

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 1108
OFFERED BY MRS. BLACKBURN OF TENNESSEE**

Strike section 102 and insert the following:

1 **SEC. 102. YOUTH COMPLIANCE TARGET AND ENFORCE-**
2 **MENT.**

3 (a) **AMENDMENT.**—Section 1926 of the Public
4 Health Service Act (42 U.S.C. 300x-26) is amended to
5 read as follows:

6 **“SEC. 1926. STRENGTHENING STATE LAWS RELATING TO**
7 **TOBACCO PRODUCT SALES TO INDIVIDUALS**
8 **UNDER THE AGE OF 18.**

9 **“(a) RELEVANT LAW.**—

10 **“(1) IN GENERAL.**—Subject to paragraph (2),
11 for fiscal year 2010 and subsequent fiscal years, the
12 Secretary may make a grant under section 1921
13 only if the State involved has in effect a law pro-
14 viding that—

15 **“(A)** it is unlawful for any manufacturer,
16 retailer, or distributor of tobacco products to
17 sell or distribute any such product to any indi-
18 vidual under 18 years of age;

1 “(B) it is unlawful for an individual under
2 18 years of age—

3 “(i) to purchase or attempt to pur-
4 chase, or receive or attempt to receive, a
5 tobacco product; or

6 “(ii) to possess or attempt to possess
7 a tobacco product in a public place;

8 “(C) a law enforcement agency, upon de-
9 termining that an individual under 18 years of
10 age allegedly purchased or received a tobacco
11 product, or allegedly possessed a tobacco prod-
12 uct in a public place, shall notify the individ-
13 ual’s parent or parents, custodian, or guardian
14 (if the name and address of a parent, guardian,
15 or custodian is reasonably ascertainable);

16 “(D) within 180 days after the effective
17 date of such State law, any person engaged in
18 the business of distributing tobacco products at
19 retail shall implement a program—

20 “(i) to notify each employee employed
21 by that person who distributes tobacco
22 products that State law prohibits the sale
23 or distribution of tobacco products to any
24 individual under 18 years of age and the
25 purchase or receipt, or possession in a pub-

1 lic place, of tobacco products by any such
2 individual; and

3 “(ii) to ensure compliance with such
4 law;

5 “(E) an employer shall not be in violation
6 of the prohibition described in subparagraph
7 (A) if such employer—

8 “(i) relies upon proof of age that ap-
9 peared on its face to be valid; or

10 “(ii) implements a program in accord-
11 ance with subparagraph (D); and

12 “(F) an individual who violates the prohi-
13 bition described in subparagraph (B) may be
14 liable for a civil monetary penalty and may be
15 required to perform community service.

16 “(2) DELAYED APPLICABILITY FOR CERTAIN
17 STATES.—In the case of a State whose legislature
18 does not convene a regular session in fiscal year
19 2010, and in the case of a State whose legislature
20 does not convene a regular session in fiscal year
21 2011, the requirement described in paragraph (1) as
22 a condition of a receipt of a grant under section
23 1921 shall apply only for fiscal year 2012 and sub-
24 sequent fiscal years.

1 “(b) STATE GOALS FOR NONCOMPLIANCE.—Begin-
2 ning with respect to the first applicable fiscal year, a fund-
3 ing agreement for a grant under section 1921 is that the
4 State involved has established goals for reducing the rate
5 of retailer violations of the law described in subsection (a),
6 as determined through annual, random, unannounced in-
7 spections described in subsection (c)(2)(A), so that the
8 rate of such violations relative to the number of inspec-
9 tions does not exceed the following:

- 10 “(1) 20 percent during fiscal year 2010.
11 “(2) 19 percent during fiscal year 2011.
12 “(3) 18 percent during fiscal year 2012.
13 “(4) 17 percent during fiscal year 2013.
14 “(5) 16 percent during fiscal year 2014.
15 “(6) 15 percent during fiscal year 2015.
16 “(7) 14 percent during fiscal year 2016.
17 “(8) 13 percent during fiscal year 2017.
18 “(9) 12 percent during fiscal year 2018.
19 “(10) 11 percent during fiscal year 2019.
20 “(11) 10 percent during fiscal year 2020 and
21 each subsequent year.

22 “(c) ENFORCEMENT.—

23 “(1) IN GENERAL.—A funding agreement for a
24 grant under section 1921 is that the State involved
25 will enforce the law described in subsection (a) in a

1 manner that can reasonably be expected to achieve
2 the goals established pursuant to subsection (b) and
3 reduce the extent to which tobacco products are
4 available to individuals under 18 years of age.

5 “(2) ACTIVITIES AND REPORTS REGARDING EN-
6 FORCEMENT.—A funding agreement for a grant
7 under section 1921 is that the State involved will—

8 “(A) annually conduct random, unan-
9 nounced inspections to ensure compliance with
10 the law described in subsection (a); and

11 “(B) annually submit to the Secretary a
12 report describing—

13 “(i) the activities carried out by the
14 State to enforce such law during the fiscal
15 year preceding the fiscal year for which the
16 State is seeking the grant;

17 “(ii) the extent of success the State
18 has achieved in meeting the goals estab-
19 lished pursuant to subsection (b) and in
20 reducing the availability of tobacco prod-
21 ucts to individuals under 18 years of age;
22 and

23 “(iii) the strategies to be utilized by
24 the State for enforcing such law during the
25 fiscal year for which the grant is sought.

1 “(3) USE OF INDIVIDUALS UNDER 18 YEARS OF
2 AGE IN INSPECTIONS.—A funding agreement for a
3 grant under section 1921 is that the State may en-
4 gage an individual under 18 years of age to test
5 compliance with the law described in subsection (a)
6 only if—

7 “(A) the testing is conducted with the
8 written consent of a parent or legal guardian of
9 such individual; and

10 “(B) such individual acts under the direct
11 supervision of the State during a random, un-
12 announced inspection.

13 “(d) USE OF STATE SETTLEMENT PROCEEDS.—A
14 funding agreement for a grant under section 1921 is that
15 the State involved certifies to the Secretary that, with re-
16 spect to the calendar year preceding the year in which the
17 State is applying for such a grant, the State expended
18 more than 10 percent of the funds paid to the State for
19 such calendar year as part of the comprehensive settle-
20 ment of November 1998 (as referred to in section
21 1903(d)(3)(B)(i) of the Social Security Act) on health pro-
22 grams, tobacco control and cessation activities, or eco-
23 nomic development for tobacco regions.

24 “(e) NONCOMPLIANCE OF STATE.—

1 “(1) DETERMINATION BY SECRETARY.—Before
2 making a grant under section 1921 to a State for
3 any fiscal year, the Secretary shall make a deter-
4 mination of whether the State has maintained com-
5 pliance with subsections (a), (b), (c), and (d).

6 “(2) REDUCTION OF ALLOTMENT.—Beginning
7 with respect to the first applicable fiscal year, if,
8 after notice to the State and an opportunity for a
9 hearing, the Secretary determines that the State is
10 not in compliance with any of subsections (a), (b),
11 or (c), the Secretary shall reduce the amount of the
12 allotment under section 1921 for the State for the
13 fiscal year involved by an amount equal to—

14 “(A) in the case of fiscal year 2010, 10
15 percent of the amount determined under section
16 1933 for the State for the fiscal year;

17 “(B) in the case of fiscal year 2011, 20
18 percent of the amount determined under section
19 1933 for the State for the fiscal year;

20 “(C) in the case of fiscal year 2012, 30
21 percent of the amount determined under section
22 1933 for the State for the fiscal year; and

23 “(D) in the case of fiscal year 2013 or any
24 subsequent fiscal year, 40 percent of the

1 amount determined under section 1933 for the
2 State for the fiscal year.

3 “(3) ADDITIONAL REDUCTION.—Beginning with
4 respect to the first applicable fiscal year, if the Sec-
5 retary determines under paragraph (1) that the
6 State is not in compliance with any of subsections
7 (a), (b), or (c), and is not in compliance with sub-
8 section (d), the Secretary may reduce the amount of
9 the allotment under section 1921 for the State for
10 the fiscal year involved by an amount equal to 10
11 percent of the amount determined under section
12 1933 for the State for such fiscal year. Such reduc-
13 tion shall be in addition to the reduction under para-
14 graph (2).

15 “(f) ASSISTANCE IN IMPLEMENTING PROGRAMS.—In
16 order to assist States in establishing and implementing
17 State laws described in subsection (a), the Secretary
18 shall—

19 “(1) develop not later than January 1, 2009,
20 and subsequently revise as appropriate, model legis-
21 lative language; and

22 “(2) provide technical assistance and guidance
23 in developing, enacting, and implementing such laws
24 and in setting goals pursuant to subsection (b).

1 “(g) DEFINITION.—In this section, the term ‘first ap-
2 plicable fiscal year’ means—

3 “(1) fiscal year 2012, in the case of any State
4 described in subsection (a)(2); and

5 “(2) fiscal year 2010, in the case of any other
6 State.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall apply with respect to the first
10 applicable fiscal year and each subsequent fiscal
11 year. The provisions of section 1926 of the Public
12 Health Service Act (42 U.S.C. 300x-26), as in effect
13 on the day before the date of the enactment of this
14 Act, shall apply with respect to fiscal years pre-
15 ceding the first applicable fiscal year.

16 (2) DEFINITION.—In this subsection, the term
17 “first applicable fiscal year” has the meaning given
18 such term in subsection (g) of section 1926 of the
19 Public Health Service Act (42 U.S.C. 300x-26), as
20 amended by subsection (a) of this section.

21 (c) PUBLIC DISCLOSURE OF INGREDIENTS.—Section
22 7 of the Federal Cigarette Labeling and Advertising Act
23 (15 U.S.C. 1335a) is amended—

24 (1) in subsection (a), by striking “the company
25 which uses the ingredients or”; and

1 (2) by amending subsection (b)(2) to read as
2 follows:

3 “(2) The Secretary shall make any information pro-
4 vided under this section accessible to the public on the
5 Internet not later than 48 hours after receipt by the Sec-
6 retary.”.