

The following chart reflects WHG’s analysis of the major Congressional (Senate and House) legislation intended to reduce youth tobacco use that have been introduced/released thus far in the 116th Congress. Specifically:

- **Tobacco-Free Youth Act (S. 1541)¹:** Raises the minimum legal tobacco sale age to 21. Authorizes the Secretary of Health and Human Services (HHS) to require states pass individual laws raising the minimum legal sale age to 21 in order to receive grants to support substance abuse prevention and treatment activities.
- **Tobacco to 21 Act (S. 1258/H.R. 2411)²:** Raises the minimum legal tobacco sale age to 21 and prohibits the sale of tobacco products to individuals under 30 without age verification. Provides HHS Secretary with additional enforcement authority.
- **Reversing the Youth Tobacco Epidemic Act of 2019 (H.R. 2339)³:** Raises the minimum legal tobacco sale age to 21. Prohibits remote retail sale of all tobacco products; flavoring of tobacco products unless intended to decrease smoking among current users; and advertising of electronic cigarettes under 21. Provides HHS Secretary with additional enforcement authority.
- **Stopping Consumption of Tobacco by Teens (SCOTT) Act of 2019 (H.R. 2084)⁴:** Raises the minimum legal sale age to 21 and requires age verification for remote sale of tobacco products. Provides HHS Secretary with additional enforcement authority.

Bill Title	Tobacco-Free Youth Act (S. 1541)	Tobacco to 21 Act (S. 1258/H.R. 2411)	Reversing the Youth Tobacco Epidemic Act of 2019 (H.R. 2339)	Stopping Consumption of Tobacco by Teens (SCOTT) Act of 2019 (H.R. 2084)
Sponsors	Sens. Mitch McConnell (R-KY) and Tim Kaine (D-VA)	Sen. Brian Schatz (D-HI) and Rep. Diana DeGette (D-Co)	Reps. Frank Pallone, Jr. (D-NJ) and Donna Shalala (D-FL)	Reps. Robert Aderholt (R-AL) and Juan Vargas (D-CA)
Date Introduced	May 20, 2019	April 30, 2019	April 18, 2019	April 4, 2019
Implementation Date	Not specified	January 1, 2020	180 days after enactment	Not specified
Tobacco Products	<ul style="list-style-type: none"> • Raises the minimum legal tobacco sale age to 21; 	<ul style="list-style-type: none"> • Raises the minimum legal tobacco sale age to 21; and 	<ul style="list-style-type: none"> • Raises the minimum legal tobacco sale age to 21; and 	<ul style="list-style-type: none"> • Raises the minimum legal tobacco sale age to 21; and

¹ See legislative text at: <https://senmccconnell.app.box.com/s/g386u191uf0gyp9wjynqwrqhznttyi9i>.

² See legislative text at: <https://www.congress.gov/bill/116th-congress/senate-bill/1258/>. Summary available at: <https://www.schatz.senate.gov/imo/media/doc/Tobacco%20to%202021%20Summary%2004-30-19%20v3.pdf>.

³ See legislative text at: <https://www.congress.gov/bill/116th-congress/house-bill/2339/>. Section-by-section available at: https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Reversing%20the%20Youth%20Tobacco%20Epidemic%20Act%20of%202019_Section-by-Section.pdf.

⁴ See legislative text at: <https://www.congress.gov/bill/116th-congress/house-bill/2084>.

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	<ul style="list-style-type: none"> • Authorizes the HHS Secretary to require states pass individual laws raising the minimum legal sale age to 21 in order to receive grants to support substance abuse prevention and treatment activities; and • Directs the HHS Secretary to reconcile regulations issued under the Federal Food, Drug, and Cosmetic Act with the age increase within 180 days after enactment 	<ul style="list-style-type: none"> • Prohibits the sale of tobacco products to individuals under 30 without age verification via government-issued photo identification 	<ul style="list-style-type: none"> • Requires age verification via government-issued photo identification • Directs the HHS Secretary to issue regulations within 180 days after enactment to implement and enforce 	<ul style="list-style-type: none"> • Directs the HHS Secretary to reconcile regulations issued under the Federal Food, Drug, and Cosmetic Act with the age increase within two years after enactment to implement and enforce
<p style="text-align: center;">Other Restrictions and New Enforcement Authority</p>	<ul style="list-style-type: none"> • No provisions 	<ul style="list-style-type: none"> • Directs the HHS Secretary to “enforce such prohibition, including, as appropriate, conducting undercover compliance checks, performing retailer inspections, initiating enforcement actions for noncompliance, and taking any other measures appropriate to help ensure nationwide compliance with such prohibition”; • Authorizes the HHS Secretary to issue guidance to covered entities to ensure compliance; They include manufacturers, distributors, retailer, third-party marketplaces, and other commercial entities that sell tobacco products; and 	<ul style="list-style-type: none"> • Directs the HHS Secretary to prohibit the remote retail sale of all tobacco products, including electronic cigarettes, through rulemaking within two years after enactment; • Prohibits the flavoring of tobacco products, including menthol, within one year after enactment, but allows flavoring if intended to decrease smoking among current users and does not result in new users; • Directs the FDA to regulate “products containing synthetic nicotine or nicotine that is not made or derived from tobacco” through rulemaking within two years after enactment; 	<ul style="list-style-type: none"> • Directs the HHS Secretary to issue or revise regulations to require age verification for “remote sales of vapor products”⁸ within two years after enactment⁹; • Directs the HHS Secretary to “enforce such prohibition, including, as appropriate, conducting undercover compliance checks, performing retailer inspections, initiating enforcement actions for noncompliance, and taking any other measures appropriate to help ensure nationwide compliance with such prohibition”;

⁸ Vapor products “includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any vapor cartridge or other container of nicotine in a solution or other form.”

⁹ Directs the HHS Secretary to prohibit delivery of vapor products to individuals under 21; require sellers to verify the full name, birth date, and residential address of the individual making an order using a “commercially available database or aggregate of databases”; and require the signature of an individual 21 and older for vapor product delivery.

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		<ul style="list-style-type: none"> • Authorizes the HHS Secretary to impose civil penalties that increase in severity (i.e., monetary amount) by the number of violations, the timeframe, whether the retailer completed an “approved training program”⁵; and • Authorizes the HHS Secretary to “impose a non-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet”⁶ 	<ul style="list-style-type: none"> • Authorizes the Federal Trade Commission (FTC) to prohibit advertising of electronic cigarettes to individuals under age 21 through rulemaking, and imposes other requirements relating to advertising⁷; and • Does not specify new enforcement authority regarding the minimum legal tobacco sale age but relating to advertising, authorizes the FTC to impose penalties for violations and state attorney generals to enforce provisions 	<ul style="list-style-type: none"> • Authorizes the HHS Secretary to establish age verification requirements through rulemaking; and • Authorizes the HHS Secretary to issue guidance to retailers to ensure compliance
User Fees	No provisions	No provisions	<ul style="list-style-type: none"> • Authorizes the FDA to collect user fees, beginning fiscal year 2022, from all tobacco products • Increases the total amount of fees collected from \$712 million to \$812 million 	No provisions
Preemption	Does not preempt additional or more stringent state or local laws	Does not preempt additional or more stringent state or local laws	Does not preempt additional or more stringent state or local laws	No provisions

⁵ See Public Law 111-31. For example, the penalty for the first violation is a warning letter for retailers with an approved training program and \$250 for retailers without an approved training program. The penalty for the second violation within a 12-month period is \$250 for retailers with an approved training program and \$500 for retailers without an approved training program.

⁶ See 21 U.S.C. §333(f)(8).

⁷ Directs the HHS Secretary, through the FDA Commissioner to require graphic health warnings through rulemaking within 12 months after enactment and to impose the same advertising and sales requirements for “all deemed tobacco products” within two years after enactment; and requires the FTC to submit a report to Congress on “domestic sales and advertising and promotional activity by the manufacturers that have the largest market shares of the product category” and recommendations for legislation.