

116TH CONGRESS  
1ST SESSION

# H. R. 3942

To apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2019

Ms. DELAURO (for herself, Mr. ARMSTRONG, Mr. COLLINS of Georgia, Mr. RASKIN, Mr. WILSON of South Carolina, Mr. CORREA, Mr. WOMACK, Ms. LOFGREN, Mr. DUFFY, Mr. HILL of Arkansas, Mr. GALLAGHER, and Mrs. BEATTY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, 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 “Preventing Online  
5   Sales of E-Cigarettes to Children Act”.

### 6   **SEC. 2. AMENDMENTS TO THE JENKINS ACT.**

7       (a) IN GENERAL.—The Act entitled “An Act to assist  
8   States in collecting sales and use taxes on cigarettes”, ap-

1 proved October 19, 1949 (commonly known as the “Jen-  
2 kins Act”) (15 U.S.C. 375 et seq.), is amended—

3 (1) in section 1 (15 U.S.C. 375)—

4 (A) in paragraph (2)(A)(ii)—

5 (i) by striking “includes roll-your-own  
6 tobacco” and inserting the following: “in-  
7 cludes—

8 “(I) roll-your-own tobacco”;

9 (ii) in subclause (I), as so designated,  
10 by striking the period at the end and in-  
11 serting “; and”; and

12 (iii) by adding at the end the fol-  
13 lowing:

14 “(II) an electronic nicotine deliv-  
15 ery system.”;

16 (B) by redesignating paragraphs (7)  
17 through (14) as paragraphs (8) through (15),  
18 respectively; and

19 (C) by inserting after paragraph (6) the  
20 following:

21 “(7) ELECTRONIC NICOTINE DELIVERY SYS-  
22 TEM.—The term ‘electronic nicotine delivery sys-  
23 tem’—

24 “(A) means any electronic device that,  
25 through an aerosolized solution, delivers nico-

1           tine, flavor, or any other substance to the user  
2           inhaling from the device;

3           “(B) includes—

4                 “(i) an e-cigarette;

5                 “(ii) an e-hookah;

6                 “(iii) an e-cigar;

7                 “(iv) a vape pen;

8                 “(v) an advanced refillable personal  
9           vaporizer;

10                “(vi) an electronic pipe; and

11                “(vii) any component, liquid, part, or  
12           accessory of a device described in subpara-  
13           graph (A), without regard to whether the  
14           component, liquid, part, or accessory is  
15           sold separately from the device; and

16           “(C) does not include a product that is—

17                “(i) approved by the Food and Drug  
18           Administration for—

19                   “(I) sale as a tobacco cessation  
20           product; or

21                   “(II) any other therapeutic pur-  
22           pose; and

23                “(ii) marketed and sold solely for a  
24           purpose described in clause (i).”; and

1           (2) in section 2A(b)(1) (15 U.S.C. 376a(b)(1)),  
2       by inserting “NICOTINE/” after “CIGARETTES/  
3       ”.

4       (b) EFFECTIVE DATE.—This section, and the amend-  
5       ments made by this section, shall take effect on the date  
6       that is 90 days after the date of enactment of this Act.

7       **SEC. 3. NONMAILABILITY OF ELECTRONIC NICOTINE DE-**  
8                                   **LIVERY SYSTEMS.**

9       (a) REGULATIONS.—Not later than 120 days after  
10      the date of enactment of this Act, the United States Postal  
11      Service shall promulgate regulations to clarify the applica-  
12      bility of the prohibition on mailing of cigarettes under sec-  
13      tion 1716E of title 18, United States Code, to electronic  
14      nicotine delivery systems, in accordance with the amend-  
15      ment to the definition of “cigarette” made by section 2.

16      (b) EFFECTIVE DATE.—The prohibition on mailing  
17      of cigarettes under section 1716E of title 18, United  
18      States Code, shall apply to electronic nicotine delivery sys-  
19      tems on and after the date on which the United States  
20      Postal Service promulgates regulations under subsection  
21      (a) of this section.

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