

S 1027

PACT Act

Congress: 110 (2007–2009, Ended)

Chamber: Senate

Policy Area: Crime and Law Enforcement

Introduced: Mar 29, 2007

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 351.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 351. (Sep 11, 2007)

Official Text: <https://www.congress.gov/bill/110th-congress/senate-bill/1027>

Sponsor

Name: Sen. Kohl, Herb [D-WI]

Party: Democratic • State: WI • Chamber: Senate

Cosponsors (6 total)

| Cosponsor | Party / State | Role | Date Joined |
|---------------------------------|---------------|------|--------------|
| Sen. Kyl, Jon [R-AZ] | R · AZ | | Mar 29, 2007 |
| Sen. Leahy, Patrick J. [D-VT] | D · VT | | Mar 29, 2007 |
| Sen. Schumer, Charles E. [D-NY] | D · NY | | Mar 29, 2007 |
| Sen. Specter, Arlen [R-PA] | R · PA | | Mar 29, 2007 |
| Sen. Collins, Susan M. [R-ME] | R · ME | | May 21, 2007 |
| Sen. Menendez, Robert [D-NJ] | D · NJ | | Nov 8, 2007 |

Committee Activity

| Committee | Chamber | Activity | Date |
|---------------------|---------|-------------|--------------|
| Judiciary Committee | Senate | Reported By | Sep 11, 2007 |

Subjects & Policy Tags

Policy Area:

Crime and Law Enforcement

Related Bills

| Bill | Relationship | Last Action |
|-------------|----------------|---|
| 110 HR 4081 | Identical bill | Oct 2, 2008: Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 1115. |

(This measure has not been amended since it was introduced. The summary has been expanded because action occurred on the measure.)

Prevent All Cigarette Trafficking Act of 2007 or the PACT Act - Amends the Jenkins Act to revise provisions governing the collection of taxes on, and trafficking in, cigarettes and smokeless tobacco.

(Sec. 2) Revises the definition of "cigarette" to include roll-your-own tobacco and to exclude cigars. Defines "delivery sale" to mean any sale of cigarettes or smokeless tobacco to a consumer ordered by telephone, the mails, or the Internet or other online service. Redefines "person" to include state, local, and Indian tribal governments. Redefines "use" to include the consumption, storage, handling, or disposal of smokeless tobacco, in addition to cigarettes.

Applies state tobacco tax reporting requirements to: (1) the sale or advertising for sale of smokeless tobacco products; (2) persons who ship or transfer cigarettes and smokeless tobacco products; and (3) the shipment of cigarettes or smokeless tobacco into a locality or Indian country that taxes the sale or use of such products. Requires sellers of tobacco products to file with the Attorney General reports filed with state tobacco tax administrators. Imposes additional information reporting requirements on such sellers, including disclosure of electronic mail addresses, website addresses, and authorized agents for service of process. Limits the use of information received from sellers of tobacco products solely for tax enforcement purposes.

Expands requirements for delivery sales by requiring each delivery seller, with respect to delivery sales into a specific state and place, to: (1) comply with specified shipping and record-keeping requirements, all state, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if such delivery sales occurred entirely within the specific state and place (including laws imposing excise taxes and licensing and tax-stamping requirements), and specified tax collection requirements; (2) include on the bill of lading for the shipping package containing cigarettes or smokeless tobacco a clear and conspicuous statement that federal law requires the payment of all applicable excise and sales taxes and compliance with applicable licensing and tax-stamping obligations; (3) comply with specified weight and age verification requirements; and (4) keep records of all delivery sales, organized by state, for four years and make such records accessible to state, local, and Indian tribe tax authorities and the Attorney General.

Prohibits the delivery of cigarettes or smokeless tobacco unless the excise tax on such products has been paid and any required stamps or other indicia of payment are properly affixed to the products. Allows an exception for states that require delivery sellers to collect the tax from consumers and remit such tax to state or local tax authorities.

Requires the Attorney General to compile a list of noncompliant delivery sellers of cigarettes and smokeless tobacco and to distribute such list to state attorneys general and tax administrators and common carriers and other couriers, including the U.S. Postal Service. Prohibits the delivery of any package to, or on behalf of, a noncompliant delivery seller without determining that such package does not include cigarettes or smokeless tobacco.

Makes a violation of the Jenkins Act a felony (currently, a misdemeanor). Increases civil penalties for violations to the greater of \$5,000 for a first violation or \$10,000 for any other violation, or two percent of the gross sales of cigarettes or smokeless tobacco for the year before the violation.

Grants U.S. district courts jurisdiction to prevent and restrain violations of this Act and to provide injunctive or equitable relief, including money damages. Empowers the Attorney General to administer and enforce this Act. Authorizes a state attorney general, a local government, an Indian tribe that levies a tax subject to this Act, or a holder of a permit as a

manufacturer or importer of tobacco products or as an export warehouse proprietor (permit holder) to bring an action in U.S. district court to prevent and restrain violations of this Act. Authorizes a state attorney general or such a local government or Indian tribe to provide to the Attorney General or a U.S. Attorney evidence of a violation of this Act by any person not subject to state, local, or tribal government enforcement actions for violations of this Act.

Establishes a PACT Anti-Trafficking Fund into which 50% of criminal and civil penalties collected in enforcing this Act shall be deposited and available to the Attorney General to enforce this Act and other laws relating to contraband tobacco products.

Requires the Attorney General to make information on enforcement actions publicly available (including on the Internet) and to report to Congress annually on such actions.

(Sec. 3) Amends the federal criminal code to treat cigarettes and smokeless tobacco as nonmailable matter and prohibit their deposit into the U.S. mails (except for mailings to noncontiguous U.S. states). Requires the seizure and forfeiture of any cigarettes or smokeless tobacco illegally deposited into the U.S. mails. Establishes in the Treasury the PACT Postal Service Fund to hold criminal and civil fines for mailing violations. Makes 50% of such fines available to the Postmaster General to enforce mailing restrictions on cigarettes and smokeless tobacco products.

(Sec. 4) Prohibits a tobacco product manufacturer or importer from selling in, delivering to, or placing for delivery sale in a state that is a party to the Master Settlement Agreement (executed November 23, 1998, by state attorneys general and certain tobacco manufacturers) any cigarette of such a manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such state. Grants: (1) U.S. district courts jurisdiction to prevent and restrain prohibited sales; and (2) the Attorney General authority to administer and enforce compliance with restrictions on such sales.

(Sec. 5) Authorizes any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to inspect the premises and records of sellers of cigarettes or smokeless tobacco who transfer more than 10,000 cigarettes or more than 500 single-unit consumer-sized cans or packages of smokeless tobacco within a single month. Grants authority to U.S. district courts to compel inspections. Imposes civil fines for refusal to permit ATF inspections of records or tobacco products.

(Sec. 6) Declares that nothing in this Act shall be construed to affect, amend, or modify specified agreements or limitations relating to the collection of taxes on, and related matters regarding, cigarettes or smokeless tobacco sold in Indian country or to inhibit the coordination of law enforcement by states or other jurisdictions, including Indian tribes, with respect to interstate sales or seizures of tobacco products.

(Sec. 7) Makes provisions of this Act effective 90 days after enactment, except for provisions relating to ATF authority, which are effective immediately.

Actions Timeline

- **Sep 11, 2007:** Committee on the Judiciary. Reported by Senator Leahy without amendment. With written report No. 110-153.
- **Sep 11, 2007:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 351.
- **May 17, 2007:** Committee on the Judiciary. Ordered to be reported without amendment favorably.
- **Mar 29, 2007:** Introduced in Senate
- **Mar 29, 2007:** Sponsor introductory remarks on measure. (CR S4163-4164)
- **Mar 29, 2007:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S4164-4169)