country and not to travel to Greece: Now, therefore, it be
Resolved, That the Senate—
(1) urges the Government of the former Yugoslav Republic of Macedonia to work within the framework of the United Nations process with Greece to achieve longstanding United States and United Nations policy goals with respect to the former Yugoslav Republic of Macedonia and to the Yugoslav Republic of Macedonia to abstain from hostile activities and stop violating provisions of the United Nations-brokered Interim Agreement between the former Yugoslav Republic of Macedonia and Greece regarding ‘‘hostile activities or propaganda’’. AMENDMENTS SUBMITTED AND PROPOSED
SA 1257. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. Dodd to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table.
SA 1258. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. Dodd to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4. INCREASED CONTRIBUTIONS FROM USERS OF TOBACCO PRODUCTS UNDER FEDERAL EMPLOYEES’ HEALTH BENEFITS PLANS.

(a) IN GENERAL.—Section 8006 of title 5, United States Code, is amended—
(1) by adding at the end the following:
‘‘(1) any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials that are not used in manufacturing a component, part, or accessory of a tobacco product); and
(2) shall not include an article that is a drug under subsection (g)(1) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), a device under subsection (h) of that section, or a combination product described in section 503(f)(1) of that Act; and
(C) the term ‘user of a tobacco product’ means an individual who has used a tobacco product within the last 12 months.

(b) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to contracts entered into under section 8002 of title 5, United States Code, that take effect after December 9, 2010.

SA 1259. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. Dodd to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

‘‘(3) The Government contribution paid for each enrollee, as applicable, shall be—
(A) reduced by the dollar amount of the increase adjusted under paragraph (2)(A); or
(B) increased by the dollar amount of the reduction adjusted under paragraph (2)(B).

(4) Any adjustment under this subsection shall be subject to the limitation under subsection (b)(2).’’

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SA 1260. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 903(a)(2) of the Food, Drug, and Cosmetic Act (as added by section 101), strike paragraph (C).
SA 1264. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 102(a)(2), insert after subparagraph (D) the following paragraph:

``(E) strike ‘and in paragraph (b)(2) of this section’ from section 897.14(b)(1), and strike section 897.14(b)(2);’’.

SA 1265. Mr. ALEXANDER (for himself, Mr. VITTER, Mr. CORNYN, Mr. ISAKSON, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. RESTRICTIONS ON TARP EXPENDITURES FOR AUTOMOBILE MANUFACTURERS AND SUPPLIERS.—NONREIMBURSEMENT OF TARP PAYMENTS; REQUIRED ISSUIANCE OF COMMON STOCK TO TAXPAYERS.

(a) SHORT TITLE.—This section may be cited as the “Auto Stock for Every Taxpayer Act”.

(b) PROHIBITION ON FURTHER TARP FUNDS.—Except as provided in this section, the Secretary may not expend any funds made available under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), or any other provision of law, the Secretary may not expend or obligate any funds made available under that Act or on or after the date of enactment of this Act with respect to any designated automobile manufacturer.

(c) CLASSIFICATION OF DEBT TO SHAREHOLDERS.—With respect to any designated automobile manufacturer, the Secretary, and the designee of the Secretary who is responsible for the exercise of shareholder voting rights with respect to a designated automobile manufacturer pursuant to assistance provided under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), or any other provision of law, the Secretary may not expend or obligate any funds made available under that Act or on or after the date of enactment of this Act with respect to any designated automobile manufacturer.

(d) REQUIRED ISSUANCE OF COMMON STOCK TO ELIGIBLE TAXPAYERS.—Not later than 1 year after the emergence of any designated automobile manufacturer from bankruptcy protection described in subsection (c)(1)(B), the Secretary shall issue a certificate of nonvoting common stock to each eligible taxpayer, which shall represent such taxpayer’s share of the aggregate common stock holdings of the United States Government in the designated automobile manufacturer on such date.

(e) CIVIL ACTIONS AUTHORIZED.—A person who is aggrieved of a violation of the fiduciary duty established under subsection (c) may bring a civil action in an appropriate United States district court to obtain injunctive or other equitable relief relating to the violation.

(f) DEFINITIONS.—As used in this section—

(1) the term “designated automobile manufacturer” means an entity organized under the laws of a State, the primary business of which is the manufacture of automobiles, and any affiliate thereof, if such automobile manufacturer—

(A) has received funds under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), or funds were obligated under that Act, before the date of enactment of this Act; and

(B) has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 90-day period preceding the date of enactment of this Act; and

(2) the term “eligible taxpayer” means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension); and

(3) the term “Secretary” means the Secretary of the Treasury or the designee of the Secretary;

and

(4) the terms “director”, “issuer”, “securities”, and “securities laws” have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

SA 1266. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1247 proposed by Mr. DONIN to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. HEALTHY BEHAVIOR INCENTIVE PROGRAMS.

(a) MEDI CAL STATE PLAN AMENDMENT.—Section 1902(a)(74) of the Social Security Act (42 U.S.C. 1396d(g)(1)) is amended—

(1) in paragraph (a)—

(A) by striking “(74)” and inserting “and”; and

(B) by inserting after paragraph (73), the following new paragraph:

“(74) provide that, not later than October 1, 2011, the State shall provide incentives to reward individuals who have in effect a program described in subsection (gg) to reward and encourage individuals determined to be eligible for medical assistance under the plan to reduce or eliminate their use of tobacco products;

(2) by adding at the end the following new subsection:

``(gg) For purposes of subsection (a)(74), a program described in this subsection is a program under which the State—

(A) provides incentives to reward individuals determined to be eligible for medical assistance under the State plan who have attained age 19 but not attained age 65, to condition the individual’s enrollment in the State plan on participating in the program and successfully refrain from tobacco use;

(B) notwithstanding any other provision of this title, may elect with respect to individuals determined to be eligible for medical assistance under the State plan who have attained age 19 but not attained age 65, to condition the individual’s enrollment in the State plan on participating in the program;

(C) notwithstanding any other provision of this title, may elect with respect to individuals determined to be eligible for medical assistance under the State plan, or to impose cost-sharing without regard to sections 1916 and 1915(b) in such manner as the State determines is likely to be effective in reducing the use of tobacco products by individuals eligible for medical assistance under the State plan; and

(D) agrees to provide the Secretary with such information as the Secretary requires for purposes of producing the State ratings required under paragraph (2);''.

(b) APPLICATI ON TO THE STATE CHIL DREN’S HEALTH INSURANCE PROGRAM.—Section 2107(c)(2)(B) of the Social Security Act (42 U.S.C. 1396n(c)(2)(B)) is amended—

(1) by redesignating subparagraphs (D) through (L) as subparagraphs (E) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

“(D) Section 1902(a)(74) (relating to an incentive program for the reduction or elimination of the use of tobacco products).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the first day of the second annual calendar quarter commencing after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX or a State child health assistance plan under the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of this title solely on the basis of its failure to meet those additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SA 1267. Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

In section 102(a)(2), insert after subparagraph (D) the following paragraph:

``(E) strike ‘and in paragraph (b)(2) of this section’ from section 897.14(b)(1), and strike section 897.14(b)(2);’’.
Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 907 of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)(3) of title I of division A), add the following:

“(f) Pesticides.—Nothing in this section affects the authority of the Administrator of the Environmental Protection Agency to regulate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).”.

SA 1268. Mr. Chambliss (for himself and Mr. Roberts) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter IX of the Federal Food, Drug, and Cosmetic Act (as added by section 101(b)(3) of title I of division A), add the following:

“SEC. 920. PESTICIDES.

‘Nothing in this chapter affects the authority of the Administrator of the Environmental Protection Agency to regulate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).’.

SA 1269. Mr. Bayh (for himself, Mr. Burris, Mr. Lieberman, Mr. Warner, Mr. Webb, Mr. Nelson of Nebraska, and Mr. Begich) submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

DIVISION.—NURSE FACULTY LOAN REPAYMENT PROGRAM

SEC. 1. SHORT TITLE.
This division may be cited as the ‘‘Nurses' Higher Education and Loan Repayment Act of 2009’’.

SEC. 2. FINDINGS.
The Congress finds the following:

(1) The shortage of qualified nursing faculty is a primary factor driving the inability of nursing schools to graduate more registered nurses to meet the Nation's growing workforce demand.

(2) The shortage of qualified nursing faculty is a primary factor driving the inability of nursing schools to graduate more registered nurses to meet the Nation's growing workforce demand.

(3) The Secretary shall provide for the waiver or suspension of paragraph if compliance by the individual with the agreement involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

(4) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of paragraph if compliance by the individual with the agreement involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

(5) DA REACH OF AGREEMENT.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the Secretary becomes aware of such a violation of the agreement.

(6) AVAILABILITY.—Amounts recovered under paragraph (1) shall be available to the Secretary for making loan repayments under this division and shall remain available for such purpose until expended.

(7) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'eligible individual' means an individual who

(a) is a United States citizen, national, or lawful permanent resident;

(b) holds an encumbered license as a registered nurse; and

(c) has either already completed a master's or doctorate nursing program at an accredited school of nursing or is currently enrolled on a full-time or part-time basis in such a program.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2010 through 2014 to carry out this Act. Such sums shall remain available until expended.

(9) STUDY.—The Secretary shall conduct a study to determine the extent to which the provisions of this section shall terminate on December 31, 2020.”.

SA 1270. Mr. Corker submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain

ing estimates that 88,000 qualified applications, or 1 out of every 3 submitted to basic registered nurse programs in 2006, were rejected due to lack of capacity.

(4) The Addition of Colleges of Nursing (in this section referred to as the “AACN”) estimates that 49,948 applicants were turned away specifically from baccalaureate nursing programs in 2008 and over 70 percent of the schools responding to the AACN survey reported a lack of nurse faculty as the number one reason for turning away qualified applicants. Similarly, nearly 70 percent of the associate's degree registered nurse programs responding to the most recent American Association of Community Colleges survey reported a lack of faculty to teach as the number one reason for turning away qualified applicants.

(5) Large numbers of faculty members at schools of nursing in the United States are nearing retirement. According to the AACN, the average age of a nurse faculty member is 55 years old and the average age at retirement is 62.

(6) The current nationwide nurse faculty vacancy rate is estimated to be as high as 7.6 percent, including 61 vacant positions at schools and universities offering baccalaureate and advanced degrees and, in 2006, as many as 880 in associate's degree programs.

(7) Market forces have created disincentives for individuals qualified to become nurse educators from pursuing this career. The average annual salary for an associate professor with a master's degree is nearly 20 percent less than the average salary for a nurse practitioner with a master's degree, according to the 2007 salary survey by the journal ADVANCE for Nurse Practitioners.

(8) The most recent Health Resources and Services Administration survey data indicate that an aggregate of 2,000,000 registered nurses, only 143,133 registered nurses with a bachelor's degree and only 51,318 registered nurses with an associate's degree have continued their education to earn a master's degree in the science of nursing, the minimum credential necessary to teach in all types of registered nurse programs. The majority of these graduates do not become nurse educators.

(9) Current Federal incentive programs to encourage nurses to become educators are inadequate and inaccessible for many interested nurses.

(10) A broad incentive program must be available to willing and qualified nurses that will provide the financial support and encouragement needed to attract them to pursue and maintain a career in nursing education.

SEC. 3. NURSE FACULTY LOAN REPAYMENT PROGRAM.

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846A the following:

“SEC. 846B. NURSE FACULTY LOAN REPAYMENT PROGRAM.

“(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with eligible individuals for the repayment of education loans, in accordance with this section, to increase the number of qualified nursing faculty.

(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall require that the eligible individual shall serve as a full-time faculty member of an accredited school of nursing for a total period, in the aggregate, of at least 4 years during the 6-year period beginning on the later of—

(1) the date on which the individual receives a master's or doctorate nursing degree from an accredited school of nursing; or

(2) the date on which the individual enters into an agreement under subsection (a).

“(c) AGREEMENT PROVISIONS.—Agreements entered into pursuant to subsection (a) shall be entered into on such terms and conditions as the Secretary may determine, except that—

(1) not more than 300 days after the date on which the 6-year period described in paragraph (b) begins, in no case before the individual starts as a full-time member of the faculty of an accredited school of nursing for the period described in paragraph (b), the Secretary may make repayments, and for on behalf of that individual, on the outstanding principal of, and interest on, any loan the individual obtained to pay for such degree.

(2) for an individual who has completed a master's degree in nursing—

(A) payments may not exceed $15,000 per calendar year; and

(B) total payments may not exceed $80,000; and

(3) for an individual who has completed a doctorate degree in nursing—

(A) payments may not exceed $20,000 per calendar year; and

(B) total payments may not exceed $80,000.

“(d) BREACH OF AGREEMENT.—

(1) IN GENERAL.—In the case of any agreement made under subsection (a), the individual is liable to the Federal government for the total amount paid by the Secretary under such agreement, and for interest on such amount, and in the event the individual fails to meet the agreement terms required under subsection (b).

(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of paragraph if compliance by the individual with the agreement involved is impossible or would involve extreme hardship to the individual or if enforcement of the agreement with respect to the individual would be unconscionable.

(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes aware of such a violation.

(4) AVAILABILITY.—Amounts recovered under paragraph (1) shall be available to the Secretary for making loan repayments under this section and shall remain available for such purpose until expended.

(5) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'eligible individual' means an individual who

(a) is a United States citizen, national, or lawful permanent resident;

(b) holds an encumbered license as a registered nurse; and

(c) has either already completed a master's or doctorate nursing program at an accredited school of nursing or is currently enrolled on a full-time or part-time basis in such a program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2010 through 2014 to carry out this Act. Such sums shall remain available until expended.

(7) STUDY.—The Secretary shall conduct a study to determine the extent to which the provisions of this section shall terminate on December 31, 2020.”.
authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. REIMBURSEMENT OF AUTOMOBILE DISTRIBUTORS.

(a) In General.—Notwithstanding any other provision of law, any funds provided by the United States Government, or any agency, department, or subdivision thereof, to an automobile manufacturer or a distributor thereof as credit, loans, financing, advances, or by any other means, with such automobile manufacturer's or distributor's proceeding as a debtor under title 11, United States Code, shall be conditioned upon use of such funds to fully reimburse all dealers of such automobile manufacturer or manufacturer's distributor for—

(1) the cost incurred by such dealers in acquiring and inventorying the dealer's possession as of the date on which the proceeding under title 11, United States Code, by or against the automobile manufacturer's distributor is commenced, on the same basis as if the dealers were terminating pursuant to existing franchise agreements or dealer agreements; and

(2) all other obligations owed by such automobile manufacturer or manufacturer's distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer's distributor. Incumbency, without limitation, franchise agreement or dealer agreements.

(b) INCLUSION IN TERMS.—Any note, security agreement, loan agreement, or other agreement entered into by an automobile manufacturer or manufacturer's distributor and the Government (or any agency, department, or subdivision thereof) shall expressly provide for the use of such funds as required by this section. A bankruptcy court may not authorize the automobile manufacturer or manufacturer's distributor to obtain credit under section 364 of title 11, United States Code, unless the credit agreement or agreements expressly provided for the use of funds as required by this section or paragraphs (1) and (2) of subsection (a).

(c) EFFECTIVENESS OF REJECTION.—Notwithstanding any other provision of law, any rejection by an automobile manufacturer or manufacturer's distributor that is a debtor in a proceeding under title 11, United States Code, of a franchise agreement or dealer agreement pursuant to section 365 of that title, shall not be effective until at least 180 days after the date on which such rejection is otherwise approved by a bankruptcy court.

SA 1271. Mr. KOHL (for himself, Ms. SNOWE, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by Mr. KOHL to the bill S. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE —PREVENT ALL CIGARETTE TRAFFICKING ACT

SEC. 01. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This title may be cited as the “Prevent All Cigarette Trafficking Act of 2009” or “FACT Act”.

(b) PURPOSES.—It is the purpose of this title to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to abiding tobacco retailers; and

(2) provide government enforcement officials with more effective enforcement tools to combat cigarette and smokeless tobacco trafficking.

SEC. 02. COLLECTION OF STATE CIGARETTE AND SMOKELESS-TABacco TAXES.

(a) DEFINITIONS; RULE OF CONSTRUCTION.

(1) As used in this Act, the following definitions apply:

(A) Attorney General.—The term ‘attorney general’, with respect to a State, means the Attorney General of the United States or the State's Attorney General.

(B)首次.—The term ‘first’, with respect to a State, means the Attorney General of the United States or the State's Attorney General, as the first person to whom the matter is assigned.

(C) CIGARETTE.—The term ‘cigarette’—

(i) means any tobacco product containing tobacco, that is intended to be placed in the oral or nasal cavity or to be chewed; and

(ii) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

(D) Common Carrier.—The term ‘common carrier’—

(i) means a person that purchases cigarettes or smokeless tobacco; and

(ii) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

(2) Delivery Seller.—The term ‘delivery seller’ means a person who sells cigarettes or smokeless tobacco to a consumer—

(A) on the Internet or by computer, or by voice transmission; or

(B) by any other method of remote delivery, or the seller is not in the physical presence of the buyer when the sale occurs; or

(3) Indian Tribe.—The term ‘Indian tribe’, ‘tribe’, or ‘tribal’ refers to an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 465a-1).

(4) Intestate Commerce.—The term ‘intestate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian tribe in the State, or commerce between points in the same State but through any place outside the State or through any Indian tribe in the State.

(5) PERSON.—The term ‘person’ means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

(6) Separate States.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(7) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being burned.

(8) Tobacco Tax Administrator.—The term ‘tobacco tax administrator’ means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

(9) Use.—The term ‘use’ includes the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.

(b) RULE OF CONSTRUCTION.—For purposes of this Act, a sale, shipment, or transfer of cigarettes or smokeless tobacco that is made by an Indian tribe, or on Indian land, shall be deemed to have been made into the State, place, or locality in which such cigarette or smokeless tobacco was delivered.

(c) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking ‘cigarettes’ each place it appears and inserting ‘cigarettes or smokeless tobacco’;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ‘CONTENTS.—’ after ‘(a)’;

(ii) by striking ‘or transfers’ and inserting ‘or transfers’;

and

(iv) by striking ‘other than a State’ and inserting ‘locality, or Indian country of an Indian tribe’ after ‘a State’;

and

(v) by striking ‘or transfer and shipment’ and inserting ‘or transfer, and shipment’;

and

(d) RULE OF CONSTRUCTION.—For purposes of this Act, a sale, shipment, or transfer of cigarettes or smokeless tobacco that is made by an Indian tribe, or on Indian land, shall be deemed to have been made into the State, place, or locality in which such cigarette or smokeless tobacco was delivered.

SEC. 03. AUTHORITY TO REGULATE TOBACCO PRODUCTS.

(A) In General.—The term ‘tobacco product’ includes all tobacco products, which the term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

(B) Inclusion in Terms.—Any note, security agreement, loan agreement, or other agreements entered into by an automobile manufacturer or manufacturer’s distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer’s distributor under any other agreement between the dealers and the automobile manufacturer or manufacturer’s distributor. Incumbency, without limitation, franchise agreement or dealer agreements.

(c) EFFECTIVENESS OF REJECTION.—Notwithstanding any other provision of law, any rejection by an automobile manufacturer or manufacturer's distributor that is a debtor in a proceeding under title 11, United States Code, of a franchise agreement or dealer agreement pursuant to section 365 of that title, shall not be effective until at least 180 days after the date on which such rejection is otherwise approved by a bankruptcy court.

SEC. 04. CONSUMPTION, STORAGE, HANDLING, OR DISPOSAL OF CIGARETTE OR SMOKELESS TOBACCO.

(A) In General.—The term ‘cigarette’—

(i) means any tobacco product containing tobacco, that is intended to be placed in the oral or nasal cavity or to be chewed; and

(ii) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

(B) Delivery Seller.—The term ‘delivery seller’ means a person who sells cigarettes or smokeless tobacco to a consumer—

(1) on the Internet or by computer, or by voice transmission; or

(2) by any other method of remote delivery, or the seller is not in the physical presence of the buyer when the sale occurs; or

(3) INTESTATE COMMERCE.—The term ‘interstate commerce’ means commerce between a State and any place outside the State, commerce between a State and any Indian tribe in the State, or commerce between points in the same State but through any place outside the State or through any Indian tribe in the State.

(4) CONSUMER.—The term ‘consumer’—

(A) means a person who purchases cigarettes or smokeless tobacco; and

(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

(5) Delivery Sale.—The term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco to a consumer—

(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.
for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person;

(b) by inserting "persuasive evidence," after "(b)");

(2) Failure to Label.—Any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: "CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, LICENSES AND STAMPING REQUIREMENTS.

(2)(F) AILURE TO LABEL. — Any shipping package, on the outside of the shipping package, the delivery seller shall include a method of mailing or shipping that requires —

(i) the purchaser, in making the sale, order, or purchase, to show that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

(ii) the person who signs to accept delivery of the shipping container at the delivery address; and

(iii) the person placing the delivery sale order, or the delivery seller, or both, to verify that the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

(iv) the delivery seller shall keep a record of any delivery sale, including the name, address, and phone number of the delivery seller, the person placing the delivery sale order, or the delivery seller, or both.

(c) Record Requirements.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section (6)(a), organized by the delivery seller, and within the State, by city or county and by zip code, into which the delivery sale is so made.

(3) Record Retention.—Records of a delivery sale shall be kept as described in paragraph (1) until the end of the 4th full calendar year that begins after the date of the delivery sale.

(4) Treatment of Records for Official Use. — Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that are entitled to make the delivery sale.

(5) Updating.—The Attorney General of the United States shall update and distribute the list of noncompliant delivery sellers at least every 4 months, and may distribute the list and any updates by regular mail to any person engaged in the business of interstate deliveries or who delivers cigarette or smokeless tobacco in or into any State.
mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General of the United States has published:

(‘‘D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list described in subparagraph (A) names of common carriers, delivery services, or delivery sellers maintained and distributed by any entity other than the Federal Government.

(‘‘E) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

(‘‘i) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on for the purpose of determining that a delivery service is not in compliance with this paragraph—

(‘‘ii) not later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller through official mail, or, where means that the delivery seller is being placed on the list, which shall cite the relevant provisions of this Act and the specific reasons for which the delivery seller is being placed on the list;

(‘‘iii) provide an opportunity to the delivery seller to challenge placement on the list;

(‘‘iv) investigate each challenge described in clause (iii) by contacting the relevant Federal, State, tribal, and local law enforcement agencies and, upon request, the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

(‘‘v) if the Attorney General of the United States determines that the basis for including a delivery seller on the list is inaccurate, based on incomplete information, or cannot be verified, promptly remove the delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of the determination.

(‘‘F) RECORDS.—A common carrier or other delivery service as if the delivery of the package had been timely completed; and

(‘‘G) CONSUMER INFORMATION.—Any person receiving records under subparagraph (B) shall—

(‘‘i) use the records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco to consumers; and

(‘‘ii) keep confidential any personal information in the records not otherwise required for such purposes.

(‘‘H) PREEMPTION.—Any person receiving records under subparagraph (B) shall—

(‘‘A) IN GENERAL.—Nothing in this paragraph shall be construed to nullify, expand, restrict, or otherwise amend or modify—

(‘‘i) any State law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4) of title 49, United States Code;

(‘‘ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

(‘‘iii) any provision of State, local, or tribal law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4) of title 49, United States Code.

(‘‘B) STATE LAWS PROHIBITING DELIVERY SALES.—

(‘‘A) IN GENERAL.—Except as provided in clause (ii), nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal or State statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to such sales, of cigarettes or tobacco products to individual consumers or personal residences.

(‘‘B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

(‘‘C) STATE LAWS PROHIBITING DELIVERY SALES.—

(‘‘A) IN GENERAL.—Except as provided in clause (ii), nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal or State statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to such sales, of cigarettes or tobacco products to individual consumers or personal residences.

(‘‘B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.
(ii) EXCEPTIONS.—No State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residences without proof that the common carrier is not exempt under paragraph (3) of this subsection.

(b) STATE, LOCAL, AND TRIBAL ADDITIONS.—

(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General of the United States with—

(i) all known names, addresses, website addresses, or other identifying information of delivery sellers that—

(I) offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land; and

(ii) has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

(B) UPDATES.—Any government providing a list under subparagraph (A) shall also provide updates and corrections every 4 months until such time as the government notifies the Attorney General of the United States in writing that the government no longer desires to submit information to supplement the list described in paragraph (1)(A).

(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list described in paragraph (1)(A) any persons that are on the list solely because of the prior submission of the government. In the event of a withdrawal of the list of the government of noncomplying delivery sellers of cigarettes or smokeless tobacco a subsequent update or correction by the government shall be subject to the provisions of this Act.

(7) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall—

(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (6) in any list or update that is distributed or made available under this section; and

(B) distribute any list or update described in subparagraph (A) to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (6).

(8) NOTICE TO DELIVERY SELLERS.—Not later than 30 days before including any delivery seller on the initial list described in paragraph (1)(A), or on an update to the list for the first time, the Attorney General of the United States shall mail a notice of regular practice, to make any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco or—

(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

(D) OTHER LIMITS.—

(1) IN GENERAL.—Except as provided in paragraph (4), whoever knowingly violates this Act shall be imprisoned for not more than 3 years, fined under title 18, United States Code, or both.

(2) PENALTIES.—Any common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

(i) the common carrier or independent delivery service has been initiated or ordered by the delivery seller to violate, or otherwise evade compliance with, section 2A(e) or

(ii) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).

(e) ENFORCEMENT.—(i) The Attorney General, or a local government or tribal government that has been identified and submitted by a State, local, or tribal government under paragraph (6), shall have the power to sue for a violation of this Act. Any suit under this subsection may be maintained in any United States district court to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

(2) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, or to otherwise restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

(3) PROVISION OF INFORMATION.—(A) STANDING.—Any person, including the Attorney General of a State or the chief law enforcement officer of an Indian tribe, may bring a suit under this Act to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any uncontested lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.
law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of the Prevent All Cigarette Trafficking Act of the United States or a United States attorney, who shall take appropriate actions to enforce this Act.

(3) USE OF PENALTIES COLLECTED.—
   (A) IN GENERAL.—There is established a separate account in the Treasury known as the ‘PACT Anti-Trafficking Fund’. Notwithstanding any provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the Federal Government enforcement actions for enforcing this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing this Act and other laws relating to contraband tobacco products.

   (B) ALLOCATION OF FUNDS.—Of the amount available to the Attorney General of the United States under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

(4) INCLUSION OF REMEDY.—
   (A) IN GENERAL.—The remedies available under this section and section 3 in addition to any other remedies available under Federal, State, or local law.

   (B) STATE COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

   (C) TRIBAL COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

(5) LOCAL GOVERNMENT ENFORCEMENT.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

(6) PERSONS DEALING IN TOBACCO PRODUCTS.—Nothing in this Act shall weigh not more than 10 pounds or otherwise be nonmailable tobacco products sent through the mails as authorized under this Act.

(7) BUSINESS PURPOSES.—
   (A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

   (B) RULES.—In general.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule, after providing for an opportunity for public comment, as required by any applicable law, that defines the term ‘minor’ and specifies the standards and requirements that apply to all mailings described in subparagraph (A).

   (ii) CONTENTS.—The final rule issued under this paragraph shall include the following:

   (I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package and is not a minor; and

   (II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor.

   (VIII) that any package mailed under this paragraph shall weigh not more than 10 ounces.

   (VIII) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of delivery.

   (VIII) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package.

   (V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make that information available to the United States Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009.

   (VI) that any mailing described in subparagraph (A) be delivered only to a verified employee of the recipient business or government agency, who is not a minor and who shall be required to sign for the mailing.

   (C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

   (D) CERTAIN INDIVIDUALS.—
   (A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

   (B) RULES.—In general.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule, after providing for an opportunity for public comment, as required by any applicable law, that defines the term ‘minor’ and specifies the standards and requirements that apply to all mailings described in subparagraph (A) and that provides for the tracking and confirmation of delivery.

   (I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package; and

   (II) the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor.

   (V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make that information available to the United States Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009.

(4) USE OF PENALTIES COLLECTED.—
   (A) IN GENERAL.—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for mailing through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this Act.

   (B) REASONABLE CAUSE.—For the purposes of this subsection reasonable cause includes—

   (i) a statement on a publicly available website, or an advertisement, by any person that the person will mail matter which is nonmailable under this section in return for payment;

   (ii) the fact that the person is on the list created under section 2(a) of the Jenkins Act.

   (B) EXCEPTIONS.—
   (i) CIGARS.—Subsection (a) shall not apply to cigars (as defined in section 5702(a) of the Internal Revenue Code of 1986).

   (ii) GEOGRAPHIC EXCEPTION.—Subsection (a) shall not apply to mailings within the State of Alaska or within the State of Hawaii.

   (iii) BUSINESS PURPOSES.—
   (A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed only—

   (I) for a person or entity that is a manufacturer or wholesaler, retail business, or government agency who is not a minor and who shall be required to sign for the mailing; and

   (IV) to a person who is not a minor and who shall be required to sign for the mailing.

   (B) RULES.—In general.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule, after providing for an opportunity for public comment, as required by any applicable law, that defines the term ‘minor’ and specifies the standards and requirements that apply to all mailings described in subparagraph (A) and that provides for the tracking and confirmation of delivery.

   (I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package; and

   (II) the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor.

   (V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make that information available to the United States Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009.
States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air Army Postal Office or any other class of mail other than first class mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed.

VII. that no person may initiate more than 10 mailings described in subparagraph (A) during a period.

DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or use of tobacco products as determined by applicable law at the place the individual is located.

(5) The use of Mailing for Consumer Testing by Manufacturers.—

(A) In General.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer from mailing through a legally authorized agent, to mail cigarettes to individual located in any State that prohibits the delivery or shipment of cigarettes to individuals located in any State that prohibits the delivery or shipment of cigarettes.

(B) Limitations.—Subparagraph (A) shall not preclude a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes.

(C) Consumer Testing Purposes.—Any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery.

(D) Consumer Testing Purposes.—Any mailing described in subparagraph (A) shall be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult.

(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

(2) Definitions.—In this paragraph—

(i) the term ‘adult’ means an individual who is not less than 18 years of age; and

(ii) the term ‘consumer testing’ means testing limited to formal data collection and analysis of product performance, and use by the manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette consumption by the manufacturer in the United States during the calendar year before the date of the mailing.

(3) Rules.—

(i) In General.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

(ii) CONTENTS.—The final rule issued under clause (i) shall require—

(A) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer who is permitted to make a mailing under this paragraph, or an agent legally authorized by the manufacturer to submit cigarettes to be mailed and to transfer or deliver them.

(B) the legally operating cigarette manufacturer submitting the cigarettes to be mailed to provide the Federal Government for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

(5) Federal Government Agencies.—An agency that is involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, restrictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay the recipients for participating in the consumer testing.

(6) Seizure and Forfeiture.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco product that is forfeited under this subsection shall be destroyed or retained by the Federal Government for the detection or prosecution of crimes or related investigations.

(b) Additional Penalties.—In addition to any other fines and penalties under this title for violations of this section, any person who makes a mailing under this subsection subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

(c) Criminal Penalty.—Whoever knowingly deposits for mailing or delivery, or causes to be deposited for mailing, any tobacco product into the mails, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, shall be subject to the penalties provided in section 1087 of title 18, United States Code, for a violation of this subsection, and

(d) Clerical Amendment.—The table of sections for chapter 83 of title 18 is amended.
by inserting after the item relating to section 1716D the following: 

“1716E. Tobacco products as nonmailable.”.

SEC. 66. ENHANCED CONTRABAND TOBACCO ENFORCEMENT. 

(a) REQUIREMENTS.—The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall— 

(1) create a Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as the coordinating body for all ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world; 

(2) create a covert national warehouse for undercover operations; and 

(3) establish a computer database that will track and analyze information from retail vendors of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales. 

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $8,500,000 for each of fiscal years 2010 through 2014.

SEC. 67. EFFECTIVE DATE. 

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date that is 90 days after the date of enactment of this Act. 

(b) BATFE AUTHORITY.—The amendments made by section 61 of this title shall take effect on the date of enactment of this Act.

SEC. 68. SEVERABILITY. 

If any provision of this title, or any amendment made by this title, or the application thereof to any person or circumstance, is held invalid, then such provision, or application thereof, to the extent that it is invalid, is severable. 

SEC. 69. REPORT CONCERNING THE PRECEDENTIAL EFFECT OF THIS TITLE. 

It is the sense of Congress that unique harms are associated with online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of tobacco products. This title was enacted recognizing the long-standing interest of Congress in upholding compliance with States’ laws regulating remote sales of tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which is intended to help collect cigarette excise taxes, to stop tobacco sales to underage youth, and to help the States enforce their laws that target the online sales of certain tobacco products only. This title is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validation of efforts to collect sales or use taxes on, out-of-State entities that do not have a physical presence within the taxing State.

SA 1272. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes: which was ordered to lie on the table; as follows: 

At the appropriate place, insert the following:

SEC. 50. LABELING CHANGES. 

Section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended by adding at the end the following:

“(A) a revision to the labeling of a drug that is the subject of an application under this subsection is different from the labeling of the listed drug at the time of approval of the application under this subsection, the drug that is the subject of such application shall, notwithstanding any other provision of this Act, be eligible for approval and shall not be considered misbranded under section 502(f) if—

“(A) a revision to the labeling of the listed drug has been approved by the Secretary within 60 days of the expiration of the patent or exclusivity period that otherwise prohibited the approval of the drug under this subsection;

“(B) the Secretary has not determined the applicability of paragraphs (2) through (8) of section 505(i) to the drug that is the subject of the application under this subsection at the time of expiration of such patent or exclusivity period;

“(C) the labeling revision described under subparagraph (A) does not include a change to the ‘Warnings’ section of the labeling; 

“(D) the Secretary does not deem that the absence of such revision to the labeling of the drug that is the subject of the application under this subsection would adversely impact the safe use of the drug;

“(E) the sponsor of the application under this subsection agrees to revise the labeling of the drug that is the subject of such application not later than 60 days after the notification of any changes to such labeling required by the Secretary; and

“(F) such application otherwise meets the applicable requirements for approval under this subsection.”.

SA 1273. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code,
to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees’ Retirement System, and for other purposes; which was ordered:

At the appropriate place, insert the following:

**TITLE**

**AUTOMOBILE VOUCHER PROGRAM**

**SEC. 01. AUTOMOBILE VOUCHER PROGRAM.**

(a) ESTABLISHMENT.—There is established in the Department of Transportation a voluntary program to be known as the “Automobile Voucher Program” through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of an automobile manufactured after model year 2006, upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(b) PROGRAM SPECIFICATIONS.—

(i) Number of Vouchers Per Person and Use of Vouchers

(A) **NUMBER OF VOUCHERS PER PERSON.**—A $4,000 voucher shall be issued under the Program to offset the purchase price or lease price of a new automobile manufactured after model year 2006 and prohibit the dealer from using any additional fees associated with the use of a voucher.

(ii) **PERMITTED USE OF VOUCHERS.**—The voucher to offset any such other rebate or discount;

(iii) **ELECTRONIC VOUCHERS.**—The Secretary shall conduct a public awareness campaign and sources of additional information.

(c) RULEMAKING.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate regulations to implement this section not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) **PROHIBITION ON USE OF VOUCHERS.**—An individual may not use a voucher issued under the Program to offset the purchase price or lease price of an automobile manufactured after model year 2006 or used automobile manufactured after model year 2006 as partial payment or down payment for the purchase or qualifying lease of any other automobile or work truck (as such terms are defined in section 39201(a) of title 49, United States Code).

(d) **ELIGIBILITY.**—Any person who commits a violation described in subsection (b)(1) if the person provides proof satisfactory to the Secretary that the person is eligible for such rebate.

(e) **FEE IMPOSITION.**—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate regulations to implement this section not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) authorize the issuance of an electronic voucher for the automobile manufactured after model year 2006 to the dealer;

(f) **VIOLATION.**—It shall be unlawful for any person to knowingly violate any provision under this section or any regulations issued pursuant to subsection (d).

(g) **Penalties.**—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than $15,000 for each violation.

(h) **INFORMATION TO CONSUMERS AND DEALERS.**—

(i) **IN GENERAL.**—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make available on an Internet Web site and through other means determined by the Secretary information about the Program, including—

(A) how to determine if a vehicle is an eligible trade-in vehicle; and

(B) how to participate in the Program, including how to determine participating dealers.

(i) **PUBLIC AWARENESSCAMPAIGN.**—The Secretary shall conduct a public awareness campaign to inform consumers about the Program and sources of additional information.

(j) **RECORDKEEPING AND REPORT.**—

(k) **EXCLUSION OF VOUCHERS AND REBATES FROM COMMERCE.**—

(l) **Federal Programs.**—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the recipient’s spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program.

(m) **Taxation.**—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(n) **Definitions.**—As used in this section—

(1) the term “automobile” means an automobile or a work truck (as such terms are defined in section 39201(a) of title 49, United States Code);

(2) the term “dealer” means a person licensed by a State who engages in the sale of new or used automobiles to ultimate purchasers;

(3) the term “eligible trade-in vehicle” means an automobile or a work truck (as such terms are defined in section 39201 of title 49, United States Code); and

(4) the term “person” means an individual, partnership, corporation, business trust, or any organized group of persons.

(o) **Program and Sources of Additional Information.**—The term “Program” means the Automobile Voucher Program established under this section;

(p) **Uniformity.**—The term “Program” means the Automobile Voucher Program established under this section;

(q) **Uniformity.**—The term “Program” means the Automobile Voucher Program established under this section.

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(z) **Uniformity.**—The term “Program” means the Automobile Voucher Program established under this section.
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SEC. 03. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before the Committee on Energy and Natural Resources. The business meeting will be held on Tuesday, June 9, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate office building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 10 a.m. in room 106 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 4, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, June 4, 2009 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVATELY OF THE FLOOR

Mr. AKAKA. Madam President, I ask unanimous consent that my fellow, Louise Kitamura, be granted the privileges of the floor for today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that T.J. Kim, a fellow in my office, be granted floor privileges for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Mr. President, I ask unanimous consent that Gail Hansen, a fellow in my office, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.