

104TH CONGRESS
2^D SESSION

H. R. 3821

To restrict the advertising and promotion of tobacco products.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1996

Mr. HANSEN introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restrict the advertising and promotion of tobacco products.

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 “Youth Protection From
5 Tobacco Addiction Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) Cigarette smoking and tobacco use account
2 for approximately 450,000 deaths each year in the
3 United States.

4 (2) Cigarette smoking accounts for approxi-
5 mately \$65,000,000,000 each year in lost productiv-
6 ity and health care costs.

7 (3) Tobacco products are as addictive as co-
8 caine and heroin.

9 (4) Each day in the United States, approxi-
10 mately 3,000 children try their first cigarette, many
11 of whom will become addicted and will die pre-
12 maturely.

13 (5) The tobacco industry spends over
14 \$6,000,000,000 each year to promote and advertise
15 its products using images of sexual attraction, so-
16 phistication, athletic abilities, and good health.

17 (6) The present advertising and promotional
18 themes used by the tobacco industry strongly influ-
19 ence youth tobacco use and it is in the Government's
20 interests to prohibit tobacco advertising and pro-
21 motion to discourage the use of tobacco by the Na-
22 tion's youth.

23 (7) In spite of the well established and well
24 known dangers of tobacco products, the tobacco in-

1 industry has for years denied that their products cause
2 disease or are addictive.

3 (8) Of adult smokers, 82 percent smoked their
4 first cigarette before the age of 18. Of young people
5 who become regular smokers, 70 percent regret their
6 decision to smoke.

7 (9) Voluntary agreements with the tobacco in-
8 dustry, which have been attempted for more than 30
9 years, have been shown to be ineffective.

10 **SEC. 3. LIMITATIONS ON TOBACCO ADVERTISING, PRO-**
11 **MOTION, AND PACKAGING.**

12 (a) ADVERTISING.—It shall be unlawful for any man-
13 ufacturer, packer, distributor, importer, or seller of to-
14 bacco products in or affecting commerce to advertise or
15 cause to be advertised any tobacco product.

16 (b) PROMOTION.—It shall be unlawful to—

17 (1) distribute any tobacco product as a free
18 sample or to make any tobacco product available at
19 no cost as the result of coupons or other method
20 which allows tobacco products to be obtained for free
21 or for reduced cost;

22 (2) sponsor or cause to be sponsored any ath-
23 letic, music, artistic, or other event in the name of
24 a registered brand name, logo, or symbol of a to-
25 bacco product or in a manner so that a registered

1 brand name, logo, or symbol of a tobacco product is
2 publicly identified as a sponsor of or in any way as-
3 sociated with such an event, except if the registered
4 brand name is also the name of the corporation
5 which manufactures the tobacco product and both
6 the registered brand and the corporation were in ex-
7 istence prior to January 1, 1996;

8 (3) market or cause to be marketed nontobacco
9 products or services which bear the name of a reg-
10 istered brand name, logo, symbol of a tobacco prod-
11 uct, except if the registered brand name is also the
12 name of the corporation which manufactures the to-
13 bacco product and both the registered brand and the
14 corporation were in existence prior to January 1,
15 1996;

16 (4) pay or cause to be paid to have any tobacco
17 product or the registered brand name, logo, or sym-
18 bol of any tobacco product appear in any movie, tele-
19 vision show, play, video arcade game, or other form
20 of entertainment, except if the registered brand
21 name is also the name of the corporation which
22 manufactures the tobacco product and both the reg-
23 istered brand and the corporation were in existence
24 prior to January 1, 1996; and

1 (5) pay or cause to be paid to have the reg-
2 istered brand name, logo, or symbol of any tobacco
3 product appear on any toy commonly used by per-
4 sons under the age of 18, or on any vehicle, boat,
5 or other equipment used in sports, or on a sports
6 stadium or other sports facility or any other facility
7 where sporting activity is regularly performed, ex-
8 cept if the registered brand name is also the name
9 of the corporation which manufactures the tobacco
10 product and both the registered brand and the cor-
11 poration were in existence prior to January 1, 1996.

12 (c) TOBACCO PRODUCT PACKAGES.—It shall be un-
13 lawful for any person to manufacture, package, distribute,
14 or import for sale or distribution within the United States
15 any tobacco product the package of which fails to comply
16 with the following requirements:

17 (1) No human figure or facsimile thereof, no
18 brand name logo or symbol, and no picture shall be
19 used in or as part of any tobacco product package.

20 (2) The print on any tobacco product package
21 shall be black on a white background.

22 **SEC. 4. ENFORCEMENT.**

23 (a) INJUNCTION.—The district courts of the United
24 States shall have jurisdiction over civil actions brought to
25 restrain violations of section 3. Such a civil action may

1 be brought in the United States district court for the judi-
2 cial district in which the violation occurred or in which
3 the defendant is found or transacts business. In such a
4 civil action process may be served on a defendant in any
5 judicial district in which the defendant resides or may be
6 found and subpoenas requiring attendance of witnesses in
7 any such action may be served in any judicial district.

8 (b) MISBRANDING.—Any tobacco product which is
9 advertised, promoted, or packaged in violation of section
10 3 shall be considered a misbranded drug under the Fed-
11 eral Food, Drug, and Cosmetic Act.

12 **SEC. 5. DEFINITIONS.**

13 As used in section 3:

14 (1) The term “tobacco product” means—

15 (A) cigarettes and little cigars as defined
16 in section 3 of the Federal Cigarette Labeling
17 and Advertising Act (15 U.S.C. 1332),

18 (B) cigars as defined in section 5702 of
19 the Internal Revenue Code of 1954,

20 (C) pipe tobacco and loose rolling tobacco,

21 (D) smokeless tobacco as defined in section
22 9(1) of the Comprehensive Smokeless Tobacco
23 Health Education Act of 1986, and

24 (E) any other form of tobacco intended for
25 human consumption.

1 (2) The term “advertisement” means—

2 (A) all newspapers and magazine adver-
3 tisements and advertising inserts, billboards,
4 posters, signs, decals, banners, matchbook ad-
5 vertising, point-of-purchase display material
6 (except price information), and all other written
7 or other material used for promoting the sale or
8 consumption of tobacco products to consumers,

9 (B) advertising promotion allowances, and

10 (C) any other means used to promote the
11 purchase of tobacco products.

12 **SEC. 6. AUTHORITY OF THE FEDERAL TRADE COMMISSION.**

13 Nothing in this Act shall be construed to limit or re-
14 strict the existing authority of the Federal Trade Commis-
15 sion with respect to tobacco products or promotion.

16 **SEC. 7. AUTHORITY OF THE FOOD AND DRUG ADMINISTRA-**
17 **TION.**

18 Nothing in this Act shall be construed to limit or re-
19 strict the existing or future authority of the Food and
20 Drug Administration with respect to tobacco products or
21 promotion.

22 **SEC. 8. PREEMPTION.**

23 Nothing in this Act or section 5 of the Federal Ciga-
24 rette Labeling and Advertising Act (15 U.S.C. 1332 et

1 seq.) shall prevent any State or local government from reg-
2 ulating—

3 (1) the location of any advertising for tobacco
4 products which is displayed within the geographic
5 area governed by the applicable State or local gov-
6 ernment, such as advertising on billboards and on
7 transit vehicles, and

8 (2) the sale, distribution, or promotion of to-
9 bacco products within the geographic area governed
10 by the applicable State or local government,

11 so long as such actions are consistent with and no less
12 restrictive than requirements of this Act and the Federal
13 Cigarette Labeling and Advertising Act.

14 **SEC. 9. CONSTRUCTION.**

15 Nothing in this Act shall supersede, repeal, or modify
16 any requirement of the Federal Cigarette Labeling and
17 Advertising Act, as amended (15 U.S.C. 1332 et seq.) and
18 the Comprehensive Smokeless Tobacco Health Education
19 Act of 1986.

20 **SEC. 10. EFFECTIVE DATE.**

21 This Act shall take effect 1 year from the date of
22 enactment, except as follows:

23 (1) Advertising on billboards which violates sec-
24 tion 3 shall be prohibited effective 2 years after the
25 date of enactment.

1 (2) The prohibition of sponsorship of any ath-
2 letic, music, artistic, or other event in the name of
3 a registered brand name, logo, or symbol of a to-
4 bacco product or in a manner so that a registered
5 brand name, logo, or symbol of a tobacco product is
6 publicly identified as a sponsor of or in any way as-
7 sociated with such an event shall apply—

8 (A) in the case of events subject to con-
9 tracts which were entered into before the enact-
10 ment of the Act, 3 years after such date or
11 after the termination of the contract, whichever
12 occurs first; and

13 (B) in the case of events subject to con-
14 tracts and contract renewals entered into on or
15 after the date of enactment of this Act, on such
16 date.

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