


AMENDMENT NO. 7

Calendar No. \_\_\_\_\_

Purpose: To impose additional restrictions on tobacco flavors  
for use in e-cigarettes.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 1895**

To lower health care costs.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. MURKOWSKI

Viz:

1 At the end of title IV, insert the following:

2 **SEC. 4** \_\_\_\_\_. **ADDITIONAL RESTRICTIONS ON USE OF TO-**  
3 **BACCO FLAVORS.**

4 (a) **TOBACCO PRODUCT STANDARDS.**—Section  
5 907(a)(1) of the Federal Food, Drug, and Cosmetic Act  
6 (21 U.S.C. 387g) is amended—

7 (1) by redesignating subparagraph (B) as sub-  
8 paragraph (C); and

9 (2) by inserting after subparagraph (A) the fol-  
10 lowing:

11 “(B) **SPECIAL RULE FOR TOBACCO PROD-**  
12 **UCTS OTHER THAN CIGARETTES.**—

1                   “(i) IN GENERAL.—Except as pro-  
2                   vided in clause (ii), a tobacco product that  
3                   is not a cigarette, or any component, part,  
4                   or accessory of such a product, shall not  
5                   contain, as a constituent (including a  
6                   smoke or aerosol constituent) or additive,  
7                   an artificial or natural flavor (other than  
8                   tobacco) or an herb or spice (including  
9                   menthol, strawberry, grape, orange, clove,  
10                  cinnamon, pineapple, vanilla, coconut, lico-  
11                  rice, cocoa, chocolate, cherry, and coffee)  
12                  that is a characterizing flavor of the to-  
13                  bacco product, tobacco smoke, or aerosol  
14                  emitted from the product. Nothing in this  
15                  subparagraph shall be construed to limit  
16                  the Secretary’s authority to take action  
17                  under this section or other provisions of  
18                  this Act applicable to any artificial or nat-  
19                  ural flavor, herb, or spice not specified in  
20                  this subparagraph.

21                  “(ii) EXCEPTIONS.—An electronic nic-  
22                  otine delivery system component or part  
23                  shall not contain or use an artificial or  
24                  natural flavor (other than tobacco) that is  
25                  a characterizing flavor of the product or its

1 aerosol unless the Secretary issues an  
2 order finding that a manufacturer has  
3 demonstrated that use of the character-  
4 izing flavor—

5 “(I) will increase the likelihood of  
6 smoking cessation among current  
7 users of tobacco products;

8 “(II) will not increase the likeli-  
9 hood of youth initiation of nicotine or  
10 tobacco products; and

11 “(III) will not increase the likeli-  
12 hood of harm to the person using the  
13 characterizing flavor.”.

14 (b) DEFINITIONS.—Section 900 of the Federal Food,  
15 Drug, and Cosmetic Act (21 U.S.C. 387) is amended—

16 (1) by redesignating paragraphs (8) through  
17 (22) as paragraphs (9) through (23); and

18 (2) by inserting after paragraph (7) the fol-  
19 lowing:

20 “(8) ELECTRONIC NICOTINE DELIVERY SYS-  
21 TEM.—The term ‘electronic nicotine delivery sys-  
22 tem’—

23 “(A) means any electronic device that de-  
24 livers nicotine, flavor, or another substance via  
25 an aerosolized solution to the user inhaling

1 from the device (including e-cigarettes, e-hook-  
2 ah, e-cigars, vape pens, advanced refillable per-  
3 sonal vaporizers, and electronic pipes) and any  
4 component, liquid, part, or accessory of such a  
5 device, whether or not sold separately; and

6 “(B) does not include a product that—

7 “(i) is approved by the Food and  
8 Drug Administration for sale as a tobacco  
9 cessation product or for another thera-  
10 peutic purpose; and

11 “(ii) is marketed and sold solely for a  
12 purpose described in (i).”.

13 (c) CONFORMING AMENDMENT.—Section 9(1) of the  
14 Comprehensive Smokeless Tobacco Health Education Act  
15 of 1986 (15 U.S.C. 4408(1)) is amended by striking “sec-  
16 tion 900(18)” and inserting “section 900(19)”.

17 (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect 1 year after the date of enact-  
19 ment of this Act.