

117TH CONGRESS
1ST SESSION

H. R. 6286

To amend the Federal Food, Drug, and Cosmetic Act to vest regulatory authority with respect to tobacco products containing nicotine not made or derived from tobacco, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2021

Ms. SHERRILL (for herself, Mr. KRISHNAMOORTHY, and Mr. STEWART) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to vest regulatory authority with respect to tobacco products containing nicotine not made or derived from tobacco, 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 “Clarifying Authority
5 over Nicotine Act of 2021”.

1 **SEC. 2. FDA AUTHORITY OVER PRODUCTS CONTAINING**
2 **NICOTINE.**

3 (a) TOBACCO PRODUCT DEFINITION.—Section
4 201(rr)(1) of the Federal Food, Drug, and Cosmetic Act
5 (21 U.S.C. 321(rr)(1)) is amended—

6 (1) by inserting “, or containing nicotine from
7 any source,” after “from tobacco”; and

8 (2) by adding at the end the following: “An ar-
9 ticle that is a food as defined in paragraph (f) shall
10 not be considered a tobacco product if it contains
11 not more than trace amounts of nicotine and such
12 nicotine is naturally occurring.”.

13 (b) APPLICABILITY.—Section 901(b) of the Federal
14 Food, Drug, and Cosmetic Act (21 U.S.C. 387a(b)) is
15 amended to read as follows:

16 “(b) APPLICABILITY.—

17 “(1) IN GENERAL.—This chapter shall apply to
18 all cigarettes, cigarette tobacco, roll-your-own to-
19 bacco, and smokeless tobacco and to any other to-
20 bacco products that the Secretary by regulation
21 deems to be subject to this chapter.

22 “(2) TOBACCO PRODUCTS CONTAINING NICO-
23 TINE NOT MADE OR DERIVED FROM TOBACCO.—Be-
24 ginning 30 days after the date of enactment of the
25 Clarifying Authority over Nicotine Act of 2021, this

1 chapter shall apply to any tobacco product con-
2 taining nicotine not made or derived from tobacco.”.

3 (c) APPLICABILITY OF EXISTING REQUIREMENTS
4 FOR TOBACCO PRODUCTS.—Beginning on the date speci-
5 fied in section 901(b) of the Federal Food, Drug, and Cos-
6 metic Act, as amended by subsection (b), with respect to
7 any regulation promulgated or related guidance docu-
8 ments issued, in whole or in part, under this Act before
9 such date, the term “tobacco product” shall have the
10 meaning of, and shall be deemed amended to reflect the
11 meaning of, such term as defined in section 201(rr) of
12 the Federal Food, Drug, and Cosmetic Act, as amended
13 by subsection (a). Products that are “tobacco products”
14 under such section 201(rr) shall be subject to the require-
15 ments of existing regulations for tobacco products. The
16 Secretary shall publish a notice in the Federal Register
17 to update the Code of Federal Regulations to reflect such
18 deemed amendment to existing regulations and guidance
19 documents.

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