

109TH CONGRESS
1ST SESSION

H. R. 2813

To amend title 39, United States Code, to make cigarettes and certain other tobacco products nonmailable.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2005

Mr. McHUGH (for himself, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, and Mr. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To amend title 39, United States Code, to make cigarettes and certain other tobacco products nonmailable.

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. NONMAILABILITY OF CERTAIN TOBACCO PROD-
4 UCTS.**

5 (a) IN GENERAL.—Chapter 30 of title 39, United
6 States Code, is amended by inserting after section 3002a
7 the following:

8 **“§ 3002b. Nonmailability of certain tobacco products**
9 “(a) IN GENERAL.—Cigarettes, smokeless tobacco,
10 pipe tobacco, and roll-your-own-tobacco—

1 “(1) are nonmailable matter;

2 “(2) shall not be—

3 “(A) deposited in the mails; or

4 “(B) carried or delivered through the

5 mails; and

6 “(3) shall be disposed of as the Postal Service

7 directs.

8 “(b) CIVIL PENALTY.—Any person who violates sub-

9 section (a)(2)(A) shall be liable to the United States for

10 a civil penalty in an amount not to exceed \$100,000 for

11 each violation.

12 “(c) HEARINGS.—The Postal Service may determine

13 that a person has violated subsection (a) only after notice

14 and an opportunity for a hearing. Proceedings under this

15 subsection shall be conducted in accordance with section

16 3001(m).

17 “(d) PENALTY CONSIDERATIONS.—In determining

18 the amount of a civil penalty under this section, the Postal

19 Service shall consider—

20 “(1) the nature, circumstances, extent, and

21 gravity of the violation;

22 “(2) with respect to the violator, the degree of

23 culpability, ability to pay, and any history of prior

24 violations; and

25 “(3) such other matters as justice may require.

1 “(e) CIVIL ACTIONS TO COLLECT.—A civil action
2 may be brought in an appropriate district court of the
3 United States, in accordance with section 409(d), to col-
4 lect a civil penalty under this section.

5 “(f) DISPOSITION OF AMOUNTS.—Amounts received
6 in payment of any civil penalties under this section shall
7 be deposited as miscellaneous receipts in the Treasury of
8 the United States.

9 “(g) DEFINITIONS.—For purposes of this section, the
10 terms ‘cigarette’, ‘smokeless tobacco’, ‘pipe tobacco’, and
11 ‘roll-your-own-tobacco’ have the meanings given them by
12 section 5702 of the Internal Revenue Code of 1986.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 30 of title 39, United States Code, is amended
15 by inserting after the item relating to section 3002a the
16 following:

“3002b. Nonmailability of certain tobacco products.”.

17 **SEC. 2. EFFECTIVE DATE.**

18 The amendments made by section 1 shall take effect
19 60 days after the date of the enactment of this Act, and
20 shall apply with respect to any mail matter mailed on or
21 after that effective date.

