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112TH CONGRESS
1ST SESSION

S. 1461

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2011

Mr. NELSON of Florida (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Traditional Cigar Manufacturing and Small Business Jobs Preservation Act of 2011".

SEC. 2. LIMITATION OF AUTHORITY WITH RESPECT TO PREMIUM CIGARS.

(a) EXCEPTION FOR TRADITIONAL LARGE AND PREMIUM CIGARS.—Section 901(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387a(c)) is amended—

(1) in paragraph (2), in the heading, by inserting "FOR CERTAIN TOBACCO LEAF" after "AUTHORITY"; and

(2) by adding at the end the following:

"(3) LIMITATION OF AUTHORITY FOR CERTAIN CIGARS.—

"(A) IN GENERAL.—The provisions of this chapter (except for section 907(d)(3)) shall not apply to traditional large and premium cigars.

"(B) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves traditional large and premium cigars.

"(C) TRADITIONAL LARGE AND PREMIUM CIGAR DEFINED.—For purposes of this paragraph, the term 'traditional large and premium cigar'—

"(i) means any roll of tobacco that is wrapped solely in leaf tobacco, contains no

filter, and weighs at least 6 pounds per 1,000 count; and

"(ii) does not include a cigarette (as such term is defined by section 900(3)) or a little cigar (as such term is defined by section 900(11)).".

(b) CONFORMING AMENDMENTS.—Section 919(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387s(b)) is amended—

(1) in paragraph (2)(B)(II), by inserting ", but excluding traditional large and premium cigars (as such term is defined under section 901(c)(3))" before the period; and

(2) in paragraph (5), by inserting "subject to section 901(c)(3)," before "if a user fee".

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