

HR 4081

PACT Act

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: Crime and Law Enforcement

Introduced: Nov 5, 2007

Current Status: Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 1115.

Latest Action: Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 1115. (Oct 2, 2008)

Official Text: <https://www.congress.gov/bill/110th-congress/house-bill/4081>

Sponsor

Name: Rep. Weiner, Anthony D. [D-NY-9]

Party: Democratic • State: NY • Chamber: House

Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Smith, Lamar [R-TX-21]	R · TX		Apr 3, 2008
Rep. Doggett, Lloyd [D-TX-25]	D · TX		May 5, 2008
Rep. King, Peter T. [R-NY-3]	R · NY		May 5, 2008

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Discharged from	Jul 16, 2008

Subjects & Policy Tags

Policy Area:

Crime and Law Enforcement

Related Bills

Bill	Relationship	Last Action
110 S 1027	Identical bill	Sep 11, 2007: Placed on Senate Legislative Calendar under General Orders. Calendar No. 351.

Prevent All Cigarette Trafficking Act of 2008 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. Authorizes the U.S. Postal Service to refuse to accept nonmailable tobacco products and to issue cease and desist orders to anyone mailing such products. Imposes civil penalties for failure to comply with such orders. Exempts from such prohibition: (1) cigars; and (2) mailings within Alaska or Hawaii; or (3) mailings for business purposes between legally operating tobacco businesses, and by individuals for noncommercial, nonbusiness, and non-money making purposes.

Requires the seizure and forfeiture of any cigarettes or smokeless tobacco illegally deposited into the U.S. mails. Imposes a criminal penalty for intentionally placing nonmailable tobacco products in 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.

Allows a state, local government, or Indian tribe to obtain appropriate injunctive or equitable relief for violations of such prohibition in a civil action in a U.S. district court.

(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. Imposes a civil penalty for noncompliance with an ATF inspection or a court order to compel such inspection.

(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) Expresses the sense of Congress that unique harms are associated with online cigarette sales and that this Act is not intended to create a precedent regarding the collection of other state sales or use taxes by out-of-state entities that do not have a physical presence within the taxing state.

(Sec. 8) Makes provisions of this Act effective 90 days after enactment of this Act, except for provisions relating to ATF

authority, which are effective immediately.

(Sec. 9) Provides that the invalidation of any provision of this Act or its application will not affect other provisions of this Act, or its application to any other person or circumstance.

### Actions Timeline

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- **Oct 2, 2008:** Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 1115.
- **Sep 11, 2008:** Received in the Senate.
- **Sep 10, 2008:** Considered as unfinished business. (consideration: CR H7987-7988)
- **Sep 10, 2008:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays (2/3 required): 379 - 12 (Roll No. 584).(text: CR 9/09/2008 H7918-7924)
- **Sep 10, 2008:** On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays (2/3 required): 379 - 12 (Roll No. 584). (text: CR 9/09/2008 H7918-7924)
- **Sep 10, 2008:** Motion to reconsider laid on the table Agreed to without objection.
- **Sep 9, 2008:** Reported (Amended) by the Committee on Judiciary. H. Rept. 110-836.
- **Sep 9, 2008:** Placed on the Union Calendar, Calendar No. 537.
- **Sep 9, 2008:** Mr. Scott (VA) moved to suspend the rules and pass the bill, as amended.
- **Sep 9, 2008:** Considered under suspension of the rules. (consideration: CR H7918-7928)
- **Sep 9, 2008:** DEBATE - The House proceeded with forty minutes of debate on H.R. 4081.
- **Sep 9, 2008:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Jul 16, 2008:** Committee Consideration and Mark-up Session Held.
- **Jul 16, 2008:** Ordered to be Reported (Amended) by Voice Vote.
- **Jul 16, 2008:** Subcommittee on Crime, Terrorism, and Homeland Security Discharged.
- **May 1, 2008:** Subcommittee Hearings Held.
- **Dec 3, 2007:** Referred to the Subcommittee on Crime, Terrorism, and Homeland Security.
- **Nov 5, 2007:** Introduced in House
- **Nov 5, 2007:** Referred to the House Committee on the Judiciary.