

105TH CONGRESS  
1ST SESSION

# H. R. 762

To restrict the advertising and promotion of tobacco products.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mr. HANSEN (for himself, Mr. MEEHAN, Mr. EHLERS, Ms. FURSE, Mr. MCINNIS, and Mr. KENNEDY of Massachusetts) 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

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## 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 1997”.

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.

1           (7) In spite of the well established and well  
2 known dangers of tobacco products, the tobacco in-  
3 dustry has for years denied that their products cause  
4 disease or are addictive.

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

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

12 **SEC. 3. LIMITATIONS ON TOBACCO ADVERTISING, PRO-**  
13 **MOTION, AND PACKAGING.**

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

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

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

24           (2) sponsor or cause to be sponsored any ath-  
25 letic, music, artistic, or other event in the name of

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

10 (3) market or cause to be marketed nontobacco  
11 products or services which bear the name of a reg-  
12 istered brand name, logo, symbol of a tobacco prod-  
13 uct, except if the registered brand name is also the  
14 name of the corporation which manufactures the to-  
15 bacco product and both the registered brand and the  
16 corporation were in existence prior to January 1,  
17 1996;

18 (4) pay or cause to be paid to have any tobacco  
19 product or the registered brand name, logo, or sym-  
20 bol of any tobacco product appear in any movie, tele-  
21 vision show, play, video arcade game, or other form  
22 of entertainment, except if the registered brand  
23 name is also the name of the corporation which

1 manufactures the tobacco product and both the reg-  
2 istered brand and the corporation were in existence  
3 prior to January 1, 1996; and

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

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

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

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

1 **SEC. 4. ENFORCEMENT.**

2 (a) INJUNCTION.—The district courts of the United  
3 States shall have jurisdiction over civil actions brought to  
4 restrain violations of section 3. Such a civil action may  
5 be brought in the United States district court for the judi-  
6 cial district in which the violation occurred or in which  
7 the defendant is found or transacts business. In such a  
8 civil action process may be served on a defendant in any  
9 judicial district in which the defendant resides or may be  
10 found and subpoenas requiring attendance of witnesses in  
11 any such action may be served in any judicial district.

12 (b) MISBRANDING.—Any tobacco product which is  
13 advertised, promoted, or packaged in violation of section  
14 3 shall be considered a misbranded drug under the Fed-  
15 eral Food, Drug, and Cosmetic Act.

16 **SEC. 5. DEFINITIONS.**

17 As used in section 3:

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

19 (A) cigarettes and little cigars as defined  
20 in section 3 of the Federal Cigarette Labeling  
21 and Advertising Act (15 U.S.C. 1332);

22 (B) cigars as defined in section 5702 of  
23 the Internal Revenue Code of 1954;

24 (C) pipe tobacco and loose rolling tobacco;

1 (D) smokeless tobacco as defined in section  
2 9(1) of the Comprehensive Smokeless Tobacco  
3 Health Education Act of 1986; and

4 (E) any other form of tobacco intended for  
5 human consumption.

6 (2) The term “advertisement” means—

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

14 (B) advertising promotion allowances; and

15 (C) any other means used to promote the  
16 purchase of tobacco products.

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

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

21 **SEC. 7. AUTHORITY OF THE FOOD AND DRUG ADMINISTRA-**  
22 **TION.**

23 Nothing in this Act shall be construed to limit or re-  
24 strict the existing or future authority of the Food and

1 Drug Administration with respect to tobacco products or  
2 promotion.

3 **SEC. 8. PREEMPTION.**

4 Nothing in this Act or section 5 of the Federal Ciga-  
5 rette Labeling and Advertising Act (15 U.S.C. 1332 et  
6 seq.) shall prevent any State or local government from reg-  
7 ulating—

8 (1) the location of any advertising for tobacco  
9 products which is displayed within the geographic  
10 area governed by the applicable State or local gov-  
11 ernment, such as advertising on billboards and on  
12 transit vehicles; and

13 (2) the sale, distribution, or promotion of to-  
14 bacco products within the geographic area governed  
15 by the applicable State or local government;

16 so long as such actions are consistent with and no less  
17 restrictive than requirements of this Act and the Federal  
18 Cigarette Labeling and Advertising Act.

19 **SEC. 9. CONSTRUCTION.**

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

1 **SEC. 10. EFFECTIVE DATE.**

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

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

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

14 (A) in the case of events subject to con-  
15 tracts which were entered into before the enact-  
16 ment of the Act, 3 years after such date or  
17 after the termination of the contract, whichever  
18 occurs first; and

19 (B) in the case of events subject to con-  
20 tracts and contract renewals entered into on or  
21 after the date of enactment of this Act, on such  
22 date.

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