



American Association of Public Health Physicians
The voice of public health physicians, guardians of the public's health
Tobacco Control Task Force
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To: All Concerned

From: Joel L. Nitzkin, MD, MPH; Chair AAPHP Tobacco Control Task Force

Subject: Tobacco Control Legislation: H.R.1256 and H.R.1261

There are currently two bills before the House dealing with Tobacco and Health. One is Waxman's FDA/Tobacco bill – H.R. 1256. The other is Buyer' Tobacco Harm Reduction Act, H.R.1261. Both are so severely flawed that, if passed as currently proposed, they would be worse than no bill at all, from a public health perspective.

The public health perspective that we used as a yardstick with which to estimate the likely impact of each of these bills is the anticipated impact of the legislation on future tobacco-related illness and death.

Our surprising conclusions are based on analyses and extensive research done by our Tobacco Control Task Force of the American Association of Public Health Physicians. Our findings and conclusions are presented in detail in a series of documents on the tobacco issues page of our www.aaphp.org web site.

Waxman's bill, as negotiated on his behalf by Campaign for Tobacco Free Kids (CTFK) and Altria/Philip Morris, so limits the authority of the FDA that Altria/Philip Morris could easily block any proposed regulation not to their liking. Even worse, however, is the fact that the bill would grant at least interim FDA approval to currently marketed cigarettes, while placing impossibly stringent barriers against the introduction of near-zero-risk tobacco and tobacco-related products.

If the summary of this bill used by CTFK and friends to recruit co-sponsors and endorsing organizations accurately reflected the content of the bill, we would enthusiastically endorse it. Unfortunately . . .

For our analysis of this bill, please see the tobacco issues page at www.aaphp.org.

Buyer's bill (H.R.1261), while appropriately regulating lower risk tobacco products, is fatally flawed in not imposing adequate restrictions on tobacco marketing.

AAPHP therefore recommends a set of amendments to the Waxman bill that will 1) enable and encourage current smokers who are unable or unwilling to quit to switch to near-zero-risk nicotine-delivery products; 2) strengthen the regulatory authority of the federal regulatory agency; 3) provide for needed health education, surveillance and research; and 4) Reconsider FDA as the federal regulatory agency. In addition, we recommend simultaneous passage of legislation that will restrict and punish manufacture and marketing of illicit, counterfeit and otherwise contraband tobacco and tobacco-related products. The details are spelled out in the Amendments document on the tobacco issues page at www.aaphp.org.

The facts are these:

1. Conventional **cigarettes kill about 400,000 adult American Smokers each year** from cigarette-related illness. Over the next 20 years this will total 8 million deaths among current adult smokers, most of which are now over 35 years of age.
2. These deaths are all due to cigarettes, with death rates from all other tobacco products too few for such ready tabulation. The problem is not tobacco. The problem is cigarettes.
3. Smokers smoke because they are addicted to nicotine. The illness and deaths, however, are not due to the nicotine. They are due to unrelated products of combustion, and, to a much lesser degree, toxins inherent in tobacco leaf.
4. Smoking cessation rates among smokers are abysmal –about 3% per year. Pharmaceutical products with counseling, quit lines, etc, are little better – resulting in quit rates no greater than 5% (as measured at 12 months post-intervention) among those willing to try these modalities. In other words, current approaches fail 95% of smokers using them. **The only feasible way to reduce illness and death in this 95% of current adult smokers will be to enable and encourage them to switch from cigarettes to near-zero-risk nicotine delivery products**
5. Adult American smokers are health conscious, as evidenced by the fact that about half use light and low-tar cigarettes, most believing (incorrectly) that they pose less health risk.
6. Substantial research has already been done and published to demonstrate the comparative risk of cigarettes and a variety of other tobacco products – at least one of which (snus) is near-zero-risk. (see Harm Reduction Paper on tobacco issues page, www.aaphp.org)
7. A variety of non-pharmaceutical alternative nicotine delivery products are already on the market or in various stages of development and market testing. These include sticks, strips, orbs, lozenges and e-cigarettes. The information available suggests risk and benefit profiles similar to widely accepted pharmaceutical nicotine replacement products.
8. Holding the snus and alternative nicotine delivery to the research standards of pharmaceutical products would cost the manufacturers millions of dollars per product and would deny current smokers the benefits of these products for a decade or more. Furthermore, such studies probably could not be conducted at current American academic centers because Institutional Review Board (IRB) guidelines would likely prohibit case/control studies on products with no therapeutic benefit. Thus, the seemingly reasonable research standards in the Waxman bill would likely result in a de-facto ban on all such products. AAPHP therefore favors the research guidelines from the Buyer bill.
9. Since both the Waxman and the Buyer bills would approve currently marketed cigarettes – the most hazardous of all tobacco products, the standard for lower risk products for use by current smokers should be the hazard posed by cigarettes, not a pharmaceutical safety standard.

Given these facts, the legislative challenge then becomes how to encourage and enable current smokers to switch to near-zero-risk products without increasing the numbers of teens who initiate tobacco use. AAPHP believes this can be done by imposing a marketing restriction beyond those included in the Waxman bill, as described in our Amendments document on the tobacco issues page at www.aaphp.org.

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