

Union Calendar No. 322

116TH CONGRESS
2^D SESSION

H. R. 4742

[Report No. 116–400]

To amend the Internal Revenue Code of 1986 to impose a tax on nicotine used in vaping, etc.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Mr. SUOZZI (for himself and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 21, 2020

Reported with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 18, 2019]

A BILL

To amend the Internal Revenue Code of 1986 to impose
a tax on nicotine used in vaping, etc.

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 “Protecting American*
5 *Lungs Act of 2019”.*

6 **SEC. 2. IMPOSITION OF TAX ON NICOTINE FOR USE IN**
7 **VAPING, ETC.**

8 *(a) IN GENERAL.—Section 5701 of the Internal Rev-*
9 *enue Code of 1986 is amended by redesignating subsection*
10 *(h) as subsection (i) and by inserting after subsection (g)*
11 *the following new subsection:*

12 *“(h) NICOTINE.—On taxable nicotine, manufactured*
13 *in or imported into the United States, there shall be im-*
14 *posed a tax equal to the dollar amount specified in section*
15 *5701(b)(1) (or, if greater, \$50.33) per 1,810 milligrams of*
16 *nicotine (and a proportionate tax at the like rate on any*
17 *fractional part thereof).”.*

18 *(b) TAXABLE NICOTINE.—Section 5702 of such Code*
19 *is amended by adding at the end the following new sub-*
20 *section:*

21 *“(q) TAXABLE NICOTINE.—*

22 *“(1) IN GENERAL.—Except as otherwise provided*
23 *in this subsection, the term ‘taxable nicotine’ means*
24 *any nicotine which has been extracted, concentrated,*
25 *or synthesized.*

1 “(2) *EXCEPTION FOR FDA-APPROVED NICOTINE*
2 *REPLACEMENT THERAPIES.*—Such term shall not in-
3 clude any nicotine if the manufacturer or importer
4 thereof demonstrates to the satisfaction of the Sec-
5 retary that such nicotine will be used in a product
6 which has been approved by the Food and Drug Ad-
7 ministration for sale as a nicotine replacement ther-
8 apy.

9 “(3) *COORDINATION WITH TAXATION OF OTHER*
10 *TOBACCO PRODUCTS.*—Cigars, cigarettes, smokeless to-
11 bacco, pipe tobacco, and roll-your-own tobacco shall
12 not be treated as containing taxable nicotine solely
13 because the nicotine naturally occurring in the to-
14 bacco from which such product is manufactured has
15 been concentrated during the ordinary course of man-
16 ufacturing.”.

17 (c) *TAXABLE NICOTINE TREATED AS A TOBACCO*
18 *PRODUCT.*—Section 5702(c) of such Code is amended by
19 striking “and roll-your-own tobacco” and inserting “roll-
20 your-own tobacco, and taxable nicotine”.

21 (d) *MANUFACTURER OF TAXABLE NICOTINE.*—Section
22 5702 of such Code is amended by adding at the end the
23 following new subsection:

24 “(r) *MANUFACTURER OF TAXABLE NICOTINE.*—

1 “(1) *IN GENERAL.*—Any person who extracts,
2 *concentrates, or synthesizes nicotine shall be treated*
3 *as a manufacturer of taxable nicotine (and as manu-*
4 *facturing such taxable nicotine).*”

5 “(2) *APPLICATION OF RULES RELATED TO MANU-*
6 *FACTURERS OF TOBACCO PRODUCTS.*—Any reference
7 *to a manufacturer of tobacco products, or to manufac-*
8 *turing tobacco products, shall be treated as including*
9 *a reference to a manufacturer of taxable nicotine, or*
10 *to manufacturing taxable nicotine, respectively.”*

11 “(e) *EFFECTIVE DATE.*—The amendments made by this
12 *section shall apply to articles manufactured or imported*
13 *in calendar quarters beginning more than 90 days after the*
14 *date of the enactment of this Act.*”

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