

114TH CONGRESS
1ST SESSION

S. 142

AN ACT

To require special packaging for liquid nicotine containers,
and for other purposes.

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 “Child Nicotine Poi-
3 soning Prevention Act of 2015”.

4 **SEC. 2. SPECIAL PACKAGING FOR LIQUID NICOTINE CON-**
5 **TAINERS.**

6 (a) REQUIREMENT.—Notwithstanding section 2(f)(2)
7 of the Federal Hazardous Substances Act (15 U.S.C.
8 1261(f)(2)) and section 3(a)(5) of the Consumer Product
9 Safety Act (15 U.S.C. 2052(a)(5)), any nicotine provided
10 in a liquid nicotine container sold, offered for sale, manu-
11 factured for sale, distributed in commerce, or imported
12 into the United States shall be packaged in accordance
13 with the standards provided in section 1700.15 of title 16,
14 Code of Federal Regulations, as determined through test-
15 ing in accordance with the method described in section
16 1700.20 of title 16, Code of Federal Regulations, and any
17 subsequent changes to such sections adopted by the Com-
18 mission.

19 (b) SAVINGS CLAUSE.—

20 (1) IN GENERAL.—Nothing in this Act shall be
21 construed to limit or otherwise affect the authority
22 of the Secretary of Health and Human Services to
23 regulate, issue guidance, or take action regarding
24 the manufacture, marketing, sale, distribution, im-
25 portation, or packaging, including child-resistant
26 packaging, of nicotine, liquid nicotine, liquid nicotine

1 containers, electronic cigarettes, electronic nicotine
2 delivery systems or other similar products that con-
3 tain or dispense liquid nicotine, or any other nico-
4 tine-related products, including—

5 (A) authority under the Federal Food,
6 Drug, and Cosmetic Act (21 U.S.C. 301 et
7 seq.) and the Family Smoking Prevention and
8 Tobacco Control Act (Public Law 111–31) and
9 the amendments made by such Act; and

10 (B) authority for the rulemaking entitled
11 “Deeming Tobacco Products to Be Subject to
12 the Federal Food, Drug, and Cosmetic Act, as
13 Amended by the Family Smoking Prevention
14 and Tobacco Control Act; regulations on the
15 Sale and Distribution of Tobacco Products and
16 the Required Warning Statements for Tobacco
17 Products” (April 2014) (FDA–2014–N–0189),
18 the rulemaking entitled “Nicotine Exposure
19 Warnings and Child-Resistant Packaging for
20 Liquid Nicotine, Nicotine-Containing E-Liq-
21 uid(s), and Other Tobacco Products” (June
22 2015) (FDA–2015–N–1514), and subsequent
23 actions by the Secretary regarding packaging of
24 liquid nicotine containers.

1 (2) CONSULTATION.—If the Secretary of
 2 Health and Human Services adopts, maintains, en-
 3 forces, or imposes or continues in effect any pack-
 4 aging requirement for liquid nicotine containers, in-
 5 cluding a child-resistant packaging requirement, the
 6 Secretary shall consult with the Commission, taking
 7 into consideration the expertise of the Commission
 8 in implementing and enforcing this Act and the Poi-
 9 son Prevention Packaging Act of 1970 (15 U.S.C.
 10 1471 et seq.).

11 (c) APPLICABILITY.—Notwithstanding section
 12 3(a)(5) of the Consumer Product Safety Act (15 U.S.C.
 13 2052(a)(5)) and section 2(f)(2) of the Federal Hazardous
 14 Substances Act (15 U.S.C. 1261(f)(2)), the requirement
 15 of subsection (a) shall be treated as a standard for the
 16 special packaging of a household substance established
 17 under section 3(a) of the Poison Prevention Packaging
 18 Act of 1970 (15 U.S.C. 1472(a)).

19 (d) DEFINITIONS.—In this section:

20 (1) COMMISSION.—The term “Commission”
 21 means the Consumer Product Safety Commission.

22 (2) LIQUID NICOTINE CONTAINER.—

23 (A) IN GENERAL.—Notwithstanding sec-
 24 tion 2(f)(2) of the Federal Hazardous Sub-
 25 stances Act (15 U.S.C. 1261(f)(2)) and section

1 3(a)(5) of the Consumer Product Safety Act
2 (15 U.S.C. 2052(a)(5)), the term “liquid nico-
3 tine container” means a package (as defined in
4 section 2 of the Poison Prevention Packaging
5 Act of 1970 (15 U.S.C. 1471))—

6 (i) from which nicotine in a solution
7 or other form is accessible through normal
8 and foreseeable use by a consumer; and

9 (ii) that is used to hold soluble nico-
10 tine in any concentration.

11 (B) EXCLUSION.—The term “liquid nico-
12 tine container” does not include a sealed, pre-
13 filled, and disposable container of nicotine in a
14 solution or other form in which such container
15 is inserted directly into an electronic cigarette,
16 electronic nicotine delivery system, or other
17 similar product, if the nicotine in the container
18 is inaccessible through customary or reasonably
19 foreseeable handling or use, including reason-
20 ably foreseeable ingestion or other contact by
21 children.

22 (3) NICOTINE.—The term “nicotine” means
23 any form of the chemical nicotine, including any salt
24 or complex, regardless of whether the chemical is
25 naturally or synthetically derived.

1 **SEC. 3. EFFECTIVE DATE.**

2 This Act shall take effect on the date that is 180 days
3 after the date of the enactment of this Act.

Passed the Senate December 10, 2015.

Attest:

Secretary.

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