

## Union Calendar No. 297

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

# H. R. 3242

[Report No. 114-394]

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

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### IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2015

Mrs. BROOKS of Indiana (for herself and Ms. ESTY) introduced the following bill; which was referred to the Committee on Energy and Commerce

JANUARY 11, 2016

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Child Nicotine Poi-  
5 soning Prevention Act of 2015”.

6 **SEC. 2. SPECIAL PACKAGING FOR LIQUID NICOTINE CON-**  
7 **TAINERS.**

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

21       (b) SAVINGS CLAUSE.—

22           (1) IN GENERAL.—Nothing in this Act shall be  
23 construed to limit or otherwise affect the authority  
24 of the Secretary of Health and Human Services to  
25 regulate, issue guidance, or take action regarding

1 the manufacture, marketing, sale, distribution, im-  
2 portation, or packaging, including child-resistant  
3 packaging, of nicotine, liquid nicotine, liquid nicotine  
4 containers, electronic cigarettes, electronic nicotine  
5 delivery systems or other similar products that con-  
6 tain or dispense liquid nicotine, or any other nico-  
7 tine-related products, including—

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

13 (B) authority for the rulemaking entitled  
14 “Deeming Tobacco Products to Be Subject to  
15 the Federal Food, Drug, and Cosmetic Act, as  
16 Amended by the Family Smoking Prevention  
17 and Tobacco Control Act; regulations on the  
18 Sale and Distribution of Tobacco Products and  
19 the Required Warning Statements for Tobacco  
20 Products” (April 2014) (FDA–2014–N–0189),  
21 the rulemaking entitled “Nicotine Exposure  
22 Warnings and Child-Resistant Packaging for  
23 Liquid Nicotine, Nicotine-Containing E-Liq-  
24 uid(s), and Other Tobacco Products” (June  
25 2015) (FDA–2015–N–1514), and subsequent

1 actions by the Secretary regarding packaging of  
2 liquid nicotine containers.

3 (2) CONSULTATION.—If the Secretary of  
4 Health and Human Services adopts, maintains, en-  
5 forces, or imposes or continues in effect any pack-  
6 aging requirement for liquid nicotine containers, in-  
7 cluding a child-resistant packaging requirement, the  
8 Secretary shall consult with the Commission, taking  
9 into consideration the expertise of the Commission  
10 in implementing and enforcing this Act and the Poi-  
11 son Prevention Packaging Act of 1970 (15 U.S.C.  
12 1471 et seq.).

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

21 (d) DEFINITIONS.—In this section:

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

24 (2) LIQUID NICOTINE CONTAINER.—

1 (A) IN GENERAL.—Notwithstanding sec-  
2 tion 2(f)(2) of the Federal Hazardous Sub-  
3 stances Act (15 U.S.C. 1261(f)(2)) and section  
4 3(a)(5) of the Consumer Product Safety Act  
5 (15 U.S.C. 2052(a)(5)), the term “liquid nico-  
6 tine container” means a package (as defined in  
7 section 2 of the Poison Prevention Packaging  
8 Act of 1970 (15 U.S.C. 1471))—

9 (i) from which nicotine in a solution  
10 or other form is accessible through normal  
11 and foreseeable use by a consumer; and

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

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

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

5 **SEC. 3. EFFECTIVE DATE.**

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

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