

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3178

To amend the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act of 1986 to require warning labels for tobacco products.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2002

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act of 1986 to require warning labels for 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 “Stronger Tobacco  
5       Warning Labels To Save Lives Act”.

1 **SEC. 2. AMENDMENT TO FEDERAL CIGARETTE AND LABEL-**  
2 **ING ADVERTISING ACT.**

3 (a) AMENDMENT.—The Federal Cigarette Labeling  
4 and Advertising Act (15 U.S.C. 1331 et seq.) is amended  
5 by striking section 4 and inserting the following:

6 **“SEC. 4. LABELING.**

7 “(a) GENERAL RULE.—

8 “(1) LABEL ON PACKAGE.—It shall be unlawful  
9 for any person to manufacture, package, or import  
10 for sale or distribution within the United States any  
11 cigarettes the package of which fails to bear, in ac-  
12 cordance with the requirements of this section, a  
13 warning label.

14 “(2) LABEL IN ADVERTISING.—It shall be un-  
15 lawful for any manufacturer or importer of ciga-  
16 rettes to advertise or cause to be advertised within  
17 the United States any cigarette unless the adver-  
18 tising bears, in accordance with the requirements of  
19 this section, one of the warning labels required  
20 under paragraph (1).

21 “(b) REGULATIONS.—Not later than 1 year after the  
22 date of enactment of the Stronger Tobacco Warning La-  
23 bels To Save Lives Act, the Secretary shall promulgate  
24 regulations describing the warning labels required under  
25 subsection (a).

1       “(c) CONTENT OF LABEL.—The regulations promul-  
2 gated under subsection (b) shall ensure that the text of  
3 each warning label required under subsection (a) consists  
4 of the following:

5           “(1) 1 or more of the following statements:

6           “(A) WARNING: Cigarettes Are Highly  
7 Addictive.

8           “(B) WARNING: Tobacco Smoke Can  
9 Harm Your Children.

10          “(C) WARNING: Cigarettes Cause Fatal  
11 Lung Disease.

12          “(D) WARNING: Cigarettes Cause Can-  
13 cer.

14          “(E) WARNING: Cigarettes Cause Fatal  
15 Heart Disease.

16          “(F) WARNING: Cigarettes Cause  
17 Strokes.

18          “(G) WARNING: Smoking During Preg-  
19 nancy Can Seriously Harm Your Baby.

20          “(H) WARNING: Smoking Can Kill You.

21          “(I) WARNING: Tobacco Smoke Causes  
22 Fatal Lung Disease in Nonsmokers.

23          “(J) WARNING: Quitting Smoking Now  
24 Greatly Reduces Serious Risks To Your Health.

1           “(K) WARNING: Children See, Children  
2           Do—Your Children are Twice as Likely to  
3           Smoke if You Do.

4           “(2) At the election of the Secretary, such addi-  
5           tional statement as the Secretary determines effec-  
6           tive in deterring smoking.

7           “(d) GRAPHICS.—

8           “(1) IN GENERAL.—The regulations promul-  
9           gated under subsection (b) shall ensure that each  
10          warning label required under subsection (a) contains  
11          a color graphic (such as a picture) that illustrates or  
12          emphasizes the message of the text of the cor-  
13          responding warning label.

14          “(2) CONTENTS.—The graphics described in  
15          paragraph (1) shall enhance the message of the text  
16          of the warning label and shall include a color picture  
17          of 1 of the following:

18                 “(A) A diseased lung, heart, or mouth.

19                 “(B) An individual suffering from addic-  
20                 tion.

21                 “(C) Children watching an adult smoke a  
22                 cigarette.

23                 “(D) An individual adversely affected by  
24                 secondhand smoke from a cigarette, such as a  
25                 pregnant woman or infant.

1 “(e) REQUIREMENTS FOR PRODUCTS.—

2 “(1) LOCATION.—The text of each warning  
3 label required under subsection (a)(1) shall be lo-  
4 cated on the upper portion of the front panel of the  
5 cigarette package (such as a carton) and occupy not  
6 less than 50 percent of such front panel.

7 “(2) TYPE AND COLOR.—Each label statement  
8 required under subsection (a)(1) shall be printed in  
9 at least 17 point type with adjustments as deter-  
10 mined appropriate by the Secretary. All the letters  
11 in the label statement shall appear in conspicuous  
12 and legible type, appear in contrast by typography,  
13 layout, or color with all other printed material on  
14 the package, and be printed in a black-on-white or  
15 white-on-black format as determined appropriate by  
16 the Secretary.

17 “(f) REQUIREMENTS FOR ADVERTISING.—

18 “(1) LOCATION.—The text of each warning  
19 label required under subsection (a)(2) shall occupy  
20 not less than 50 percent of the area of the advertise-  
21 ment involved.

22 “(2) TYPE AND COLOR.—

23 “(A) TYPE.—Each label statement re-  
24 quired under subsection (a)(2) shall be printed

1 in a point type that is not less than the fol-  
2 lowing types:

3 “(i) With respect to whole page adver-  
4 tisements on broadsheet newspaper—45  
5 point type.

6 “(ii) With respect to half page adver-  
7 tisements on broadsheet newspaper—39  
8 point type.

9 “(iii) With respect to whole page ad-  
10 vertisements on tabloid newspaper—39  
11 point type.

12 “(iv) With respect to half page adver-  
13 tisements on tabloid newspaper—27 point  
14 type.

15 “(v) With respect to double page  
16 spread magazine advertisements—31.5  
17 point type.

18 “(vi) With respect to whole page mag-  
19 azine advertisements—31.5 point type.

20 “(vii) With respect to 28 cm x 3 col-  
21 umn advertisements—22.5 point type.

22 “(viii) With respect to 20 cm x 2 col-  
23 umn advertisements—15 point type.

24 “(B) TYPE SIZE REVISIONS.—The Sec-  
25 retary may revise the required type sizes de-

1           scribed in subparagraph (A) as the Secretary  
2           determines appropriate within the 50 percent  
3           requirement described in paragraph (1).

4           “(C) COLOR.—All the letters in the label  
5           statement shall appear in conspicuous and leg-  
6           ible type, appear in contrast by typography, lay-  
7           out, or color with all other printed material in  
8           the advertisement, and be printed in alternating  
9           black-on-white and white-on-black formats as  
10          determined appropriate by the Secretary.

11         “(g) ROTATION OF LABEL STATEMENTS.—

12           “(1) IN GENERAL.—Except as provided in para-  
13          graph (2), the label statements required under para-  
14          graph (1) or (2) of subsection (a) shall be rotated  
15          by each manufacturer or importer of cigarettes cov-  
16          ered by that paragraph quarterly in alternating se-  
17          quence on packages of each brand of the cigarettes  
18          and in the advertisements for each such brand of  
19          cigarettes, in accordance with a plan submitted by  
20          the manufacturer or importer and approved by the  
21          Federal Trade Commission. The Federal Trade  
22          Commission shall approve such a plan submitted by  
23          a manufacturer or importer of cigarettes that will  
24          provide the rotation required under this subsection  
25          and that assures that all of the label statements re-

1       quired under subsection (a) will be displayed by the  
2       manufacturer or importer at the same time.

3               “(2) APPLICATION OF OTHER ROTATION RE-  
4       QUIREMENTS.—

5               “(A) APPLICATION.—

6               “(i) IN GENERAL.—A manufacturer  
7       or importer of cigarettes may apply to the  
8       Federal Trade Commission to have the  
9       label rotation described in subparagraph  
10      (C) apply with respect to a brand style of  
11      cigarettes manufactured or imported by  
12      such manufacturer or importer if—

13              “(I) the number of cigarettes of  
14      such brand style sold or distributed by  
15      the manufacturer or importer in the  
16      fiscal year preceding the submission of  
17      the application is less than  $\frac{1}{4}$  of 1  
18      percent of all the cigarettes sold in  
19      the United States in such year; and

20              “(II) more than  $\frac{1}{2}$  of the ciga-  
21      rettes manufactured or imported by  
22      such manufacturer or importer for  
23      sale or distribution in the United  
24      States are packaged into brand styles

1                   that meet the requirements of sub-  
2                   clause (I).

3                   “(ii) APPROVAL.—If such an applica-  
4                   tion is approved by the Commission, the  
5                   label rotation described in subparagraph  
6                   (C) shall apply with respect to the appli-  
7                   cant during the 1-year period beginning on  
8                   the date of the approval of the application.

9                   “(B) PLAN.—An applicant manufacturer  
10                  or importer under subparagraph (A) shall in-  
11                  clude in its application a plan under which the  
12                  label statements required under subsection (a)  
13                  shall be rotated by the applicant in accordance  
14                  with the label rotation described in subpara-  
15                  graph (C).

16                  “(C) OTHER ROTATION REQUIREMENTS.—  
17                  Under the label rotation that the manufacturer  
18                  or importer with such an approved application  
19                  may put into effect, each of the label state-  
20                  ments specified in subsection (c)(1) shall ap-  
21                  pear on the packages of each brand style of  
22                  cigarettes with respect to which the application  
23                  was approved an equal number of times within  
24                  the 1-year period beginning on the date of the  
25                  approval of the application.

1       “(h) APPLICATION OF REQUIREMENT.—Subsection  
2 (a) does not apply to a distributor or a retailer of ciga-  
3 rettes who does not manufacture, package, or import ciga-  
4 rettes for sale or distribution within the United States.

5       “(i) CIGARS; PIPE TOBACCO.—

6           “(1) IN GENERAL.—The Secretary shall pro-  
7 mulgate such regulations as may be necessary to es-  
8 tablish warning labels for cigars and pipe tobacco.  
9 Such regulations shall—

10           “(A) require content-specific messages re-  
11 garding health hazards posed by cigars and  
12 pipe tobacco;

13           “(B) include graphics for such content  
14 messages, as required under subsection (d); and

15           “(C) be formatted in a clear and unambig-  
16 uous manner, as required under subsection  
17 (e)(2).

18       “(2) DEFINITIONS.—In this subsection:

19           “(A) CIGAR.—The term ‘cigar’ means any  
20 roll of tobacco wrapped in leaf tobacco or in any  
21 substance containing tobacco (other than any  
22 roll of tobacco that is a cigarette or cigarillo).

23           “(B) PIPE TOBACCO.—The term ‘pipe to-  
24 bacco’ means any loose tobacco that, because of  
25 the appearance, type, packaging, or labeling of

1 such tobacco, is likely to be offered to, or pur-  
2 chased by, consumers as a tobacco to be  
3 smoked in a pipe.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall take effect 1 year after the date of enact-  
6 ment of this section.

7 **SEC. 3. AMENDMENT TO THE COMPREHENSIVE SMOKELESS**  
8 **TOBACCO HEALTH EDUCATION ACT OF 1986.**

9 (a) AMENDMENT.—The Comprehensive Smokeless  
10 Tobacco Health Education Act of 1986 (15 U.S.C. 4401  
11 et seq.) is amended by striking section 3 and inserting  
12 the following:

13 **“SEC. 3. SMOKELESS TOBACCO WARNING.**

14 **“(a) GENERAL RULE.—**

15 **“(1) LABEL ON PACKAGE.—**It shall be unlawful  
16 for any person to manufacture, package, or import  
17 for sale or distribution within the United States any  
18 smokeless tobacco product unless the product pack-  
19 age bears, in accordance with the requirements of  
20 this section, a warning label.

21 **“(2) LABEL IN ADVERTISING.—**It shall be un-  
22 lawful for any manufacturer or importer of smoke-  
23 less tobacco products to advertise or cause to be ad-  
24 vertised within the United States any smokeless to-  
25 bacco product unless the advertising bears, in ac-

1 cordance with the requirements of this Act, one of  
2 the warning labels required under paragraph (1).

3 “(b) REGULATIONS.—Not later than 1 year after the  
4 date of enactment of the Stronger Tobacco Warning La-  
5 bels To Save Lives Act, the Secretary shall promulgate  
6 regulations describing the warning labels required under  
7 subsection (a).

8 “(c) CONTENT OF LABEL.—The regulations promul-  
9 gated under subsection (b) shall ensure that the text of  
10 each warning label required under subsection (a) consists  
11 of the following:

12 “(1) 1 or more of the following statements:

13 “(A) WARNING: This Product May Cause  
14 Mouth Cancer.

15 “(B) WARNING: This Product May Cause  
16 Gum Disease and Tooth Loss.

17 “(C) WARNING: This Product Is Not a  
18 Safe Alternative to Cigarettes.

19 “(D) WARNING: Smokeless Tobacco Is  
20 Highly Addictive.

21 “(2) At the election of the Secretary, such addi-  
22 tional statement as the Secretary determines effec-  
23 tive in deterring the use of smokeless tobacco.

24 “(d) GRAPHICS.—

1           “(1) IN GENERAL.—The regulations promul-  
2           gated under subsection (b) shall ensure that each  
3           warning label required under subsection (a) contains  
4           a color graphic (such as a picture) that illustrates or  
5           emphasizes the message of the text of the cor-  
6           responding warning label.

7           “(2) CONTENTS.—The graphics described in  
8           paragraph (1) shall enhance the message of the text  
9           of the warning label and shall include a color picture  
10          of 1 of the following:

11                   “(A) A diseased mouth or other physical  
12                   effect of using a smokeless tobacco product.

13                   “(B) An individual using a smokeless to-  
14                   bacco product.

15                   “(C) Children watching an adult use a  
16                   smokeless tobacco product.

17          “(e) REQUIREMENTS FOR PRODUCTS.—

18           “(1) LOCATION.—The text of each warning  
19           label required under subsection (a)(1) shall be lo-  
20           cated on the principal display panel of the product  
21           and occupy not less than 50 percent of such panel.

22           “(2) TYPE AND COLOR.—Each label statement  
23           required under subsection (a)(1) shall be printed in  
24           at least 17 point type with adjustments as deter-  
25           mined appropriate by the Secretary to reflect the

1 length of the required statement. All the letters in  
2 the label statement shall appear in conspicuous and  
3 legible type, appear in contrast by typography, lay-  
4 out, or color with all other printed material on the  
5 package, and be printed in alternating black-on-  
6 white and white-on-black formats as determined ap-  
7 propriate by the Secretary.

8 “(f) REQUIREMENTS FOR ADVERTISING.—The provi-  
9 sions of section 4(f) of the Federal Cigarette Labeling and  
10 Advertising Act (15 U.S.C. 1333(f)) shall apply to labels  
11 in advertisements required under subsection (a)(2).

12 “(g) ROTATION OF LABEL STATEMENTS.—The pro-  
13 visions of section 4(g)(1) of the Federal Cigarette Label-  
14 ing and Advertising Act (15 U.S.C. 1333(g)(1)) shall  
15 apply to labels on packages and labels in advertisements  
16 required under paragraphs (1) and (2), respectively, of  
17 subsection (a).

18 “(h) APPLICATION OF REQUIREMENT.—Subsection  
19 (a) does not apply to a distributor or a retailer of smoke-  
20 less tobacco products who does not manufacture, package,  
21 or import such products for sale or distribution within the  
22 United States.

23 “(i) TELEVISION AND RADIO ADVERTISING.—It shall  
24 be unlawful to advertise a smokeless tobacco product or  
25 cigars on any medium of electronic communications sub-

1 ject to the jurisdiction of the Federal Communications  
2 Commission.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall take effect 1 year after the date of enact-  
5 ment of this section.

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