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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To prohibit the sale or distribution of tobacco products to individuals under  
the age of 21.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. DEGETTE introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To prohibit the sale or distribution of tobacco products to  
individuals under the age of 21.

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 “Tobacco to 21 Act”.

5       **SEC. 2. FINDINGS.**

6       Congress finds the following:

7               (1) Tobacco use has caused more than  
8       20,800,000 premature deaths in the United States

1       since the Surgeon General's first report on smoking  
2       in 1964.

3           (2) The 1964 Surgeon General's report linked  
4       cigarette smoking to cancer, and since then, other  
5       tobacco products, including cigars, cigarillos, roll-  
6       your-own products, and smokeless tobacco have been  
7       causally linked to cancer.

8           (3) While substantial gains have been made  
9       since 1964, tobacco use remains the leading prevent-  
10      able cause of death in the United States, responsible  
11      for more than 480,000 premature deaths each year.

12          (4) Tobacco use costs the United States ap-  
13      proximately \$170,000,000,000 in direct medical  
14      costs and \$156,000,000,000 in lost productivity  
15      every year.

16          (5) More than 36,000,000 people in the United  
17      States still smoke, and the tobacco industry con-  
18      tinues to challenge tobacco control measures in  
19      court, manipulate products to evade existing regula-  
20      tions, introduce new and dangerous tobacco prod-  
21      ucts, and spend billions on marketing to deceive the  
22      public and addict more children.

23          (6) An estimated 5,600,000 youth aged 17 and  
24      under are projected to die prematurely from a to-

1       bacco-related illness if prevalence rates do not  
2       change.

3           (7) Each day in the United States, nearly 2,500  
4       youth under 18 years of age smoke their first ciga-  
5       rette.

6           (8) Use of tobacco products in any form is not  
7       safe, especially during adolescence, as such use can  
8       lead to nicotine dependence and subsequent tobacco-  
9       related diseases and death.

10          (9) Adolescents are especially vulnerable to the  
11       effects of nicotine and nicotine addiction and appear  
12       to show signs of nicotine addiction at lower levels of  
13       exposure compared to adults.

14          (10) Nicotine exposure during adolescence may  
15       have lasting adverse consequences on brain develop-  
16       ment. According to the Surgeon General, the use of  
17       products containing nicotine in any form among  
18       youth, including in electronic cigarettes, is unsafe.

19          (11) The likelihood of developing smoking-re-  
20       lated cancers increases with duration of smoking.  
21       Therefore, smokers that start at younger ages and  
22       continue to smoke are at higher risk for tobacco-re-  
23       lated disease and death.

24          (12) National data show that about 95 percent  
25       of adult smokers begin smoking before they turn 21.

1       The ages of 18 to 21 are a critical period when  
2       many smokers move from experimental smoking to  
3       regular, daily use.

4           (13) Three-quarters of people of the United  
5       States favor raising the tobacco age of sale to 21  
6       years, including 7 in 10 smokers.

7           (14) Each year, nearly 500,000 youth aged 12  
8       to 17 use smokeless tobacco for the first time, and  
9       young adults aged 18 to 24 use smokeless products  
10      at twice the rate of older adults aged 45 to 64.

11          (15) Electronic cigarettes are the most com-  
12      monly used tobacco product among youth. According  
13      to the Surgeon General's 2016 report on electronic  
14      cigarettes, electronic cigarette use is strongly associ-  
15      ated with the use of other tobacco products among  
16      youth and young adults.

17          (16) The 2015 report of the National Academy  
18      of Medicine entitled, "Public Health Implications of  
19      Raising the Minimum Age of Legal Access to To-  
20      bacco Products", concluded that raising the min-  
21      imum legal age of sale of tobacco products nation-  
22      wide will reduce tobacco initiation, particularly  
23      among adolescents aged 15 to 17, and will improve  
24      health across the lifespan and save lives. Specifically,  
25      the report said that raising the minimum legal age

1 of sale of tobacco products nationwide to age 21  
2 would, over time, lead to a 12-percent decrease in  
3 smoking prevalence.

4 (17) The National Academy of Medicine report  
5 also predicts that raising the minimum legal age of  
6 sale of tobacco products nationwide to age 21 would  
7 result in 223,000 fewer premature deaths, 50,000  
8 fewer deaths from lung cancer, and 4,200,000 fewer  
9 years of life lost for those born between 2000 and  
10 2019. In addition, the report concluded that raising  
11 the minimum legal age of sale would result in near  
12 immediate reductions in preterm birth, low birth  
13 weight, and sudden infant death syndrome.

14 (18) Regulating the retail environment, actively  
15 enforcing laws, and educating retailers are strategies  
16 that Federal, State, and local governments can take  
17 to restrict the availability of tobacco products to  
18 youth.

19 (19) Five States, the District of Columbia, and  
20 more than 230 localities in an additional 13 States  
21 have raised the minimum legal tobacco sale age to  
22 21.

23 **SEC. 3. PROHIBITION AND ENFORCEMENT.**

24 (a) IN GENERAL.—Notwithstanding any other provi-  
25 sion of law, including any Federal regulation, it shall be

1 unlawful to sell or distribute a tobacco product to anyone  
2 under the age of 21.

3 (b) ENFORCEMENT.—

4 (1) IN GENERAL.—The Secretary of Health and  
5 Human Services is authorized to enforce the prohibi-  
6 tion under subsection (a) and shall take necessary  
7 action to enforce such prohibition, including, as ap-  
8 propriate—

9 (A) conducting undercover compliance  
10 checks, performing retailer inspections, initi-  
11 ating enforcement actions for noncompliance,  
12 and taking any other measures appropriate to  
13 help ensure nationwide compliance with such  
14 prohibition; and

15 (B) establishing requirements that retailers  
16 check identification or use other methods to en-  
17 sure compliance with subsection (a), or issuing  
18 guidance concerning the responsibility of retail-  
19 ers to ensure such compliance.

20 (2) ENFORCEMENT AUTHORITY.—In the case of  
21 a violation of subsection (a), the Secretary of Health  
22 and Human Services may apply the penalties under  
23 section 303 of the Federal Food, Drug, and Cos-  
24 metic Act (21 U.S.C. 333), as though such sub-  
25 section (a) were a regulation promulgated under sec-

1       tion 906(d)(1) of the Federal Food, Drug, and Cos-  
2       metic Act (21 U.S.C. 387f(d)(1)), notwithstanding  
3       paragraph (3)(A)(ii) of such section 906(d).

4       (c) DEFINITION.—In this Act, the term “tobacco  
5       product” has the meaning given such term in section  
6       201(rr) of the Federal Food, Drug, and Cosmetic Act (21  
7       U.S.C. 321(rr)).

8       **SEC. 4. NON-PREEMPTION.**

9       Nothing in this Act shall be construed to prevent a  
10      State or local governmental entity from establishing, en-  
11      forcing, or maintaining a law with respect to sales of to-  
12      bacco to individuals below a minimum age, provided that  
13      such State or local law is at least as restrictive as the  
14      Federal law.