

Calendar No. 1095110TH CONGRESS
2D SESSION**S. 2685****[Report No. 110-512]**

To prohibit cigarette manufacturers from making claims or representations based on data derived from the cigarette testing method established by the Federal Trade Commission.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2008

Mr. LAUTENBERG (for himself, Ms. SNOWE, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. INOUE without amendment

A BILL

To prohibit cigarette manufacturers from making claims or representations based on data derived from the cigarette testing method established by the Federal Trade Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Truth in Cigarette La-
3 beling Act of 2008”.

4 **SEC. 2. PROHIBITION ON CLAIMS REGARDING TAR OR NIC-**
5 **OTINE YIELD LEVELS OF CIGARETTES.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) Cigarette manufacturers have, through the
8 use of words, graphics, and color, sold, distributed,
9 and falsely marketed brands of cigarettes to con-
10 sumers as “light”, “low-tar”, “ultra light”, “mild”,
11 “natural”, and “low-nicotine”, implying that the
12 cigarettes are less harmful than other brands of
13 cigarettes.

14 (2) Many smokers switch to brands of ciga-
15 rettes marketed as “low-tar” or “light” out of con-
16 cern for their health, believing them to be less risky
17 or a step toward quitting.

18 (3) Recent studies have demonstrated that the
19 use of cigarettes described in paragraph (1) have not
20 resulted in any meaningful reduction of disease.

21 (4) In 2000, the Federal Trade Commission
22 issued a consumer alert warning smokers that “ciga-
23 rette tar and nicotine ratings can’t predict the
24 amount of tar and nicotine [a person] get[s] from
25 any particular cigarette”.

1 (5) The National Cancer Institute has con-
2 cluded that the marketing of cigarettes described in
3 paragraph (1) as having lower delivery of tar and
4 nicotine is deceptive to consumers.

5 (6) The marketing of one brand of cigarettes as
6 less harmful than another brand of cigarettes when
7 in fact there are no reduced risks is a serious
8 enough threat to public health and welfare that
9 there is a compelling governmental interest in ensur-
10 ing that statements, claims, or other representations
11 about cigarettes are truthful and not deceptive.

12 (b) DEFINITIONS.—In this section:

13 (1) CIGARETTE.—The term “cigarette” has the
14 meaning given such term in section 3(1) of the Fed-
15 eral Cigarette Labeling and Advertising Act (15
16 U.S.C. 1332(1)), but also includes tobacco, in any
17 form, that is functional in the product, which, be-
18 cause of its appearance, the type of tobacco used in
19 the filler, or its packaging and labeling, is likely to
20 be offered to, or purchased by, consumers as a ciga-
21 rette or as roll-your-own tobacco.

22 (2) ROLL-YOUR-OWN TOBACCO.—The term
23 “roll-your-own tobacco” means any tobacco which,
24 because of its appearance, type, packaging, or label-
25 ing, is suitable for use and likely to be offered to,

1 or purchased by, consumers as tobacco for making
2 cigarettes.

3 (c) PROHIBITION ON USE OF FEDERAL TRADE COM-
4 MISSION TESTING METHOD.—

5 (1) PROHIBITION ON USE OF FEDERAL TRADE
6 COMMISSION TESTING METHOD.—Notwithstanding
7 any other provision of law, effective 120 days after
8 the date of the enactment of this Act, a cigarette
9 manufacturer may not make any claims or any other
10 representations based on data derived from a ciga-
11 rette testing method established by the Federal
12 Trade Commission and in effect on the day before
13 the date of the enactment of this Act.

14 (2) ENFORCEMENT.—

15 (A) UNFAIR OR DECEPTIVE ACT OR PRAC-
16 TICE.—A violation of the prohibition described
17 in paragraph (1) shall be treated as a violation
18 of a rule defining an unfair or deceptive act or
19 practice prescribed under section 18(a)(1)(B) of
20 the Federal Trade Commission Act (15 U.S.C.
21 57a(a)(1)(B)).

22 (B) ACTIONS BY THE COMMISSION.—The
23 Federal Trade Commission shall enforce this
24 section in the same manner, by the same
25 means, and with the same jurisdiction, powers,

1 and duties as though all applicable terms and
2 provisions of the Federal Trade Commission
3 Act (15 U.S.C. 41 et seq.) were incorporated
4 into and made a part of this section.

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