

109TH CONGRESS  
2D SESSION

# S. 3816

To prohibit the shipment of tobacco products in the mail, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To prohibit the shipment of tobacco products in the mail, 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. TOBACCO AS NONMAILABLE MATTER.**

4       Section 3001 of title 39, United States Code, is  
5 amended by inserting after subsection (n) the following:

6       “(o)(1) In this section—

7           “(A) the terms ‘cigarette’, ‘pipe tobacco’, and  
8           ‘roll-your-own tobacco’ have the meanings given such  
9           terms under section 5702 of the Internal Revenue  
10          Code of 1986;

1           “(B) the term ‘smokeless tobacco’ has the  
2        meaning given such term under section 5702 of the  
3        Internal Revenue Code of 1986, and includes any  
4        product containing tobacco that is intended to be  
5        placed in the oral or nasal cavity or otherwise ex-  
6        pected or intended to be consumed without being  
7        combusted; and

8           “(C) the term ‘tobacco product’ means ciga-  
9        rettes, pipe tobacco, roll-your-own tobacco and  
10        smokeless tobacco.

11        “(2)(A) Except as provided under subparagraphs (B)  
12        and (C), the shipment in the mails of any tobacco product  
13        for purposes of sale is prohibited, and tobacco products  
14        mailed for such purpose are nonmailable and shall not be  
15        deposited in or carried through the mails.

16        “(B) Subparagraph (A) shall apply only to shipments  
17        deposited in the mails, or addressed to a delivery point,  
18        in a State that is contiguous with at least 1 other State  
19        of the United States.

20        “(C) Nothing in subparagraph (A) is intended to pro-  
21        hibit from the mails the shipment of tobacco products sent  
22        for purposes of testing and evaluation or replacement of  
23        defective tobacco products.

24        “(D) The Postal Service may by regulation establish  
25        mailing standards to carry out this paragraph.

1       “(3)(A)(i) In addition to any other penalties or fines  
2 provided for by law, any person who violates paragraph  
3 (2) for commercial or for profit purposes shall be liable  
4 to the United States for a civil penalty for a first violation  
5 in the amount of \$5,000 or 10 times the estimated retail  
6 value of the tobacco products, including all Federal, State,  
7 and local taxes, whichever is highest, and for a second or  
8 subsequent violation in an amount not to exceed \$100,000  
9 for each violation.

10       “(ii) In determining the amount of the civil penalty  
11 for second and subsequent violations described under  
12 clause (i), the following factors may be considered:

13           “(I) The nature, circumstances, extent, and  
14 gravity of the violation.

15           “(II) With respect to the violator, the degree of  
16 culpability, ability to pay, and any history of prior  
17 violations.

18           “(III) Such other matters as justice may re-  
19 quire.

20       “(B) The Postal Service may determine that a person  
21 has violated paragraph (2) only after notice and an oppor-  
22 tunity for a hearing. Proceedings under this paragraph  
23 shall be conducted in accordance with subsection (m).

24       “(C) Notwithstanding any other provision of law, an  
25 amount equal to 50 percent of any civil penalties collected

1 by the United States Government under subparagraph (A)  
2 shall be directed to the Postal Service for the purpose of  
3 administering and enforcing this subsection. All other  
4 amounts received in payment of any such civil penalties  
5 under subparagraph (A) in any action commenced by the  
6 United States Government shall be deposited as miscella-  
7 neous receipts in the Treasury of the United States.”.

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