

112TH CONGRESS  
1ST SESSION

# S. 1461

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

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IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2011

Mr. NELSON of Florida (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing and distribution of traditional and premium cigars.

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 "Traditional Cigar Man-  
5 ufacturing and Small Business Jobs Preservation Act of  
6 2011".

1 **SEC. 2. LIMITATION OF AUTHORITY WITH RESPECT TO**  
 2 **PREMIUM CIGARS.**

3 (a) EXCEPTION FOR TRADITIONAL LARGE AND PRE-  
 4 MIUM CIGARS.—Section 901(c) of the Federal Food,  
 5 Drug, and Cosmetic Act (21 U.S.C. 387a(c)) is amend-  
 6 ed—

7 (1) in paragraph (2), in the heading, by insert-  
 8 ing “FOR CERTAIN TOBACCO LEAF” after “AUTHOR-  
 9 ITY”; and

10 (2) by adding at the end the following:

11 “(3) LIMITATION OF AUTHORITY FOR CERTAIN  
 12 CIGARS.—

13 “(A) IN GENERAL.—The provisions of this  
 14 chapter (except for section 907(d)(3)) shall not  
 15 apply to traditional large and premium cigars.

16 “(B) RULE OF CONSTRUCTION.—Nothing  
 17 in this chapter shall be construed to grant the  
 18 Secretary authority to promulgate regulations  
 19 on any matter that involves traditional large  
 20 and premium cigars.

21 “(C) TRADITIONAL LARGE AND PREMIUM  
 22 CIGAR DEFINED.—For purposes of this para-  
 23 graph, the term ‘traditional large and premium  
 24 cigar’—

25 “(i) means any roll of tobacco that is  
 26 wrapped solely in leaf tobacco, contains no

1 filter, and weighs at least 6 pounds per  
2 1,000 count; and

3 “(ii) does not include a cigarette (as  
4 such term is defined by section 900(3)) or  
5 a little cigar (as such term is defined by  
6 section 900(11)).”.

7 (b) CONFORMING AMENDMENTS.—Section 919(b) of  
8 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
9 387s(b)) is amended—

10 (1) in paragraph (2)(B)(II), by inserting “, but  
11 excluding traditional large and premium cigars (as  
12 such term is defined under section 901(c)(3))” be-  
13 fore the period; and

14 (2) in paragraph (5), by inserting “subject to  
15 section 901(c)(3),” before “if a user fee”.

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