

NLWJC - Kagan

DPC - Box 049 - Folder-005

Tobacco-Settlement: New

Legislation-House Republican Bill

Tob - sec - new leg -
House Repub bill

The House Republican Tobacco Legislation Will Not Reduce Youth Smoking July 28, 1998 DRAFT

President Clinton has undertaken an historic and unprecedented effort to reduce youth smoking in order to save 1 million lives over five years. Nearly three years ago the President proposed tough new rules to require the FDA to regulate advertising targetted at children and stop sales of tobacco products to underage youth. Last September, the President called on Congress to pass comprehensive tobacco legislation to stop young Americans from smoking before they start including: a substantial increase in the price of cigarettes combined with additional surcharges on companies that continue to sell to kids; full authority for the Food and Drug Administration to regulate tobacco products; changes in the way the tobacco industry does business, including an end to marketing and promotion to kids; progress toward other public health goals, including biomedical and cancer research, a reduction in second-hand smoke, and smoking cessation programs; and protection for tobacco farmers and their communities.

The House Republican tobacco legislation fails to take the steps necessary to reduce youth smoking. By advancing their bill, House Republican members are doing what the tobacco lobby wants, not what American parents want. Three thousand young people start smoking every day; one thousand will die early as a result. A bill written by the tobacco industry won't save children's lives, and it won't save the political lives of the politicians who cynically promote it. The only thing the House Republican bill does about teen smoking is to let the industry keep getting away with it.

THE HOUSE REPUBLICAN BILL:

- **Fails to raise the price of cigarettes** -- ignoring scientific consensus at the expense of children's lives.
 - The President proposed raising the price of cigarettes by \$1.10 over 5 years -- an increase that both the Treasury Department and the Congressional Budget Office agree would reduce youth smoking by a third over the next 5 years.
 - Numerous scientific studies demonstrate that teen smoking is responsive to changes in the price of cigarettes. A consensus view is that the number of teen smokers declines by about 7 percent for a 10 percent increase in the real price of cigarettes.¹
 - Moreover, recently released tobacco company documents demonstrate that the tobacco industry has known for years that youths are very responsive to price. A 1981 Philip Morris memo analyzed

the research and concluded "it is clear that price has a pronounced effect on the smoking prevalence of teenagers."

- **Allows tobacco companies to continue advertising to children.** While studies show that industry advertising significantly contributes to teen smoking rates, House Republicans refuse to impose meaningful advertising restrictions on an industry that has preyed upon our children for decades.
- The Treasury Department has estimated that the advertising and marketing restrictions proposed by the President would cut youth smoking by about 15 percent. This is a conservative estimate -- a recent study by the American Medical Association found that a full 34% of teen smoking is attributable to promotional activities targeting children [cite].
- The advertising restrictions proposed by the President would be enforced by the FDA and include:
 - ✓ Banning outdoor advertising within 1000 feet of schools and public playgrounds;
 - ✓ Restricting advertising to black-and-white text only, except in publications with a predominant adult readership or at adult only facilities;
 - ✓ Prohibiting the sale or giveaways of promotional products such as caps or gym bags that carry cigarette or smokeless tobacco brand names or logos; and
 - ✓ Prohibiting brand-name sponsorship of sporting or entertainment events.
- FDA authority over tobacco advertising will be far more effective in reducing youth smoking than placing such authority with the Federal Trade Commission, as proposed by the House Republican bill. FTC's mission is to preserve a competitive marketplace free of deceptive trade practices, and therefore it can only challenge the false, deceptive or misleading information content of advertising. FDA's mission is to protect the public health, and could consider whether the tobacco industry is addicting the nation's young people and not just lying about its products to its current customers.
- **Proposes weak initiatives that will do little to reduce youth smoking.** While numerous studies show that significant price increases and advertising restrictions reduce youth smoking, research also shows that other related initiatives have the potential to reduce youth smoking rates. However, the ultimate effectiveness of these initiatives depend on a number of factors --

they must be well-funded, comprehensive in nature, combined with other anti-smoking initiatives, and coupled with strong enforcement measures. By neglecting many of these factors, the House Republican bill falls short in several key respects.

X Counteradvertising initiative is underfunded and lacks coordination with other efforts.

- The President proposed \$___ million in annual funding for a comprehensive advertising campaign based at the Centers for Disease Control designed to counter the attractive images and associations in tobacco advertising that reach teen audiences.
- Numerous studies demonstrate that high-quality, well-financed anti-smoking advertising campaigns -- such as professionally implemented strategies with substantial budgets, similar to major industry campaigns -- can significantly reduce smoking rates.² For example, Lewit, Coate and Grossman concluded that anti-smoking advertising lowered teen smoking by about 20 percent.³
- Unfortunately, the House Republican budget contains only \$___ million for counteradvertising through the Office of National Drug Policy and Control, a level of funding which is insufficient for an effective national campaign designed to reduce youth smoking.

X Access restrictions lack a strong and well-funded enforcement mechanism.

- The House Republican bill [complete]....
- One recent study shows that a range of state and local policies intended to restrict youth access to tobacco, including minimum legal purchase ages, which were enacted without substantial and active enforcement programs, had little impact on youth smoking rates [cite].
- In contrast, a 1991 study in the *Journal of the American Medical Association* reported a 69 percent decline in daily use by seventh and eighth graders in Woodridge, Illinois following legislation and active enforcement of restrictions on cigarette sales to minors.⁴ Similarly, a 1992 study in *Tobacco Control* reported a 44 percent decline in junior high school students' smoking in Leominster, Massachusetts as a result of strictly enforced sale restrictions.⁵

X Provisions are neither comprehensive nor combined with other initiatives.

- Studies demonstrate that a comprehensive package of strong anti-smoking initiatives that target young people and reinforce one another will be far more effective in reducing youth smoking than isolated steps. Unfortunately, the House bill does not provide funding for potentially effective interventions such as school-based prevention or education programs, and teen cessation programs.

HOUSE REPUBLICAN BILL FALLS SHORT IN OTHER MAJOR RESPECTS:

- **Limits the FDA's authority over tobacco products, which will hinder its ability to help stop young people from smoking before they start.**
- **Fails to impose tough lookback surcharges on tobacco companies that do not take the steps necessary to reduce youth smoking. Without the incentives necessary to change industry behavior, the industry will continue to market to children with impunity.**
- **Fails to fund a major increase in funding for public health programs or health research at the National Institutes of Health and the Centers for Disease Control.**
- **Fails to protect children and workers from the hazards of environmental tobacco smoke.**
- **Fails to include critical protections for tobacco farmers who have done nothing wrong and deserve to be protected. Any tobacco legislation that achieves meaningful reductions in smoking rates must contain key protections for farmers and farming communities.**

**Brief Comparison of McCain Manager's Amendment,
McCain as Amended, and Republican House Bill
July 28, 1998 DRAFT**

	McCain Manager's Amendment	McCain as Amended	Republican House Bill*
Significant Price Increase	Yes (\$1.10 per pack)	Yes (\$1.10 per pack)	No
Lookback Surcharges -- Industry	Yes	Yes	No
Lookback Surcharges -- Company Specific	Yes	Yes	No
Youth Smoking Reduction Targets	Yes (60% over 10 years)	Yes (67% over 10 years)	No
Full FDA Authority	Yes	Yes	No (authority is limited)
Affirms Advertising Restrictions In FDA Rule (no billboards within 1000 feet of schools; requires black and white text only; no promotional give-aways; no sponsorship of sporting events)	Yes	Yes	No (Instead, FTC will have enhanced authority to regulate tobacco advertising to teenagers).
Affirms Access Restrictions In FDA Rule	Yes	Yes	Unknown.
Significant Spending for Medical Research, Public Health, and the States	Yes	Yes	No
Protections of Tobacco Farmers	Yes	Yes	No
Environmental Tobacco Smoke Provision	Yes	Yes	No
Liability Protections for Industry:			
1. Liability Cap	Yes; \$8 billion cap.	No (Gregg amendment struck the \$8 billion cap).	No
2. Bar on Class Actions	No	No	No
3. Bar on Punitive Damages	No	No	No
Penalties for Retailers	Yes	Yes	Yes (model program)
Penalties for Minors	Yes (state option)	Yes (state option)	Yes (model program)

Anti-drug Provisions	Yes (allowable use of designated state funds)	Yes (allowable use of public health funds and designated state funds)	Yes
Cap on Attorneys' Fees	Set by arbitration panel	Yes (set by court)	Yes (\$1000 per hour)
Tax Cut	No	Yes	No
Counteradvertising	Yes	Yes	Yes

Tobacco - now legis -
Repub House bill



Cynthia A. Rice

07/24/98 12:07:41 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Latest from Waxman

I just spoke again to Phil Barnett in Waxman's office. As you know, there are rumours that the GOP will add their watered down tobacco bill to the drug czar reauthorization bill. The scenario that Waxman is most worried about is that the Senate will take up and pass drug czar legislation, send it to the House, which will attach their tobacco bill and move it under a closed rule. Then, suddenly, we'll be in a House-Senate tobacco conference with a no bill vs. watered down bill. Barnett has discussed their concerns with Conrad, Kennedy, and Daschle staff. Alternatively, the House GOP could simply re-take up the drug czar bill they already passed and attach their tobacco bill (simply to give them a vote on tobacco).

If the GOP leadership brings up a bill, Waxman will push for a rule that will allow a substitute proposal, but thinks it probably doesn't make sense for them to use Hansen-Meehan because of the baggage attached to such a comprehensive bill. Their current plan is to wait to see what the GOP bill does, and do a substitute or motion to recommit that would accent the worst flaws of the GOP bill but may not be as comprehensive as Hansen-Meehan.

To prepare for a possible substitute, they would like to meet with us ASAP to discuss farmers options. Should Tom and I sit down with them Monday morning?

Barnett also said they're making a pitch to their leadership about why Dems from tobacco states should vote with them for a more open rule -- to tell the Ds that the best way to kill tobacco legislation is to vote for a more open rule that will complicate the process. Then, if they win that fight and get to offer a substitute, they'll expect to lose the tobacco state Ds and will have to craft a package to attract a good block of Rs.

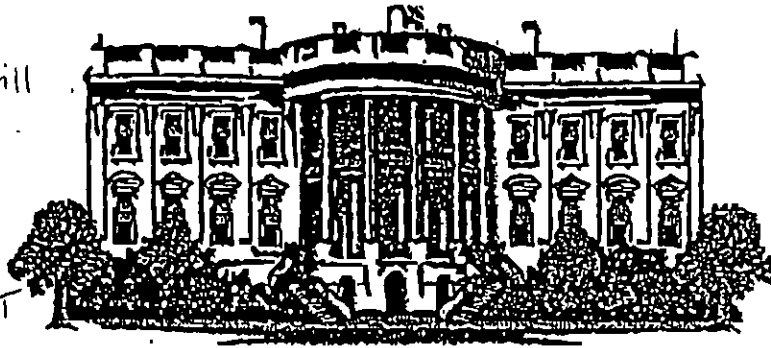
Message Sent To:

Bruce N. Reed/OPD/EOP
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Tob-ser - new legis -
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and

Tob-ser - Treasury
youth smoking
report



THE WHITE HOUSE

Domestic Policy Council

DATE: 7/24

FACSIMILE FOR: Bruce / Elena

FAX: 62878
PHONE:

FACSIMILE FROM: Cynthia Rice, Special Assistant to the President for Domestic Policy

FAX: 202-456-7431
PHONE: 202-456-2846

NUMBER OF PAGES (INCLUDING COVER): 3

COMMENTS: FYI - Treasury Table showing assumptions re: non-price effects. They assumed a 15% reduction in teen smoking in McCain for non-price effects. Using the same methodology for expected House GOP, they would score ≤4%. HHS, Treasury agree

EFFECTS OF NON-PRICE INITIATIVES ON TEEN SMOKING
*****DRAFT*****

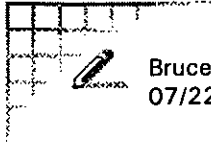
Type of Initiative	Teen Smoking Effect
1. Restrictions on Tobacco Sales, Possession, and Use Vendor Licensing Vending Machine Restrictions ID Checks Ban on Point-of-Purchase Enticements	Depends on enforcement mechanism: can lead to reductions, but only if coupled with strong enforcement mechanisms and other publicity-related initiatives. Use already illegal in all states, and licensing is common.
2. Enforcement of Restrictions <i>Methods for Detecting Compliance</i> Limited: Voluntary or preannounced checks Widely available licenses Unfunded initiatives Strong: Random checks and stings Systematic program Strict licensing requirements	Limited initiatives: 0% Collective effect of strong initiatives in all of these areas: 8-10%
<i>Penalties for Sellers</i> Limited: Warnings, small fixed fines Strong: Suspension or loss of license, large and escalating fines	
<i>Penalties for Teens</i> Limited: Warnings, small fines or community service requirements, parental notification. Strong: Long-term suspension of driver's licenses, large fines and/or service requirements. Local restrictions must include penalties for possession or use, not just sales.	
<i>Incentives for State Enforcement</i> Limited: Federal legislation Strong: Federal financial support, incentives or penalties for local achievement of reduction targets.	

3. Advertising	
<p><i>Restrictions on Tobacco Advertising and Promotions</i> Limited: Federal authority to regulate/monitor. Strong: Prohibitions on giveaways and other promotional products, brand-name sponsorship of events, ad content that may reach or appeal to minors, regulation of advertising in all media.</p>	<p>Limited initiatives: 0% Strong initiatives including anti-smoking campaign: 2-8% reduction</p>
<p><i>Anti-Smoking Advertising</i> Limited: Little or uncertain funding, poor quality. Strong: Substantial funding, professional quality, reliable source.</p>	
4. Other Initiatives	<p>Little generalizable evidence available. Depends on specific features of the initiative, such as funding level and extent to which initiatives follow strategies shown to be effective.</p>
<i>School-based Prevention Programs</i>	
<i>Teen Cessation Programs</i>	
<i>Stronger Warning Labels</i>	
<i>Other Measures</i>	
5. Synergies	<p>Comprehensive package of strong initiatives will be more effective than isolated steps.</p>

NOTE:

Conservative estimates of effects are reported. Some studies found substantially larger effects of particular strong initiatives, suggesting that special circumstances such as synergies or particular implementation features may have important consequences for smoking reduction effects.

Tob - set - new legis -
Repub House bill



Bruce N. Reed
07/22/98 09:41:12 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Elena Kagan/OPD/EOP
Subject: House GOP bill

Note the \$200m/yr counterad estimate. Should we have Treasury do a death run on that?

Tuesday July 21, 5:19 pm Eastern Time
Note: this article has been superseded by a later article.

House GOP Craft Teen Smoking Bill

By DAVID ESPO
Associated Press Writer

WASHINGTON (AP) -- Leading House Republicans are near agreement on a bill to crack down on teen smoking that would give the government limited authority over the manufacture of cigarettes and cap legal fees in tobacco-related lawsuits, officials said Tuesday.

These officials, speaking on condition of anonymity, said the centerpiece of the bill will be an advertising campaign designed to discourage teen smoking, at a cost of slightly less than \$200 million for the first year. In addition, the measure is expected to restrict minors' access to cigarette vending machines.

A GOP task force under the direction of Rep. Deborah Pryce, R-Ohio, decided several weeks ago not to provide for a tax increase on cigarettes, in contrast to a White House-backed measure that died in the Senate in June. That bill included a \$1.10-per-pack increase in cigarette taxes, a provision designed to discourage teen-agers from smoking by making it more expensive.

It is not known how Republicans would pay the estimated \$200 million cost of the advertising campaign to discourage teen smoking.

Nor are House Republicans expected to include any of the protections from lawsuits that Big Tobacco is seeking. Republicans have benefited from millions of dollars in political contributions in recent years from tobacco companies, and pollsters have cautioned them not to appear to be giving in to industry demands for legal protections, lest they suffer a backlash at the polls this fall.

Senior Republicans hope to bring the tobacco measure to the House floor early next month as part of legislation to reauthorize the office of the federal drug policy director, and in conjunction with as-yet-undecided provisions to curtail drug use.

In the Senate, Majority Leader Trent Lott, R-Miss., said lawmakers would ``actively look at'' any House-passed legislation on tobacco, ``perhaps quickly.''

The tobacco legislation is the second of two contested election-year issues that the GOP leadership envisions tackling on the House floor before lawmakers begin their month-long August break. Republican legislation to enhance patient rights is scheduled for debate and a vote on Friday, House Majority Leader Dick Armey, R-Texas, told reporters today.

Many Democrats and the White House oppose the GOP measure, claiming it does not go far enough to rein in abuses by managed care companies.

Democrats are expected to oppose the emerging GOP tobacco measure, as well, and to counter it with a provision that includes a \$1.50-per-pack tax increase on tobacco, as well as full Food and Drug Administration authority over nicotine and cigarette advertising.

Republican officials cautioned that some decisions could yet change on the House bill, and that drafting was not yet complete. Some details were not available.

The provision designed to give the FDA authority over cigarettes is being worded to deny the agency the right to ban nicotine, and is not expected to allow regulation of industry marketing.

The provision relating to legal fees is expected to include a cap of up to \$1,000 an hour for lawyers involved in filing suits against Big Tobacco, officials said.

These officials said the task force was hoping to draft a provision that would make it impossible for minors to buy cigarettes from vending machines. One approach would be to alter the machine so it would only work with a token that a clerk could issue in exchange for cash, or by equipping it with a switch that a clerk could activate.

The bill will also provide financial incentives to the states that take steps on their own to curtail teen smoking.

Officials also said they had ruled out backing a provision to impose penalties on tobacco companies that fail to meet guidelines for reductions in sales. Both the Senate bill and the measure Democrats will offer in the House contain these provisions.

WASHINGTON, June 25 (Reuters) - House Republicans Thursday released a one-page outline of their goals for a teen smoking and drug bill but gave no details except to say it would not cost much.

Ohio Republican John Boehner, a member of the House leadership, said the bill would aim to bring down teen smoking but he added, "Teenagers are going to smoke. It's one of those rights of passage, if you will."

The seven-point plan urges states to penalize kids who smoke by suspending their drivers' licenses. It says that the Food and Drug Administration (FDA) will get some, as yet unspecified, powers to regulate cigarette manufacturing but the FDA will not have authority over cigarette advertising.

The Federal Trade Commission will continue to regulate cigarette advertising, with enhanced powers.

The national "drug czar" will oversee a public service advertisement campaign against teen-age smoking, but House Republican tobacco task force chairman Deborah Pryce of Ohio said no decisions had been made about how much to spend, or how much to pay for it. She said it was possible the money would come out of the drug czar's current budget, without additional funds.

The bill does not attempt to settle the pending state lawsuits against the industry, but it does not offer the industry any immunity from lawsuits either.

It says states can keep the money they get from lawsuits as long as they keep their legal fees "reasonable" and "documented."

The bill is much smaller and less far-reaching than the one recently killed in the Senate, and it is also smaller than the \$368.5 billion deal the tobacco companies themselves agreed to one year ago.

((-- Washington Newsroom, 1 202 898 8300))

UNRECORDED

Tob - ser - new legis - House
Repub bill.

FRAMEWORK FOR TOBACCO LEGISLATION

House Republicans will:

- 1) Produce an unprecedented legislative effort to reduce both teenage smoking and drug use.
- 2) Permit no special protection to the tobacco industry against lawsuits, no caps on liability nor any other favorable treatment that would shield the industry from full liability.
- 3) Define new, specific authority for FDA to regulate the manufacture of tobacco products, while avoiding black markets and criminal activity.
- 4) Grant the FTC enhanced authority and penalties to vigorously police tobacco advertising to teenagers.
- 5) Launch a national advertising campaign to reduce teenage smoking and drug use with funding provided to the Drug Czar's Office.
- 6) Create a federal model for States to enact uniform laws penalizing those who sell tobacco to minors, as well as minors who possess tobacco products. Penalties for possession by minors will include parental notification, suspension of driver's licenses and community service.
- 7) Permit States to retain all proceeds from lawsuits against the tobacco industry provided lawyers are paid only reasonable, documented fees and expenses.

Tobacco - new legis -
House Republican bill

Date: 06/25/98 Time: 14:16

bGore Statement on House Republican Framework for New Tobacco

To: National Desk

Contact: Office of the Vice President, 202-456-7035

WASHINGTON, June 25 /U.S. Newswire/ -- Following is a statement by Vice President Gore today on House Republican framework for new tobacco legislation:

STATEMENT OF VICE PRESIDENT GORE
ON HOUSE REPUBLICAN FRAMEWORK
FOR NEW TOBACCO LEGISLATION

House Republican leaders have made the same wrong choice as their Senate counterparts: to do what the tobacco lobby wants, not what America's parents want.

Three thousand young people start smoking every day, and one thousand of them will die early as a result. A bill written by the tobacco industry won't save children's lives, and it won't save the political lives of the politicians who are cynically promoting it, either.

A bipartisan majority of Senators supports comprehensive legislation to raise the price of cigarettes in order to reduce teen smoking, give the FDA full authority over tobacco products, and impose heavy surcharges on tobacco companies that keep marketing cigarettes to young people. The only thing the House Republican bill does about teen smoking is to the tobacco industry keep getting away with it.

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/U.S. Newswire 202-347-2770/

APNP-06-25-98 1420EDT

Tobacco - new Rep- House bill

and

Health - patients bill of rights

June 25, 1998 - Daily Report

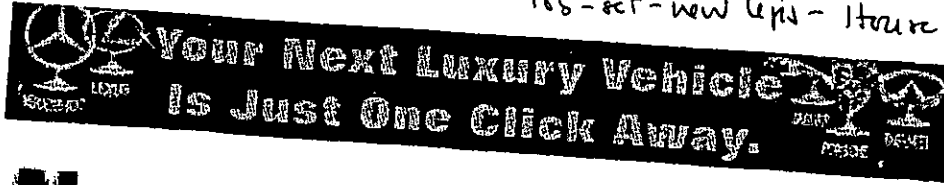
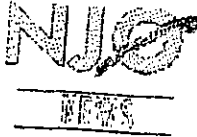
DPC -- Tobacco: The House Republican Leadership released a very skeletal outline of their tobacco bill today, indicating that the bill would: (1) give the FDA authority to regulate tobacco (but it is not clear how extensive this authority would be); (2) provide enhanced authority for the FTC to police tobacco advertising to youth; (3) launch a national anti-smoking and anti-drug campaign funded through the Drug Czar's Office; (4) create a federal model for States to enact laws penalizing youth smokers and retailers who sell to them; and (5) "permit states to retain all proceeds from lawsuits against the tobacco industry provided lawyers are paid only reasonable, documented fees and expenses." The bill would not contain a price increase, lookback surcharges, or provisions to protect farmers. It also would not contain any liability protection. The Vice President plans to make a statement today expressing our opposition to this initiative on the ground that it would not succeed in reducing youth smoking. He also will characterize the bill as a cynical attempt to provide Republican Members with political cover. Rep. Waxman and other Democrats in the House are expected to make similar statements.

DPC -- Update on Republican Patients' Bill of Rights: As you know, the Republican House leadership announced yesterday that it would introduce a Patients' Bill of Rights bill. Although the legislation provides less protection for patients than do existing bills and although it also includes several poison pills, there is little doubt that the Republicans have come a long way toward your position. They reportedly will include in their legislation many (but not all) of the major protections you have called for and even will include some (although modest) remedies to enforce the protections. Nonetheless, the reaction to the Republicans proposal has been very negative: consumer advocates and providers have labeled it a "sham," and the insurers and big business community are criticizing it as overly regulatory.

In our public statements, we have taken the position that the Republican legislation falls far short of what is necessary. We have noted that it does not include a provision ensuring access to specialists or a provision ensuring continuity of care (which would allow patients to continue to see a physician even if he is dropped from a plan in the middle of a treatment). We also have emphasized that the bill does not contain the kind of strong remedy provisions that are necessary to ensure that the patients' rights are truly enforceable. Finally, we have been very critical of the "poison pill" provisions included in the bill: medical malpractice caps, a new Medical Savings Account provision, and a new Multiple Employer Welfare Association provision that could destabilize the small insurance market and would pre-empt state-based patient protections.

The Democratic Leadership, believing that the Patients' Bill of Rights is a great issue for the election, wants to keep the bar extremely high; the Leadership is definitely in the "issue, not law" mode. Some other Democrats and moderate Republicans would probably be generally supportive of the Republican bill if the poison pill provisions were dropped and some relatively modest consumer protections were added. (They would be less insistent on significant changes to the remedy provisions.) We are now in the process of drafting a memo that presents policy and strategic options for your consideration.

Tobacco - new legis - House Repub Bill



NewsFlash
WHAT'S HAPPENING NOW

WASHINGTON
THE FULL STORY

House GOP leaders present tobacco goals

NJO HOME

By LAURIE KELLMAN
The Associated Press
06/25/98 10:42 AM Eastern

WASHINGTON (AP) -- An anti-smoking advertising campaign aimed at teen-agers headlines the House GOP's tobacco bill, but officials close to the talks acknowledge Republican leaders have not decided its cost or how to pay for it.

"The time has come to say no to drugs, no to teen-age smoking and no to tax hikes on middle Americans," said Rep. Deborah Pryce, R-Ohio.

Pursuing a bill far more narrow than Sen. John McCain's \$516 billion measure killed in the Senate last week, House Republican leaders today released a seven-point framework for a measure targeted strictly at discouraging teens from using tobacco or drugs and encouraging states to cap the fees of lawyers involved in three dozen lawsuits against the tobacco industry.

According to the document, the House bill would:

- Deny tobacco companies the legal shields they demand;
- Approve new authority to the Food and Drug Administration to regulate the manufacture of tobacco products;
- Grant the Federal Trade Commission "enhanced authority and penalties to vigorously police tobacco advertising to teenagers;"
- Launch a national advertising campaign, overseen by the White House's office of national drug control policy to discourage teens from smoking and taking drugs;
- Create federal guidelines for states to enact laws penalizing sellers of tobacco to minors;



NJO Advertisers
How to Advertise

Washington 10:04
http://wire.nj.com/cgi-bin/nj_nview.pl...

--Encourage states to penalize minors who possess tobacco by notifying their parents, suspending their drivers' licenses and requiring them to perform community service;

--Allow states that cap lawyers' fees to keep proceeds of their lawsuits against tobacco companies.

The bill itself will be written over the July 4th break by committee chairmen and their aides. House Speaker Newt Gingrich has said he wants the bill passed by the August recess, setting up an election-year showdown with Democrats pushing a broader bill.

The bill is far from finished, these officials said. For example, despite the pledge to return jury awards and settlements to states with fee caps, those close to the bill-drafting process say they are still considering asking states to contribute up to 3 percent of those proceeds to the advertising campaign.

"It's possible that they won't have 100 percent of the proceeds, but that's still very tentative and it's only one of many many options that we are looking at to fund the (public service announcements)," Pryce said.

Provisions to help tobacco farmers are still unsettled. And cost estimates for the legislation range widely, from \$750 million to \$4.3 billion. GOP leaders are looking at several ways to pay for it.

A modest cigarette price increase, these officials said, is still possible but looked upon unfavorably by Republican leaders. A previous proposal by Rep. Jim Greenwood, R-Pa., to produce \$750 million by denying tobacco companies tax deductions for advertising has been "nearly ruled out," because advertising interest groups objected so strenuously.

Some GOP leaders in recent days have strongly objected to asking states to pay for the advertising blitz because they say it amounts to an unfunded mandate -- anathema to principals set forth in the party's "Contract With America."

Proponents of that option, however, say it would come from funds the states otherwise would owe the federal government for Medicaid costs.

The latest discussions follow five weeks of intense debate in Congress over how to crack down on tobacco companies in an election year, without running afoul of the GOP's campaign promise to lower taxes and shrink government.

Democrats were virtually united in favor of the sweeping legislation, but Republicans could not bridge a split among them over the bill's proposal to raise cigarette prices \$1.10 and approve new authority to the Food and Drug Administration. Overall, the McCain bill would have charged tobacco companies \$516 billion over 25 years.

Republican leaders since then have vowed to avoid such prickly debates by leaving them out of any tobacco legislation considered the rest of this election year.

Two other proposals have surfaced however. The White House has embraced a House bill similar to McCain's sponsored by Reps. James Hansen, R-Utah, and Martin Meehan, D-Mass., which would use any money paid the government by the tobacco companies to pay down the \$5 trillion national debt.

And on Tuesday, Sens. Orrin Hatch, R-Utah, and Dianne Feinstein, D-Calif., revived their legislation to charge tobacco companies \$428 billion over 25 years but not require an increase in cigarette prices.

Congressional Democrats have slapped all of those proposals, including the new House leaders' guidelines, saying they are token election-year gestures that won't do enough to curb teen smoking. They vow to resurrect McCain's bill, even though the chances of doing that this year are highly problematic.

Please send any questions or comments to newsflash@nj.com.

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