

S 1147

PACT Act

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Crime and Law Enforcement

Introduced: May 21, 2009

Current Status: Became Public Law No: 111-154.

Latest Action: Became Public Law No: 111-154. (Mar 31, 2010)

Law: 111-154 (Enacted Mar 31, 2010)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/1147>

Sponsor

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

Party: Democratic • **State:** WI • **Chamber:** Senate

Cosponsors (20 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Leahy, Patrick J. [D-VT]	D · VT		May 21, 2009
Sen. Gillibrand, Kirsten E. [D-NY]	D · NY		Jun 3, 2009
Sen. Schumer, Charles E. [D-NY]	D · NY		Jun 3, 2009
Sen. Pryor, Mark L. [D-AR]	D · AR		Jun 8, 2009
Sen. Warner, Mark R. [D-VA]	D · VA		Jun 8, 2009
Sen. Specter, Arlen [D-PA]	D · PA		Sep 29, 2009
Sen. Feinstein, Dianne [D-CA]	D · CA		Oct 15, 2009
Sen. Kerry, John F. [D-MA]	D · MA		Oct 27, 2009
Sen. Klobuchar, Amy [D-MN]	D · MN		Oct 28, 2009
Sen. Durbin, Richard J. [D-IL]	D · IL		Nov 4, 2009
Sen. Webb, Jim [D-VA]	D · VA		Nov 9, 2009
Sen. Casey, Robert P., Jr. [D-PA]	D · PA		Nov 16, 2009
Sen. Harkin, Tom [D-IA]	D · IA		Nov 17, 2009
Sen. Cornyn, John [R-TX]	R · TX		Nov 19, 2009
Sen. Hatch, Orrin G. [R-UT]	R · UT		Nov 19, 2009
Sen. Sessions, Jeff [R-AL]	R · AL		Nov 19, 2009
Sen. Bayh, Evan [D-IN]	D · IN		Dec 3, 2009
Sen. Enzi, Michael B. [R-WY]	R · WY		Dec 7, 2009
Sen. LeMieux, George S. [R-FL]	R · FL		Dec 9, 2009
Sen. Shaheen, Jeanne [D-NH]	D · NH		Feb 2, 2010

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Nov 19, 2009

Subjects & Policy Tags

Policy Area:

Crime and Law Enforcement

Related Bills

Bill	Relationship	Last Action
111 HR 1676	Related bill	Jun 1, 2009: Received in the Senate and Read twice and referred to the Committee on the Judiciary.

(This measure has not been amended since it was reported to the Senate on November 19, 2009. The summary of that version is repeated here.)

Prevent All Cigarette Trafficking Act of 2009 or 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 the 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 after the date of the delivery sale, 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 United States Postal Service (USPS). 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.

Imposes a fine and/or prison term of up to three years for violations of this Act. Increases civil penalties for violations to the greater of \$5,000 for a first violation or \$10,000 for any other violation, or 2% of the gross sales of cigarettes or smokeless tobacco for the year before the violation.

Grants federal 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.

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 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. Requires the USPS to refuse to accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this Act. Exempts from such prohibition: (1) cigars; and (2) mailings within the states of Alaska or Hawaii; (3) mailings for business purposes between legally operating tobacco businesses and by individuals for noncommercial purposes; or (4) mailings for consumer testing by manufacturers or the federal government. Requires the Postmaster General to issue a final rule to establish the standards and requirements applicable to tobacco products mailed for business purposes.

Requires the seizure and forfeiture of any cigarettes or smokeless tobacco illegally deposited into the U.S. mails. Imposes an additional civil penalty and a criminal penalty for mailing nonmailable tobacco products.

Establishes the PACT Postal Service Fund to which 50% of criminal and civil fines for mailing violations shall be transferred and made 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 mailing violations in a civil action in a U.S. district court.

(Sec. 4) Authorizes the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to enter the business premises of delivery sellers and inspect their records and information and any cigarettes or smokeless tobacco stored at such premises. Authorizes federal district courts to compel such inspections. Imposes a civil penalty for failure to comply with inspections.

(Sec. 5) 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. 6) Makes this Act effective 90 days after its enactment, except for provisions authorizing ATF to enter and search business premises (Section 4 of this Act) which takes effect on the date of enactment.

(Sec. 7) Declares that if any provision of this Act or amendment is held invalid, the remainder of this Act and its application shall not be affected thereby.

(Sec. 8) Expresses the sense of Congress that this Act responds to the unique harms posed by online cigarette sales and does not create a precedent for the collection of state sales or use taxes by, or the validity of efforts to impose other types

of taxes on, out-of-state entities that do not have a physical presence in the taxing state.

Actions Timeline

- **Mar 31, 2010:** Signed by President.
- **Mar 31, 2010:** Became Public Law No: 111-154.
- **Mar 19, 2010:** Presented to President.
- **Mar 17, 2010:** Mr. Cohen moved to suspend the rules and pass the bill.
- **Mar 17, 2010:** Considered under suspension of the rules. (consideration: CR H1526-1535)
- **Mar 17, 2010:** DEBATE - The House proceeded with forty minutes of debate on S. 1147.
- **Mar 17, 2010:** 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.
- **Mar 17, 2010:** Considered as unfinished business. (consideration: CR H1558-1559)
- **Mar 17, 2010:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 387 - 25 (Roll no. 124).(text: CR H1526-1533)
- **Mar 17, 2010:** On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 387 - 25 (Roll no. 124). (text: CR H1526-1533)
- **Mar 17, 2010:** Motion to reconsider laid on the table Agreed to without objection.
- **Mar 17, 2010:** Cleared for White House.
- **Mar 15, 2010:** Received in the House.
- **Mar 15, 2010:** Held at the desk.
- **Mar 12, 2010:** Message on Senate action sent to the House.
- **Mar 11, 2010:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.(consideration: CR S1480-1487; text as passed Senate: CR S1480-1486)
- **Mar 11, 2010:** Passed Senate with an amendment by Unanimous Consent. (consideration: CR S1480-1487; text as passed Senate: CR S1480-1486)
- **Nov 19, 2009:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Nov 19, 2009:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report.
- **Nov 19, 2009:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 216.
- **May 21, 2009:** Introduced in Senate
- **May 21, 2009:** Sponsor introductory remarks on measure. (CR S5852-5853)
- **May 21, 2009:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S5853-5860)