

116TH CONGRESS
1ST SESSION

H. R. 2084

To amend the Federal Food, Drug, and Cosmetic Act to raise the minimum age restriction with respect to the sale of tobacco products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2019

Mr. ADERHOLT (for himself and Mr. VARGAS) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to raise the minimum age restriction with respect to the sale of tobacco products, 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 “Stopping Consumption
5 of Tobacco by Teens Act of 2019” or the “SCOTT Act
6 of 2019”.

1 **SEC. 2. MINIMUM AGE RESTRICTIONS FOR SALE OF TO-**
2 **BACCO PRODUCTS.**

3 (a) MINIMUM AGE RESTRICTIONS.—Section
4 906(d)(3) of the Federal Food, Drug, and Cosmetic Act
5 (21 U.S.C. 387f(d)(3)) is amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 “(A) FACE-TO-FACE TRANSACTIONS.—No
9 restrictions under paragraph (1) may prohibit
10 the sale of any tobacco product in face-to-face
11 transactions by a specific category of retail out-
12 lets.”; and

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

14 “(C) MINIMUM AGE RESTRICTIONS.—

15 “(i) RESTRICTION.—It shall be unlaw-
16 ful to sell or distribute a tobacco product
17 to any person younger than 21 years of
18 age.

19 “(ii) ENFORCEMENT.—The Secretary
20 of Health and Human Services is author-
21 ized to enforce the prohibition under clause
22 (i) and shall take necessary action to en-
23 force such prohibition, including, as appro-
24 priate—

25 “(I) conducting undercover com-
26 pliance checks, performing retailer in-

1 inspections, initiating enforcement ac-
2 tions for noncompliance, and taking
3 any other measures appropriate to
4 help ensure nationwide compliance
5 with such prohibition; and

6 “(II) establishing requirements
7 that retailers check identification to
8 ensure compliance with clause (i) (in-
9 cluding increasing the minimum age
10 for which the checking of such identi-
11 fication is not required, which shall be
12 greater than the minimum age under
13 clause (i)) or issuing guidance con-
14 cerning the responsibility of retailers
15 to ensure such compliance.

16 “(iii) REGULATIONS.—Not later than
17 2 years after the date of the enactment of
18 the SCOTT Act of 2019, the Secretary
19 shall revise the regulations issued under
20 paragraph (1) to implement and enforce
21 clauses (i) and (ii).”.

22 (b) PROHIBITION AGAINST REMOTE RETAIL
23 SALES.—Section 906(d)(4) of the Federal Food, Drug,
24 and Cosmetic Act (21 U.S.C. 387f(d)(4)) is amended by
25 adding at the end the following:

1 “(C) VAPOR PRODUCTS.—

2 “(i) IN GENERAL.—Not later than 2
3 years after the date of the enactment of
4 the SCOTT Act of 2019, the Secretary
5 shall issue regulations or revise the regula-
6 tions issued under clause (i) and (ii) of
7 subparagraph (A) to require age verifica-
8 tion with respect to remote sales of vapor
9 products.

10 “(ii) CONTENT.—Such regulations
11 shall, at a minimum, provide—

12 “(I) that a delivery seller of
13 vapor products—

14 “(aa) shall not sell, deliver,
15 or cause to be delivered any
16 vapor products to a person under
17 the minimum age required for
18 the legal sale or purchase of
19 vapor products, as determined by
20 the applicable law at the place of
21 delivery;

22 “(bb) shall not accept a de-
23 livery sale order from a person
24 without—

1 “(AA) obtaining the
2 full name, birth date, and
3 residential address of that
4 person; and

5 “(BB) verifying the in-
6 formation provided in sub-
7 paragraph (A), through the
8 use of a commercially avail-
9 able database or aggregate
10 of databases, consisting pri-
11 marily of data from govern-
12 ment sources, that are regu-
13 larly used by government
14 and businesses for the pur-
15 pose of age and identity
16 verification and authentica-
17 tion, to ensure that the pur-
18 chaser is at least the min-
19 imum age required for the
20 legal sale or purchase of
21 vapor products, as deter-
22 mined by the applicable law
23 at the place of delivery; and

24 “(cc) shall not make any
25 such delivery without first obtain-

1 ing, at the place of delivery, the
2 signature of a person who is not
3 younger than the minimum age
4 described in item (aa);

5 “(II) that no database being used
6 for age and identity verification pur-
7 suant to subclause (I)(bb)(BB) shall
8 be in the possession or under the con-
9 trol of the delivery seller, or be subject
10 to any changes or supplementation by
11 the delivery seller; and

12 “(III) for definitions of the terms
13 ‘delivery sale’, ‘delivery seller’, ‘online
14 marketplace’, and ‘vapor products’.

15 “(iii) DEFINITIONS.—To the extent
16 the Secretary determines is appropriate
17 and practicable, in issuing regulations re-
18 ferred to in clause (ii)(III), the Secretary
19 shall define the terms specified in such
20 clause consistent with the following defini-
21 tions:

22 “(I) The term ‘delivery sale’
23 means a sale of vapor products in
24 which—

1 “(aa) the consumer submits
2 the order for the sale by means
3 of a telephone or other method of
4 voice transmission, the mail or
5 common carrier, or the Internet
6 or other online service, or the
7 seller is otherwise not in the
8 physical presence of the buyer
9 when the request for purchase or
10 order is made; or

11 “(bb) the vapor products are
12 delivered to the buyer by common
13 carrier, private delivery service,
14 or other method of remote deliv-
15 ery, or the seller is not in the
16 physical presence of the buyer
17 when the buyer obtains posses-
18 sion of the vapor products.

19 “(II) The term ‘delivery seller’
20 means a person who makes a delivery
21 sale, or provides an online market-
22 place to facilitate a delivery sale.

23 “(III) The term ‘online market-
24 place’ means an online portal or other
25 digital or similar platform that facili-

1 tates the sale of products to con-
2 sumers, through retail sale, auction,
3 or similar transactions.

4 “(IV) The term ‘vapor prod-
5 uct’—

6 “(aa) means any non-com-
7 bustible product that employs a
8 heating element, power source,
9 electronic circuit, or other elec-
10 tronic, chemical, or mechanical
11 means, regardless of shape or
12 size, to produce vapor from nico-
13 tine in a solution or other form;

14 “(bb) includes any electronic
15 cigarette, electronic cigar, elec-
16 tronic cigarillo, electronic pipe, or
17 similar product or device, and
18 any vapor cartridge or other con-
19 tainer of nicotine in a solution or
20 other form; and

21 “(cc) does not include a
22 drug or device.”.

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