

## Calendar No. 35

114TH CONGRESS  
1ST SESSION**S. 142****[Report No. 114–12]**

To require the Consumer Product Safety Commission to promulgate a rule to require child safety packaging for liquid nicotine containers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2015

Mr. NELSON (for himself, Ms. AYOTTE, Mr. BENNET, Mr. BLUMENTHAL, Mrs. BOXER, Mr. BROWN, Mr. DURBIN, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MERKLEY, Mr. REED, Mr. SCHATZ, Mr. SCHUMER, Mrs. MURRAY, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 13, 2015

Reported by Mr. THUNE, with an amendment

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

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**A BILL**

To require the Consumer Product Safety Commission to promulgate a rule to require child safety packaging for liquid nicotine containers, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Child Nicotine Poi-  
3 soning Prevention Act of 2015”.

4 **SEC. 2. CHILD SAFETY PACKAGING FOR LIQUID NICOTINE**  
5 **CONTAINERS.**

6 (a) **DEFINITIONS.**—In this section:

7 (1) **COMMISSION.**—The term “Commission”  
8 means the Consumer Product Safety Commission.

9 (2) **LIQUID NICOTINE CONTAINER.**—The term  
10 “liquid nicotine container” means a consumer prod-  
11 uct, as defined in section 3(a)(5) of the Consumer  
12 Product Safety Act (15 U.S.C. 2052(a)(5)) notwith-  
13 standing subparagraph (B) of such section, that con-  
14 sists of a container that—

15 (A) has an opening from which nicotine in  
16 a solution or other form is accessible and can  
17 flow freely through normal and foreseeable use  
18 by a consumer; and

19 (B) is used to hold soluble nicotine in any  
20 concentration.

21 (3) **NICOTINE.**—The term “nicotine” means  
22 any form of the chemical nicotine, including any salt  
23 or complex, regardless of whether the chemical is  
24 naturally or synthetically derived.

25 (4) **SPECIAL PACKAGING.**—The term “special  
26 packaging” has the meaning given such term in sec-

1       tion 2 of the Poison Prevention Packaging Act of  
2       1970 (15 U.S.C. 1471).

3       (b) ~~REQUIRED USE OF SPECIAL PACKAGING FOR~~  
4 ~~LIQUID NICOTINE CONTAINERS.—~~

5           (1) ~~RULEMAKING.—~~

6               (A) ~~IN GENERAL.—~~Notwithstanding sec-  
7       tion 3(a)(5)(B) of the Consumer Product Safe-  
8       ty Act (15 U.S.C. 2052(a)(5)(B)) or section  
9       2(f)(2) of the Federal Hazardous Substances  
10      Act (15 U.S.C. 1261(f)(2)), not later than 1  
11      year after the date of the enactment of this Act,  
12      the Commission shall promulgate a rule requir-  
13      ing special packaging for liquid nicotine con-  
14      tainers.

15           (B) ~~AMENDMENTS.—~~The Commission may  
16      promulgate such amendments to the rule pro-  
17      mulgated under subparagraph (A) as the Com-  
18      mission considers appropriate.

19           (2) ~~EXPEDITED PROCESS.—~~The Commission  
20      shall promulgate the rules under paragraph (1) in  
21      accordance with section 553 of title 5, United States  
22      Code.

23           (3) ~~INAPPLICABILITY OF CERTAIN RULEMAKING~~  
24      ~~REQUIREMENTS.—~~The following provisions shall not  
25      apply to a rulemaking under paragraph (1):

1           (A) Sections 7 and 9 of the Consumer  
2           Product Safety Act (15 U.S.C. 2056 and  
3           2058).

4           (B) Section 3 of the Federal Hazardous  
5           Substances Act (15 U.S.C. 1262).

6           (C) Subsections (b) and (c) of section 3 of  
7           the Poison Prevention Packaging Act of 1970  
8           (15 U.S.C. 1472).

9           (4) SAVINGS CLAUSE.—Nothing in this section  
10          shall be construed to limit or diminish the authority  
11          of the Food and Drug Administration to regulate  
12          the manufacture, marketing, sale, or distribution of  
13          liquid nicotine, liquid nicotine containers, electronic  
14          cigarettes, or similar products that contain or dis-  
15          pense liquid nicotine.

16          (5) ENFORCEMENT.—A rule promulgated under  
17          paragraph (1) shall be treated as a standard appli-  
18          cable to a household substance established under  
19          section 3(a) of the Poison Prevention Packaging Act  
20          of 1970 (15 U.S.C. 1472(a)).

21   **SECTION 1. SHORT TITLE.**

22          *This Act may be cited as the “Child Nicotine Poi-*  
23          *soning Prevention Act of 2015”.*

1 **SEC. 2. CHILD SAFETY PACKAGING FOR LIQUID NICOTINE**

2 **CONTAINERS.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *COMMISSION.—The term “Commission”*  
5 *means the Consumer Product Safety Commission.*

6 (2) *LIQUID NICOTINE CONTAINER.—*

7 (A) *IN GENERAL.—The term “liquid nico-*  
8 *tine container” means a consumer product, as*  
9 *defined in section 3(a)(5) of the Consumer Prod-*  
10 *uct Safety Act (15 U.S.C. 2052(a)(5)) notwith-*  
11 *standing subparagraph (B) of such section, that*  
12 *consists of a container that—*

13 (i) *has an opening from which nicotine*  
14 *in a solution or other form is accessible and*  
15 *can flow freely through normal and foresee-*  
16 *able use by a consumer; and*

17 (ii) *is used to hold soluble nicotine in*  
18 *any concentration.*

19 (B) *EXCLUSIONS.—The term “liquid nico-*  
20 *tine container” does not include nicotine in a so-*  
21 *lution or other form in a sealed, pre-filled, dis-*  
22 *posable container inserted directly into an elec-*  
23 *tronic cigarette or other similar device, so long*  
24 *as the nicotine in the container is inaccessible or*  
25 *cannot flow freely out of such container or elec-*

1            *tronic cigarette or other similar device through*  
 2            *normal and foreseeable use by a consumer.*

3            (3) *NICOTINE.*—*The term “nicotine” means any*  
 4            *form of the chemical nicotine, including any salt or*  
 5            *complex, regardless of whether the chemical is natu-*  
 6            *rally or synthetically derived.*

7            (4) *SPECIAL PACKAGING.*—*The term “special*  
 8            *packaging” has the meaning given such term in sec-*  
 9            *tion 2 of the Poison Prevention Packaging Act of*  
 10           *1970 (15 U.S.C. 1471).*

11          (b) *REQUIRED USE OF SPECIAL PACKAGING FOR LIQ-*  
 12          *UID NICOTINE CONTAINERS.*—

13            (1) *RULEMAKING.*—

14            (A) *IN GENERAL.*—*Notwithstanding section*  
 15            *3(a)(5)(B) of the Consumer Product Safety Act*  
 16            *(15 U.S.C. 2052(a)(5)(B)) or section 2(f)(2) of*  
 17            *the Federal Hazardous Substances Act (15*  
 18            *U.S.C. 1261(f)(2)), not later than 1 year after*  
 19            *the date of enactment of this Act, the Commis-*  
 20            *sion shall promulgate a rule requiring special*  
 21            *packaging for liquid nicotine containers.*

22            (B) *AMENDMENTS.*—*The Commission may*  
 23            *promulgate such amendments to the rule promul-*  
 24            *gated under subparagraph (A) as the Commis-*  
 25            *sion considers appropriate.*

1           (2) *EXPEDITED PROCESS.*—*The Commission*  
 2           *shall promulgate the rule under paragraph (1) in ac-*  
 3           *cordance with section 553 of title 5, United States*  
 4           *Code.*

5           (3) *INAPPLICABILITY OF CERTAIN RULEMAKING*  
 6           *REQUIREMENTS.*—*The following provisions shall not*  
 7           *apply to a rulemaking under paragraph (1):*

8                     (A) *Sections 7 and 9 of the Consumer Prod-*  
 9                     *uct Safety Act (15 U.S.C. 2056 and 2058).*

10                    (B) *Section 3 of the Federal Hazardous*  
 11                    *Substances Act (15 U.S.C. 1262).*

12                    (C) *Subsections (b) and (c) of section 3 of*  
 13                    *the Poison Prevention Packaging Act of 1970 (15*  
 14                    *U.S.C. 1472).*

15           (4) *SAVINGS CLAUSE.*—*Nothing in this section*  
 16           *shall be construed to limit or diminish the authority*  
 17           *of the Food and Drug Administration to regulate the*  
 18           *manufacture, marketing, sale, or distribution of liq-*  
 19           *uid nicotine, liquid nicotine containers, electronic*  
 20           *cigarettes, or similar products that contain or dis-*  
 21           *pense liquid nicotine.*

22           (5) *ENFORCEMENT.*—*A rule promulgated under*  
 23           *paragraph (1) shall be treated as a standard applica-*  
 24           *ble to a household substance established under section*

1        *3(a) of the Poison Prevention Packaging Act of 1970*  
2        *(15 U.S.C. 1472(a)).*

3        *(c) REPORTING REQUIREMENTS.—Not later than 3*  
4        *years after the date of enactment of this Act, the Commis-*  
5        *sion shall submit to the Committee on Commerce, Science,*  
6        *and Transportation of the Senate and the Committee on*  
7        *Energy and Commerce of the House of Representatives a*  
8        *report detailing the rule and requirements promulgated*  
9        *under this Act and any enforcement actions taken there-*  
10       *under.*





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**S. 142**

[Report No. 114-12]

**A BILL**

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