or cigarette papers and tubes, as a
12 wholesaler, or an export warehouse proprietor, or as
13 a manufacturer, seller, or importer of tobacco pro-
14 duction machines without filing the bond and obtain-
15 ing the permit where required by this chapter or
16 regulations thereunder,

17 “(2) for a manufacturer or importer of tobacco
18 products, or wholesaler to knowingly ship, transport,
19 deliver, or receive any tobacco products from or to
20 any person other than a person who has obtained
21 the permit required by this chapter, a retailer, or a
22 person handling such products solely for purposes of
23 shipment or delivery; except that an importer who
24 has obtained the permit required by this chapter
25 may receive, from a foreign manufacturer or a for-

1 eign distributor, foreign tobacco products that have
2 not previously entered the United States,

3 “(3) for a manufacturer or importer of proc-
4 essed tobacco or a wholesaler to knowingly ship,
5 transport, deliver, or receive any tobacco products or
6 processed tobacco from or to any person other than
7 a person who has obtained the permit required by
8 this chapter,

9 “(4) for a manufacturer or importer of proc-
10 essed tobacco to knowingly ship, transport, sell, or
11 deliver processed tobacco to any person other than
12 a manufacturer of processed tobacco, a manufac-
13 turer of tobacco products, or an export warehouse
14 proprietor,

15 “(5) for any person (other than the original
16 manufacturer of such tobacco products or processed
17 tobacco or an export warehouse proprietor author-
18 ized to receive any tobacco products or processed to-
19 bacco that have previously been exported and re-
20 turned to the United States) to knowingly receive
21 any tobacco products or processed tobacco that have
22 previously been exported and returned to the United
23 States,

24 “(6) for any export warehouse proprietor to
25 knowingly ship, transport, sell, or deliver for sale

1 any tobacco products or processed tobacco to any
2 person other than the original manufacturer of such
3 tobacco products or processed tobacco, another ex-
4 port warehouse proprietor, a duty free store, or a
5 foreign purchaser,

6 “(7) for any person (other than a manufac-
7 turer, wholesaler, or an export warehouse proprietor
8 permitted under this chapter) to knowingly ship,
9 transport, receive, or possess, for purposes of resale,
10 any tobacco product or processed tobacco not in
11 packages marked pursuant to regulations issued
12 under section 5723, other than for direct return to
13 a manufacturer for repacking or for re-exportation
14 or to an export warehouse proprietor for re-expor-
15 tation,

16 “(8) for any manufacturer, importer, export
17 warehouse proprietor, or wholesaler permitted under
18 this chapter to make any false entry in, to fail to
19 make an entry in, or to knowingly fail to maintain
20 properly any record or report required by this chap-
21 ter or the regulations promulgated thereunder with
22 the intent to defraud the United States,

23 “(9) for any person, with the intent to defraud
24 the United States, to alter, mutilate, destroy, oblit-
25 erate, or remove any mark or label required under

1 this chapter upon a tobacco product or processed to-
2 bacco held for sale, or to create, possess, or apply
3 on any tobacco product or processed tobacco or its
4 packaging any counterfeit versions of any such
5 marks or labels, and

6 “(10) for any person to sell at retail more than
7 3,000 cigarettes in any single transaction (or series
8 of related transactions), or, in the case of other to-
9 bacco products, an equivalent quantity as deter-
10 mined by regulation.

11 Any person violating any of the provisions of this sub-
12 section shall, upon conviction, be fined as provided in sec-
13 tion 3571 of title 18, United States Code, or imprisoned
14 for not more than 5 years, or both.”.

15 (2) CONFORMING AMENDMENT.—Section
16 5762(d) (as so redesignated) is amended by striking
17 “and (b)” inserting “, (b), and (c)”.

18 (c) OTHER OFFENSES.—Subsection (d) of section
19 5762 (as so redesignated) is amended by striking “not
20 more than \$1,000” and inserting “not more than \$2,500
21 or an amount equal to the tax imposed under this chapter
22 on the tobacco product or processed tobacco involved
23 (whichever is greater)”.

24 **SEC. 109. PENALTIES.**

25 (a) IN GENERAL.—

1 (1) Subsection (a) of section 5761 is amend-
2 ed—

3 (A) by striking “willfully” and inserting
4 “knowingly”, and

5 (B) by striking “\$1,000” and inserting
6 “\$10,000”.

7 (2) Subsection (b) of section 5761 is amended
8 by striking “5 percent” and inserting “10 percent”.

9 (b) PENALTY AMOUNTS ADJUSTED FOR INFLA-
10 TION.—Section 5761 is amended by redesignating sub-
11 section (f) as subsection (g) and inserting after subsection
12 (e) the following new subsection:

13 “(f) INFLATION ADJUSTMENT.—

14 “(1) IN GENERAL.—In the case of a calendar
15 year beginning after 2013, the penalty dollar
16 amounts provided under this chapter shall each be
17 increased by an amount equal to—

18 “(A) such dollar amount, multiplied by

19 “(B) the cost-of-living adjustment deter-
20 mined under section 1(f)(3) for the calendar
21 year, determined by substituting ‘calendar year
22 2012’ for ‘calendar year 1992’ in subparagraph
23 (B) thereof.

24 “(2) ROUNDING.—If any amount as adjusted
25 under paragraph (1) is not a multiple of \$10, such

1 amount shall be rounded to the next highest multiple
2 of \$10.”.

3 **SEC. 110. COORDINATION WITH OTHER GOVERNMENT OF-**
4 **FICIALS.**

5 (a) IN GENERAL.—Subchapter F of chapter 52 is
6 amended by adding at the end the following new section:

7 **“SEC. 5755. COORDINATION WITH OTHER GOVERNMENT OF-**
8 **FICIALS.**

9 “The Secretary shall make reasonable efforts to co-
10 ordinate with other Federal agencies and with officials of
11 foreign, State, local, Indian tribal, and other governments
12 to promote the purposes of this chapter, to prevent and
13 reduce tobacco tax evasion and contraband trafficking in
14 tobacco products and processed tobacco, to enforce settle-
15 ment agreements between tobacco companies and State or
16 other governments and related laws, or for other law en-
17 forcement or administration purposes.”.

18 (b) INFORMATION SHARING.—

19 (1) IN GENERAL.—Paragraph (1) of section
20 6103(o) is amended by adding at the end the fol-
21 lowing new subparagraph:

22 “(C) INFORMATION SHARING FOR TO-
23 BACCO PRODUCT LAW ADMINISTRATION AND
24 ENFORCEMENT PURPOSES.—

1 “(i) FEDERAL, STATE, LOCAL, AND
2 TRIBAL GOVERNMENTS.—Returns and re-
3 turn information with respect to taxes im-
4 posed by chapter 52 may be open to in-
5 spection by or disclosure to officers and
6 employees of any Federal agency, the State
7 Tax Administrators, or any other agency
8 of any State, local, or Indian tribal govern-
9 ment responsible for the administration
10 and enforcement of laws and regulations
11 relating to tobacco products and processed
12 tobacco, or their legal representative, solely
13 for use in such administration and enforce-
14 ment, unless the Secretary determines that
15 such disclosure would seriously impair
16 Federal tax administration.

17 “(ii) FOREIGN GOVERNMENTS AND
18 ORGANIZATIONS.—The Secretary shall,
19 upon written request, disclose returns and
20 return information with respect to taxes
21 imposed by chapter 52 to officers and em-
22 ployees of any agency of any foreign gov-
23 ernment, OLAF (European Anti-Fraud
24 Office), EUROPOL, INTERPOL, or the
25 World Customs Organization responsible

1 for the administration and enforcement of
2 laws and regulations relating to tobacco
3 products and processed tobacco, or their
4 legal representative, solely for use in such
5 administration and enforcement, if the
6 Secretary obtains written assurances from
7 such government or organization that the
8 information will be held in confidence and
9 used only for such use. No return or re-
10 turn information shall be disclosed under
11 this clause if the Secretary determines that
12 such disclosure would seriously impair
13 Federal tax administration.

14 “(iii) PUBLIC INFORMATION.—The
15 identity and business address of those per-
16 sons that have a valid permit, pursuant to
17 chapter 52, to engage in business as a
18 manufacturer, wholesaler, or importer of
19 tobacco products or processed tobacco, as
20 an export warehouse proprietor, or as a
21 manufacturer, seller, or importer of to-
22 bacco production machines (as defined in
23 section 5702(q)) shall be made publicly
24 available at such time and in such manner
25 as the Secretary may prescribe.”

1 (2) CONFORMING AMENDMENTS.—

2 (A) Subsection (a) of section 6103 is
3 amended—

4 (i) by striking “or any local” in para-
5 graph (2) and inserting “any local”,

6 (ii) by inserting “, or any agency de-
7 scribed in subsection (o)(1)(C)(i)” after
8 “subsection (l)(7)(D)” in paragraph (2),

9 (iii) by striking “or subsection (n)” in
10 paragraph (3) and inserting “subsection
11 (n), or subsection (o)(1)(C)(i)”.

12 (B) Paragraph (4) of section 6103(p) is
13 amended—

14 (i) by striking “(o)(1)(A)” both places
15 it appears and inserting “(o)(1)(A) or
16 (C)(i)”, and

17 (ii) by striking “(15), or (16),” and
18 inserting “(15), or (16), or (o)(1)(C)(i),”.

19 (C) Paragraph (2) of section 7213(a) is
20 amended—

21 (i) by striking “(21) or” and inserting
22 “(21),”, and

23 (ii) by striking “or (7)” and inserting
24 “or (7), or (o)(1)(C)(i)”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subchapter F of chapter 52 is amended by adding at
3 the end the following new item:

“Sec. 5755. Coordination with other government officials.”.

4 **SEC. 111. DEFINITIONS.**

5 (a) EXPORT WAREHOUSE PROPRIETOR.—Subsection
6 (i) of section 5702 is amended by inserting before the pe-
7 riod the following: “or any person engaged in the business
8 of exporting tobacco products from the United States for
9 purposes of sale or distribution. Any duty free store that
10 sells, offers for sale, or otherwise distributes to any person
11 in any single transaction (or series of related transactions)
12 more than 3,000 cigarettes, or an equivalent quantity of
13 other tobacco products as the Secretary shall by regulation
14 prescribe, shall be deemed an export warehouse proprietor
15 under this chapter”.

16 (b) RETAILER; WHOLESALER.—Section 5702, as
17 amended by this Act, is amended by adding at the end
18 the following new subsections:

19 “(r) RETAILER.—The term ‘retailer’ means any per-
20 son who sells, or offers for sale, any tobacco product at
21 retail. The term ‘retailer’ includes any duty free store that
22 sells, offers for sale, or otherwise distributes at retail in
23 any single transaction (or series of related transactions)
24 not more than 3,000 cigarettes, or not more than an

1 equivalent quantity of other tobacco products as the Sec-
2 retary shall by regulation prescribe.

3 “(s) WHOLESALER.—The term ‘wholesaler’ means
4 any person engaged in the business of purchasing tobacco
5 products for resale at wholesale, or any person acting as
6 an agent or broker for any person engaged in the business
7 of purchasing tobacco products for resale at wholesale.”.

8 **SEC. 112. CONFORMING AMENDMENTS.**

9 (a) Paragraph (2)(C) of section 2341 of title 18,
10 United States Code is amended by inserting “in regard
11 to State, local, or Indian tribal government taxes,” before
12 “a person”.

13 (b) Sections 2314 and 2315 of title 18, United States
14 Code, are each amended—

15 (1) by striking “**STATE**” in the heading there-
16 of; and

17 (2) by striking “tax stamps” each place it ap-
18 pears and inserting “tax stamps or markings”.

19 (c) The headings for subchapters B, C, and E of
20 chapter 52 are each amended by inserting “, **Processed**
21 **Tobacco,**” after “**Products**”.

22 (d) The items relating to subchapters B, C, and E
23 in the table of subchapters for chapter 52 are each amend-
24 ed by inserting “, processed tobacco,” after “products”.

1 (e) The heading for chapter 52 is amended by insert-
 2 ing “, **PROCESSED TOBACCO,**” after “**PROD-**
 3 **UCTS**”.

4 (f) The item relating to chapter 52 in the table of
 5 chapters for subtitle E is amended by inserting “, proc-
 6 essed tobacco,” after “products”.

7 **SEC. 113. EFFECTIVE DATE.**

8 Except as otherwise provided in this title, the amend-
 9 ments made by this title shall take effect 1 year after the
 10 date of the enactment of this Act.

11 **TITLE II—IMPORT FRAUD**

12 **SEC. 201. MAXIMUM PENALTY FOR IMPORTATION OF TO-**
 13 **BACCO PRODUCTS AND CIGARETTE PAPERS**
 14 **AND TUBES BY FRAUDULENT MEANS.**

15 (a) **MAXIMUM PENALTY.**—Section 592(c)(1) of the
 16 Tariff Act of 1930 (19 U.S.C. 1592(c)(1)) is amended—

17 (1) by striking “A fraudulent violation of sub-
 18 section (a)” and inserting the following:

19 “(A) **IN GENERAL.**—Except as provided in
 20 subparagraph (B), a fraudulent violation of
 21 subsection (a)”;

22 (2) by adding at the end the following:

23 “(B) **TOBACCO PRODUCTS AND CIGARETTE**
 24 **PAPERS AND TUBES.**—In the case of importa-
 25 tion of tobacco products and cigarette papers

1 and tubes subject to tax under chapter 52 of
 2 the Internal Revenue Code of 1986, a fraudu-
 3 lent violation of subsection (a) is punishable by
 4 a civil penalty in an amount not to exceed the
 5 sum of—

6 “(i) the domestic value of the mer-
 7 chandise, and

8 “(ii) four times the amount of Federal
 9 excise tax that could be imposed on the
 10 merchandise, if applicable.”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 subsection (a) shall take effect on the date which is 90
 13 days after the date of the enactment of this Act, and shall
 14 apply with respect to violations of section 592 of the Tariff
 15 Act of 1930 (as so amended) that occur on or after that
 16 date.

17 **TITLE III—EXCLUSIONS RE-**
 18 **GARDING INDIAN TRIBES AND**
 19 **TRIBAL MATTERS**

20 **SEC. 301. EXCLUSIONS REGARDING INDIAN TRIBES AND**
 21 **TRIBAL MATTERS.**

22 (a) IN GENERAL.—Nothing in this Act or the amend-
 23 ments made by this Act shall be construed to amend, mod-
 24 ify, or otherwise affect—

1 (1) any agreements, compacts, or other inter-
2 governmental arrangements between any State or
3 local government and any government of an Indian
4 tribe relating to the collection of taxes on tobacco
5 products sold in Indian country;

6 (2) any State laws that authorize or otherwise
7 pertain to any such intergovernmental arrangements
8 or create special rules or procedures for the collec-
9 tion of State, local, or tribal taxes on tobacco prod-
10 ucts sold in Indian country;

11 (3) any limitations under Federal or State law,
12 including Federal common law and treaties, on
13 State, local, and tribal tax and regulatory authority
14 with respect to the sale, use, or distribution of to-
15 bacco products or processed tobacco by or to Indian
16 tribes, tribal members, tribal enterprises, or in In-
17 dian country;

18 (4) any Federal law, including Federal common
19 law and treaties, regarding State jurisdiction, or
20 lack thereof, over any Indian tribe, tribal member,
21 tribal enterprise, Indian reservations, or other land
22 held by the United States in trust for one or more
23 Indian tribes; or

1 (5) any State or local government authority to
2 bring enforcement actions against persons located in
3 Indian country.

4 (b) COORDINATION OF LAW ENFORCEMENT.—Noth-
5 ing in this Act or the amendments made by this Act (other
6 than the amendments relating to section 6103 of the In-
7 ternal Revenue Code of 1986) shall be construed to inhibit
8 or otherwise affect any coordinated law enforcement effort
9 by 1 or more States or other jurisdictions, including In-
10 dian tribes, through interstate compact or otherwise,
11 that—

12 (1) provides for the administration of tobacco
13 product laws or laws pertaining to interstate sales or
14 other sales of tobacco products or processed tobacco;

15 (2) provides for the seizure of tobacco products,
16 processed tobacco, or other property related to a vio-
17 lation of such laws; or

18 (3) establishes cooperative programs for the ad-
19 ministration of such laws.

20 (c) TREATMENT OF STATE AND LOCAL GOVERN-
21 MENTS.—Nothing in this Act or the amendments made
22 by this Act shall be construed to authorize, deputize, or
23 commission States or local governments as instrumental-
24 ities of the United States.

1 (d) ENFORCEMENT WITHIN INDIAN COUNTRY.—
2 Nothing in this Act or the amendments made by this Act
3 shall prohibit, limit, or restrict enforcement by the Attor-
4 ney General of the United States of this Act or an amend-
5 ment made by this Act within Indian country.

6 (e) AMBIGUITY.—Any ambiguity between the lan-
7 guage of this section or its application and any other pro-
8 vision of this Act shall be resolved in favor of this section.

9 (f) DEFINITIONS.—In this section—

10 (1) the term “Indian country” has the meaning
11 given that term in section 1151 of title 18, United
12 States Code;

13 (2) the term “tribal enterprise” means any
14 business enterprise, regardless of whether incor-
15 porated or unincorporated under Federal or tribal
16 law, of an Indian tribe or group of Indian tribes;

17 (3) the term “Indian reservation” has the
18 meaning given that term in section 168(j)(6) of the
19 Internal Revenue Code of 1986;

20 (4) the term “Indian tribe” has the meaning
21 given that term in section 4(e) of the Indian Self-
22 Determination and Education Assistance Act (25
23 U.S.C. 450b(e)); and

24 (5) the terms “tobacco products” and “proc-
25 essed tobacco” have the meanings given such terms

1 by section 5702 of the Internal Revenue Code of
2 1986.

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