

114TH CONGRESS
1ST SESSION

S. 2100

To prohibit the sale or distribution of tobacco products to individuals under the age of 21.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2015

Mr. SCHATZ (for himself, Mr. DURBIN, Mr. BROWN, Mr. MARKEY, Mrs. BOXER, Mr. REED, Ms. WARREN, Ms. HIRONO, Mr. BLUMENTHAL, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit the sale or distribution of tobacco products to individuals under the age of 21.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tobacco to 21 Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Tobacco use caused 20,800,000 premature
8 deaths in the United States in the 50 years since the
9 Surgeon General’s first report on smoking in 1964.

1 (2) The 1964 Surgeon General's report linked
2 cigarette smoking to cancer, and since then, other
3 tobacco products, including cigars, cigarillos, roll-
4 your-own products, and smokeless tobacco have been
5 causally linked to cancer.

6 (3) While substantial gains have been made
7 since 1964, tobacco use remains the leading cause of
8 preventable death in the United States, responsible
9 for approximately 500,000 premature deaths each
10 year.

11 (4) Tobacco use costs the United States ap-
12 proximately \$170,000,000,000 in direct medical
13 costs and \$156,000,000,000 in lost productivity
14 every year.

15 (5) More than 42,000,000 people in the United
16 States still smoke, and the tobacco industry con-
17 tinues to challenge tobacco control victories in court,
18 manipulate products to evade existing regulations,
19 introduce new and dangerous tobacco products, and
20 spend billions on marketing to deceive the public and
21 addict more children.

22 (6) An estimated 5,600,000 youth aged 17 and
23 under are projected to die prematurely from a to-
24 bacco-related illness if prevalence rates do not
25 change.

1 (7) Use of tobacco products in any form is not
2 safe, especially during adolescence, as such use can
3 lead to nicotine dependence and subsequent tobacco-
4 related diseases and death.

5 (8) Adolescents are especially vulnerable to the
6 effects of nicotine and nicotine addiction and appear
7 to show signs of nicotine addiction at lower levels of
8 exposure compared to adults.

9 (9) Nicotine exposure during adolescence may
10 have long lasting adverse consequences on brain de-
11 velopment.

12 (10) The likelihood of developing smoking-re-
13 lated cancers increases with duration of smoking.
14 Therefore those users that start at younger ages and
15 continue to smoke are at higher risk for tobacco-re-
16 lated disease and death.

17 (11) National data show that 95 percent of
18 adult smokers begin smoking before they turn 21.
19 The ages of 18 to 21 are a critical period when
20 many smokers move from experimental smoking to
21 regular, daily use.

22 (12) Young adults aged 18 to 24 are more than
23 2 times as likely to use smokeless products as com-
24 pared to older adults aged 45 to 64.

1 (13) The Centers for Disease Control and Pre-
2 vention and the Institute of Medicine recommend
3 comprehensive and sustained tobacco control pro-
4 grams and policies at the Federal, State, and local
5 level in order to reduce youth initiation and the
6 prevalence of tobacco use.

7 (14) Regulating the retail environment, actively
8 enforcing laws, and educating retailers are strategies
9 that Federal, State, and local governments can take
10 to restrict the availability of tobacco products to
11 youth.

12 (15) The recent report of the Institute of Medi-
13 cine entitled, “Public Health Implications of Raising
14 the Minimum Age of Legal Access to Tobacco Prod-
15 ucts”, concluded that raising the minimum legal age
16 of sale of tobacco products nationwide will reduce to-
17 bacco initiation, particularly among adolescents aged
18 15 to 17, and will improve health across the lifespan
19 and save lives. Specifically, the report said that rais-
20 ing the minimum legal age of sale of tobacco prod-
21 ucts nationwide to age 21 would, over time, lead to
22 a 12-percent decrease in smoking prevalence.

23 (16) The Institute of Medicine report also pre-
24 dicts that raising the minimum legal age of sale of
25 tobacco products nationwide to age 21 would result

1 in 223,000 fewer premature deaths, 50,000 fewer
2 deaths from lung cancer, and 4,200,000 fewer years
3 of life lost for those born between 2000 and 2019.
4 In addition, the report concluded that raising the
5 minimum legal age of sale would result in near im-
6 mediate reductions in preterm birth, low birth
7 weight, and sudden infant death syndrome.

8 **SEC. 3. PROHIBITION AND ENFORCEMENT.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of law, including any Federal regulation, it shall be
11 unlawful to sell or distribute a tobacco product to anyone
12 under the age of 21.

13 (b) ENFORCEMENT.—

14 (1) IN GENERAL.—The Secretary of Health and
15 Human Services is authorized to enforce the prohibi-
16 tion under subsection (a) and shall take necessary
17 action to enforce such prohibition, including, as ap-
18 propriate—

19 (A) conducting undercover compliance
20 checks, performing retailer inspections, initi-
21 ating enforcement actions for noncompliance,
22 and taking any other measures appropriate to
23 help ensure nationwide compliance with such
24 prohibition; and

1 (B) establishing requirements that retailers
2 check identification or use other methods to en-
3 sure compliance with subsection (a), or issuing
4 guidance concerning the responsibility of retail-
5 ers to ensure such compliance.

6 (2) ENFORCEMENT AUTHORITY.—In the case of
7 a violation of subsection (a), the Secretary of Health
8 and Human Services may apply the penalties under
9 section 303 of the Federal Food, Drug, and Cos-
10 metic Act (21 U.S.C. 333), as though such sub-
11 section (a) were a regulation promulgated under sec-
12 tion 906(d)(1) of the Federal Food, Drug, and Cos-
13 metic Act (21 U.S.C. 387f(d)(1)), notwithstanding
14 paragraph (3)(A)(ii) of such section 906(d).

15 (c) DEFINITION.—In this Act, the term “tobacco
16 product” has the meaning given such term in section
17 201(rr) of the Federal Food, Drug, and Cosmetic Act (21
18 U.S.C. 321(rr)).

19 **SEC. 4. NON-PREEMPTION.**

20 Nothing in this Act shall be construed to prevent a
21 State or local governmental entity from establishing, en-
22 forcing, or maintaining a law with respect to sales of to-
23 bacco to individuals below a minimum age, provided that

- 1 such State or local law is at least as restrictive as the
- 2 Federal law.

