

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 4742  
OFFERED BY MR. NEAL OF MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting American  
3 Lungs Act of 2019”.

**4 SEC. 2. IMPOSITION OF TAX ON NICOTINE FOR USE IN  
5 VAPING, ETC.**

6 (a) IN GENERAL.—Section 5701 of the Internal Rev-  
7 enue Code of 1986 is amended by redesignating subsection  
8 (h) as subsection (i) and by inserting after subsection (g)  
9 the following new subsection:

10 “(h) NICOTINE.—On taxable nicotine, manufactured  
11 in or imported into the United States, there shall be im-  
12 posed a tax equal to the dollar amount specified in section  
13 5701(b)(1) (or, if greater, \$50.33) per 1,810 milligrams  
14 of nicotine (and a proportionate tax at the like rate on  
15 any fractional part thereof).”.

16 (b) TAXABLE NICOTINE.—Section 5702 of such Code  
17 is amended by adding at the end the following new sub-  
18 section:

1 “(q) TAXABLE NICOTINE.—

2 “(1) IN GENERAL.—Except as otherwise pro-  
3 vided in this subsection, the term ‘taxable nicotine’  
4 means any nicotine which has been extracted, con-  
5 centrated, or synthesized.

6 “(2) EXCEPTION FOR FDA-APPROVED NICOTINE  
7 REPLACEMENT THERAPIES.—Such term shall not in-  
8 clude any nicotine if the manufacturer or importer  
9 thereof demonstrates to the satisfaction of the Sec-  
10 retary that such nicotine will be used in a product  
11 which has been approved by the Food and Drug Ad-  
12 ministration for sale as a nicotine replacement ther-  
13 apy.

14 “(3) COORDINATION WITH TAXATION OF OTHER  
15 TOBACCO PRODUCTS.—Cigars, cigarettes, smokeless  
16 tobacco, pipe tobacco, and roll-your-own tobacco  
17 shall not be treated as containing taxable nicotine  
18 solely because the nicotine naturally occurring in the  
19 tobacco from which such product is manufactured  
20 has been concentrated during the ordinary course of  
21 manufacturing.”.

22 (c) TAXABLE NICOTINE TREATED AS A TOBACCO  
23 PRODUCT.—Section 5702(c) of such Code is amended by  
24 striking “and roll-your-own tobacco” and inserting “roll-  
25 your-own tobacco, and taxable nicotine”.

1 (d) MANUFACTURER OF TAXABLE NICOTINE.—Sec-  
2 tion 5702 of such Code is amended by adding at the end  
3 the following new subsection:

4 “(r) MANUFACTURER OF TAXABLE NICOTINE.—

5 “(1) IN GENERAL.—Any person who extracts,  
6 concentrates, or synthesizes nicotine shall be treated  
7 as a manufacturer of taxable nicotine (and as manu-  
8 facturing such taxable nicotine).

9 “(2) APPLICATION OF RULES RELATED TO  
10 MANUFACTURERS OF TOBACCO PRODUCTS.—Any  
11 reference to a manufacturer of tobacco products, or  
12 to manufacturing tobacco products, shall be treated  
13 as including a reference to a manufacturer of tax-  
14 able nicotine, or to manufacturing taxable nicotine,  
15 respectively.”.

16 (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to articles manufactured or im-  
18 ported in calendar quarters beginning more than 90 days  
19 after the date of the enactment of this Act.

