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AMENDMENT TO HR 1256  
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;

19 “(B) it is unlawful for an individual under  
20 18 years of age—

1                   “(i) to purchase or attempt to purchase,  
2                   chase, or receive or attempt to receive, a  
3                   tobacco product; or

4                   “(ii) to possess or attempt to possess  
5                   a tobacco product in a public place;

6                   “(C) a law enforcement agency, upon determining that an individual under 18 years of  
7                   age allegedly purchased or received a tobacco  
8                   product, or allegedly possessed a tobacco product in a public place, shall notify the individual’s parent or parents, custodian, or guardian  
9                   (if the name and address of a parent, guardian, or custodian is reasonably ascertainable);

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

11                   “(i) to notify each employee employed  
12                   by that person who distributes tobacco products that State law prohibits the sale or distribution of tobacco products to any individual under 18 years of age and the purchase or receipt, or possession in a public place, of tobacco products by any such individual; and

1                   “(ii) to ensure compliance with such  
2                   law;

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

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

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

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

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

23                  “(b) STATE GOALS FOR NONCOMPLIANCE.—Begin-  
24                  ning with respect to the first applicable fiscal year, a fund-  
25                  ing agreement for a grant under section 1921 is that the

1 State involved has established goals for reducing the rate  
2 of retailer violations of the law described in subsection (a),  
3 as determined through annual, random, unannounced in-  
4 spections described in subsection (c)(2)(A), so that the  
5 rate of such violations relative to the number of inspec-  
6 tions does not exceed the following:

7 “(1) 20 percent during fiscal year 2010.

8 “(2) 19 percent during fiscal year 2011.

9 “(3) 18 percent during fiscal year 2012.

10 “(4) 17 percent during fiscal year 2013.

11 “(5) 16 percent during fiscal year 2014.

12 “(6) 15 percent during fiscal year 2015.

13 “(7) 14 percent during fiscal year 2016.

14 “(8) 13 percent during fiscal year 2017.

15 “(9) 12 percent during fiscal year 2018.

16 “(10) 11 percent during fiscal year 2019.

17 “(11) 10 percent during fiscal year 2020 and  
18 each subsequent year.

19 “(c) ENFORCEMENT.—

20 “(1) IN GENERAL.—A funding agreement for a  
21 grant under section 1921 is that the State involved  
22 will enforce the law described in subsection (a) in a  
23 manner that can reasonably be expected to achieve  
24 the goals established pursuant to subsection (b) and

1       reduce the extent to which tobacco products are  
2       available to individuals under 18 years of age.

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

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

9               “(B) annually submit to the Secretary a  
10       report describing—

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

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

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

24               “(3) USE OF INDIVIDUALS UNDER 18 YEARS OF  
25       AGE IN INSPECTIONS.—A funding agreement for a

1 grant under section 1921 is that the State may en-  
2 gage an individual under 18 years of age to test  
3 compliance with the law described in subsection (a)  
4 only if—

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

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

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

22 “(e) NONCOMPLIANCE OF STATE.—

23 “(1) DETERMINATION BY SECRETARY.—Before  
24 making a grant under section 1921 to a State for  
25 any fiscal year, the Secretary shall make a deter-

1 mination of whether the State has maintained com-  
2 pliance with subsections (a), (b), (c), and (d).

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

11 “(A) in the case of fiscal year 2010, 10  
12 percent of the amount determined under section  
13 1933 for the State for the fiscal year;

14 “(B) in the case of fiscal year 2011, 20  
15 percent of the amount determined under section  
16 1933 for the State for the fiscal year;

17 “(C) in the case of fiscal year 2012, 30  
18 percent of the amount determined under section  
19 1933 for the State for the fiscal year; and

20 “(D) in the case of fiscal year 2013 or any  
21 subsequent fiscal year, 40 percent of the  
22 amount determined under section 1933 for the  
23 State for the fiscal year.

24 “(3) ADDITIONAL REDUCTION.—Beginning with  
25 respect to the first applicable fiscal year, if the Sec-

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

11      “(f) ASSISTANCE IN IMPLEMENTING PROGRAMS.—In  
12      order to assist States in establishing and implementing  
13      State laws described in subsection (a), the Secretary  
14      shall—

15           “(1) develop not later than January 1, 2009,  
16           and subsequently revise as appropriate, model legis-  
17           lative language; and

18           “(2) provide technical assistance and guidance  
19           in developing, enacting, and implementing such laws  
20           and in setting goals pursuant to subsection (b).

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

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

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

3           (b) EFFECTIVE DATE.—

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

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

17           (c) PUBLIC DISCLOSURE OF INGREDIENTS.—Section  
18 7 of the Federal Cigarette Labeling and Advertising Act  
19 (15 U.S.C. 1335a) is amended—

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

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

24           “(2) The Secretary shall make any information pro-  
25 vided under this section accessible to the public on the

1 Internet not later than 48 hours after receipt by the Sec-  
2 retary.”.

