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

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) Tobacco use has caused more than 20,800,000 premature deaths in the United States
since the Surgeon General’s first report on smoking in 1964.

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

(3) While substantial gains have been made since 1964, tobacco use remains the leading preventable cause of death in the United States, responsible for more than 480,000 premature deaths each year.

(4) Tobacco use costs the United States approximately $170,000,000,000 in direct medical costs and $156,000,000,000 in lost productivity every year.

(5) More than 36,000,000 people in the United States still smoke, and the tobacco industry continues to challenge tobacco control measures in court, manipulate products to evade existing regulations, introduce new and dangerous tobacco products, and spend billions on marketing to deceive the public and addict more children.

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

(7) Each day in the United States, nearly 2,500 youth under 18 years of age smoke their first cigarette.

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

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

(10) Nicotine exposure during adolescence may have lasting adverse consequences on brain development. According to the Surgeon General, the use of products containing nicotine in any form among youth, including in electronic cigarettes, is unsafe.

(11) The likelihood of developing smoking-related cancers increases with duration of smoking. Therefore, smokers that start at younger ages and continue to smoke are at higher risk for tobacco-related disease and death.

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

(13) Three-quarters of people of the United States favor raising the tobacco age of sale to 21 years, including 7 in 10 smokers.

(14) Each year, nearly 500,000 youth aged 12 to 17 use smokeless tobacco for the first time, and young adults aged 18 to 24 use smokeless products at twice the rate of older adults aged 45 to 64.

(15) Electronic cigarettes are the most commonly used tobacco product among youth. According to the Surgeon General’s 2016 report on electronic cigarettes, electronic cigarette use is strongly associated with the use of other tobacco products among youth and young adults.

(16) The 2015 report of the National Academy of Medicine entitled, “Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products”, concluded that raising the minimum legal age of sale of tobacco products nationwide will reduce tobacco initiation, particularly among adolescents aged 15 to 17, and will improve health across the lifespan and save lives. Specifically, the report said that raising the minimum legal age
of sale of tobacco products nationwide to age 21
would, over time, lead to a 12-percent decrease in
smoking prevalence.

(17) The National Academy of Medicine report
also predicts that raising the minimum legal age of
sale of tobacco products nationwide to age 21 would
result in 223,000 fewer premature deaths, 50,000
fewer deaths from lung cancer, and 4,200,000 fewer
years of life lost for those born between 2000 and
2019. In addition, the report concluded that raising
the minimum legal age of sale would result in near
immediate reductions in preterm birth, low birth
weight, and sudden infant death syndrome.

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

(19) Five States, the District of Columbia, and
more than 230 localities in an additional 13 States
have raised the minimum legal tobacco sale age to
21.

SEC. 3. PROHIBITION AND ENFORCEMENT.

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

(b) **Enforcement.**—

(1) **In general.**—The Secretary of Health and Human Services is authorized to enforce the prohibition under subsection (a) and shall take necessary action to enforce such prohibition, including, as appropriate—

(A) conducting undercover compliance checks, performing retailer inspections, initiating enforcement actions for noncompliance, and taking any other measures appropriate to help ensure nationwide compliance with such prohibition; and

(B) establishing requirements that retailers check identification or use other methods to ensure compliance with subsection (a), or issuing guidance concerning the responsibility of retailers to ensure such compliance.

(2) **Enforcement authority.**—In the case of a violation of subsection (a), the Secretary of Health and Human Services may apply the penalties under section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as though such subsection (a) were a regulation promulgated under sec-

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

SEC. 4. NON-PREEMPTION.

Nothing in this Act shall be construed to prevent a State or local governmental entity from establishing, enforcing, or maintaining a law with respect to sales of tobacco to individuals below a minimum age, provided that such State or local law is at least as restrictive as the Federal law.