To apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on _____________

A BILL

To apply requirements relating to delivery sales of cigarettes to delivery sales of electronic nicotine delivery systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preventing Online Sales of E-Cigarettes to Children Act”.

SEC. 2. AMENDMENTS TO THE JENKINS ACT.

(a) IN GENERAL.—The Act entitled “An Act to assist States in collecting sales and use taxes on cigarettes”, approved October 19, 1949 (commonly known as the “Jenkins Act”) (15 U.S.C. 375 et seq.), is amended —
(1) in section 1 (15 U.S.C. 375)—

(A) in paragraph (2)(A)(ii)—

(i) by striking “includes roll-your-own tobacco” and inserting the following: “includes—

“(I) roll-your-own tobacco”;

(ii) in subclause (I), as so designated, by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(II) an electronic nicotine delivery system.”;

(B) by redesignating paragraphs (7) through (14) as paragraphs (8) through (15), respectively; and

(C) by inserting after paragraph (6) the following:

“(7) ELECTRONIC NICOTINE DELIVERY SYSTEM.—The term ‘electronic nicotine delivery system’—

“(A) means any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device;
“(B) includes—

“(i) an e-cigarette;
“(ii) an e-hookah;
“(iii) an e-cigar;
“(iv) a vape pen;
“(v) an advanced refillable personal vaporizer;
“(vi) an electronic pipe; and
“(vii) any component, liquid, part, or accessory of a device described in subparagraph (A), without regard to whether the component, liquid, part, or accessory is sold separately from the device; and

“(C) does not include a product that is—

“(i) approved by the Food and Drug Administration for—

“(I) sale as a tobacco cessation product; or
“(II) any other therapeutic purpose; and
“(ii) marketed and sold solely for a purpose described in clause (i).”; and

(2) in section 2A(b)(1) (15 U.S.C. 376a(b)(1)), by inserting “NICOTINE/” after “CIGARETTES/”. 
(b) **EFFECTIVE DATE.**—This section, and the amendments made by this section, shall take effect on the date that is 90 days after the date of enactment of this Act.

**SEC. 3. NONMAILABILITY OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.**

(a) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to clarify the applicability of the prohibition on mailing of cigarettes under section 1716E of title 18, United States Code, to electronic nicotine delivery systems, in accordance with the amendment to the definition of “cigarette” made by section 2.

(b) **EFFECTIVE DATE.**—The prohibition on mailing of cigarettes under section 1716E of title 18, United States Code, shall apply to electronic nicotine delivery systems on and after the date on which the United States Postal Service promulgates regulations under subsection (a) of this section.