

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO THE DISCUSSION DRAFT
OFFERED BY M ____ . _____

[Drafted to NICOTINE__01, dated July 21, 2015]

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Child Nicotine Poi-
3 soning Prevention Act of 2015”.

4 SEC. 2. SPECIAL PACKAGING FOR LIQUID NICOTINE CON-
5 TAINERS.

6 (a) REQUIREMENT.—Notwithstanding section 2(f)(2)
7 of the Federal Hazardous Substances Act (15 U.S.C.
8 1261(f)(2)) and section 3(a)(5) of the Consumer Product
9 Safety Act (15 U.S.C. 2052(a)(5)), any nicotine provided
10 in a liquid nicotine container sold, offered for sale, manu-
11 factured for sale, distributed in commerce, or imported
12 into the United States shall be packaged in accordance
13 with the standards provided in section 1700.15 of title 16,
14 Code of Federal Regulations, as determined through test-
15 ing in accordance with the method described in section
16 1700.20 of title 16, Code of Federal Regulations, and any

1 subsequent changes to such sections adopted by the Com-
2 mission.

3 (b) SAVINGS CLAUSE.—

4 (1) IN GENERAL.—Nothing in this Act shall be
5 construed to limit or otherwise affect the authority
6 of the Secretary of Health and Human Services to
7 regulate, issue guidance, or take action regarding
8 the manufacture, marketing, sale, distribution, im-
9 portation, or packaging, including child-resistant
10 packaging, of nicotine, liquid nicotine, liquid nicotine
11 containers, electronic cigarettes, electronic nicotine
12 delivery systems or other similar products that con-
13 tain or dispense liquid nicotine, or any other nico-
14 tine-related products, including—

15 (A) authority under the Federal Food,
16 Drug, and Cosmetic Act (21 U.S.C. 301 et
17 seq.) and the Family Smoking Prevention and
18 Tobacco Control Act (Public Law 111–31) and
19 the amendments made by such Act; and

20 (B) authority for the rulemaking entitled
21 “Deeming Tobacco Products to Be Subject to
22 the Federal Food, Drug, and Cosmetic Act, as
23 Amended by the Family Smoking Prevention
24 and Tobacco Control Act; regulations on the
25 Sale and Distribution of Tobacco Products and

1 the Required Warning Statements for Tobacco
2 Products” (April 2014) (FDA-2014-N-0189),
3 the rulemaking entitled “Nicotine Exposure
4 Warnings and Child-Resistant Packaging for
5 Liquid Nicotine, Nicotine-Containing E-Liq-
6 uid(s), and Other Tobacco Products” (June
7 2015) (FDA-2015-N-1514), and subsequent ac-
8 tions by the Secretary regarding packaging of
9 liquid nicotine containers.

10 (2) CONSULTATION.—If the Secretary of
11 Health and Human Services adopts, maintains, en-
12 forces, or imposes or continues in effect any pack-
13 aging requirement for liquid nicotine containers, in-
14 cluding a child-resistant packaging requirement, the
15 Secretary shall consult with the Commission, taking
16 into consideration the expertise of the Commission
17 in implementing and enforcing this Act and the Poi-
18 son Prevention Packaging Act of 1970 (15 U.S.C.
19 1471 et seq.).

20 (c) APPLICABILITY.—Notwithstanding section
21 3(a)(5) of the Consumer Product Safety Act (15 U.S.C.
22 2052(a)(5)) and section 2(f)(2) of the Federal Hazardous
23 Substances Act (15 U.S.C. 1261(f)(2)), the requirement
24 of subsection (a) shall be treated as a standard for the
25 special packaging of a household substance established

1 under section 3(a) of the Poison Prevention Packaging
2 Act of 1970 (15 U.S.C. 1472(a)).

3 (d) DEFINITIONS.—In this section:

4 (1) COMMISSION.—The term “Commission”
5 means the Consumer Product Safety Commission.

6 (2) LIQUID NICOTINE CONTAINER.—

7 (A) IN GENERAL.—Notwithstanding sec-
8 tion 2(f)(2) of the Federal Hazardous Sub-
9 stances Act (15 U.S.C. 1261(f)(2)) and section
10 3(a)(5) of the Consumer Product Safety Act
11 (15 U.S.C. 2052(a)(5)), the term “liquid nico-
12 tine container” means a package (as defined in
13 section 2 of the Poison Prevention Packaging
14 Act of 1970 (15 U.S.C. 1471))—

15 (i) from which nicotine in a solution
16 or other form is accessible through normal
17 and foreseeable use by a consumer; and

18 (ii) that is used to hold soluble nico-
19 tine in any concentration.

20 (B) EXCLUSION.—The term “liquid nico-
21 tine container” does not include a sealed, pre-
22 filled, and disposable container of nicotine in a
23 solution or other form in which such container
24 is inserted directly into an electronic cigarette,
25 electronic nicotine delivery system, or other

1 similar product, if the nicotine in the container
2 is inaccessible through customary or reasonably
3 foreseeable handling or use, including reason-
4 ably foreseeable ingestion or other contact by
5 children.

6 (3) NICOTINE.—The term “nicotine” means
7 any form of the chemical nicotine, including any salt
8 or complex, regardless of whether the chemical is
9 naturally or synthetically derived.

10 **SEC. 3. EFFECTIVE DATE.**

11 This Act shall take effect on the date that is 180 days
12 after the date of the enactment of this Act.

