

119TH CONGRESS
2D SESSION

S. _____

To amend the Tariff Act of 1930 to provide for escalating civil penalties for fraudulent or negligent importation of unauthorized electronic nicotine delivery systems.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Tariff Act of 1930 to provide for escalating civil penalties for fraudulent or negligent importation of unauthorized electronic nicotine delivery systems.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eliminating Nefarious
5 Distribution of Smuggled Chinese Vapes Act of 2026” or
6 the “ENDS Chinese Vapes Act of 2026”.

1 **SEC. 2. INCREASED CIVIL PENALTIES FOR FRAUDULENT,**
2 **GROSSLY NEGLIGENT, OR NEGLIGENT ENTRY**
3 **OF UNAUTHORIZED ELECTRONIC NICOTINE**
4 **DELIVERY SYSTEMS.**

5 (a) IN GENERAL.—The Tariff Act of 1930 (19
6 U.S.C. 1304 et seq.) is amended by inserting after section
7 592A the following:

8 **“SEC. 592B. CIVIL PENALTIES FOR FRAUDULENT, GROSSLY**
9 **NEGLIGENT, OR NEGLIGENT ENTRY OF UN-**
10 **AUTHORIZED ELECTRONIC NICOTINE DELIV-**
11 **ERY SYSTEMS.**

12 “(a) IN GENERAL.—It shall be unlawful for any per-
13 son to enter, introduce, or attempt to enter or introduce
14 an unauthorized electronic nicotine delivery system into
15 the customs territory of the United States.

16 “(b) PENALTIES.—

17 “(1) IN GENERAL.—A person who violates sub-
18 section (a), whether through fraud, gross negligence,
19 or negligence, shall be subject (subject to paragraph
20 (2)) to the following penalties:

21 “(A) For a violation involving fraud, not to
22 exceed \$5,000 per unit of unauthorized elec-
23 tronic nicotine delivery system.

24 “(B) For a violation involving gross neg-
25 ligence, not to exceed \$1,000 per unit of unau-
26 thorized electronic nicotine delivery system.

1 “(C) For a violation involving negligence,
2 not to exceed \$500 per unit of unauthorized
3 electronic nicotine delivery system.

4 “(D) If the shipment containing the unau-
5 thorized electronic nicotine delivery system in-
6 volved transshipment through a third country
7 for purposes of evading applicable duties, fal-
8 sifying or concealing the country of origin, or
9 any other scheme designed to evade applicable
10 customs laws, an amount not to exceed twice
11 the amount of the penalty otherwise applicable
12 to the violation.

13 “(E) If the violation is the second or sub-
14 sequent violation of section (a) by the person
15 during a 3-year period, an amount not to ex-
16 ceed 3 times the amount of the penalty other-
17 wise applicable to the violation.

18 “(F) If a violation is described in both sub-
19 paragraphs (D) and (E), an amount not to ex-
20 ceed 5 times the amount of the penalty other-
21 wise applicable to the violation.

22 “(2) MAXIMUM PENALTY.—The penalties im-
23 posed under paragraph (1) with respect to a ship-
24 ment containing an unauthorized electronic nicotine
25 delivery system may not exceed an amount that is

1 1,000 percent of the estimated retail value in the
2 United States of the shipment.

3 “(3) CALCULATION OF ENTRIES.—Each entry
4 or attempted entry in violation of subsection (a)
5 shall constitute a single violation, regardless of the
6 number of units contained in the entry.

7 “(c) PROCEDURES.—The procedures set forth in sec-
8 tion 592 for the assessment, mitigation, collection, and ju-
9 dicial review of penalties shall apply to penalties imposed
10 under this section, except as otherwise provided in this
11 section.

12 “(d) SAVINGS CLAUSE.—Nothing in this section shall
13 be construed to limit the authority of U.S. Customs and
14 Border Protection, the Food and Drug Administration,
15 the Department of Justice, or any other Federal agency
16 to pursue any civil, criminal, or administrative remedy
17 otherwise available under law with respect to unauthorized
18 electronic nicotine delivery systems.

19 “(e) DEFINITIONS.—In this section:

20 “(1) ESTIMATED RETAIL VALUE.—The term
21 ‘estimated retail value in the United States’, with re-
22 spect to a shipment, means the aggregate price at
23 which the unauthorized electronic nicotine delivery
24 systems in the shipment would be sold to end con-
25 sumers in the ordinary course of trade in the United

1 States, as determined by the Commissioner of U.S.
2 Customs and Border Protection by regulation.

3 “(2) PERSON.—

4 “(A) IN GENERAL.—The term ‘person’ in-
5 cludes any individual, corporation, partnership,
6 limited liability company, trust, or other entity.

7 “(B) COMMON OWNERSHIP.—For purposes
8 of subsection (b)(1)(E), 2 or more persons shall
9 be treated as a single person if those persons
10 are under common ownership of 25 percent or
11 more, share a majority of officers or directors,
12 or are otherwise under common control, as de-
13 termined by the Commissioner of U.S. Customs
14 and Border Protection by regulation.

15 “(3) UNAUTHORIZED ELECTRONIC NICOTINE
16 DELIVERY SYSTEM.—The term ‘unauthorized elec-
17 tronic nicotine delivery system’ means an electronic
18 nicotine delivery system that is not authorized under
19 section 910 of the Federal Food, Drug, and Cos-
20 metic Act (21 U.S.C. 387j), or any other provision
21 of that Act, for introduction or delivery for introduc-
22 tion into interstate commerce.

23 “(4) UNIT.—The term ‘unit’ means each indi-
24 vidual electronic nicotine delivery system device, car-

1 tridge, pod, or other discrete article intended for
2 separate consumer use.”.

3 (b) APPLICABILITY.—Section 592B of the Tariff Act
4 of 1930 applies to the entry or introduction of, or attempt
5 to enter or introduce, an unauthorized electronic nicotine
6 delivery system into the customs territory of the United
7 States after the date of the enactment of this Act.