

NLWJC - Kagan

DPC - Box 048 - Folder-009

Tobacco-Settlement: New

Legislation-Conrad/Kerry Bill

Outline of Possible Scaled Back Compromise on Tobacco

Highlights

- **No tax increase on low income Americans -- requires industry, not smokers, to pay.**
- **No new Federal programs -- block grants to States.**
- **Much smaller bill -- just 5 titles instead of 15.**
- **Annual payments reduced from \$1.10/pack to \$0.75/pack, payable by the companies with no "pass through."**
- **Funds also dedicated to marriage penalty tax relief or Medicare HI Trust Fund.**

Specifics

Title I -- Regulation of the Tobacco Industry

Combines the non-controversial pieces from the McCain bill:

- **FDA:** Includes the FDA provisions in the McCain bill which were negotiated by Senator Frist (this includes the advertising restrictions from the FDA rule).
- **Tobacco Product Warnings:** Provides cigarette label and advertising warnings.
- **Document Disclosure:** Establishes a national tobacco document depository.
- **Environmental Tobacco Smoke:** Adopts McCain compromise, which allows States to opt out of the Federal requirements if they have similar State laws.
- **Youth Access:** States enforce youth access restrictions, including penalties on youths who purchase or possess tobacco products.

Title II -- Fees on companies for continued marketing to kids (Look-back)

Changes Durbin-DeWine look-back amendment by dropping industry-wide payments. Reduces maximum aggregate company payments from \$7 B to \$5 B.

Title III -- National Tobacco Trust Fund

Payments: Requires tobacco companies (not smokers) to make annual payments of 75 cents/pack (no required pass-through to consumers). If youth smoking does not decline by 50% in five years, a supplemental annual payment of an additional 50 cents/pack will be triggered.

Spending: No new Federal programs. 75% of revenues will go to States: 1/3 for tobacco control programs, 1/3 for the menu of items included in the McCain manager's amendment, and 1/3 unrestricted. All of the remainder would go to marriage penalty tax relief, or possibly Medicare (subject to discussions with Republican leaders). Any revenue from the supplemental annual payment would go to Medicare or tax relief.

Title IV -- Farmers

Incorporate provisions of LEAF Act (as modified by Sen. Ford), but require industry to fund this program directly and separately from annual payments. Sunset transition programs after 10 years, not 25.

Title V -- Liability

Adopt Gregg-Leahy language. w/ understanding that in cut would get cap at \$86.

Amazing - he's solving one
problem with the other -
and getting away with it
(until Conrad talks to his
staff).

Isn't that ~~the~~ ~~way~~ ~~all~~
a statement procedure counts?

May be that Dublin
had \$26 industry cap
and \$56 co-specific cap.

Tob - set - ~~new 2 proposals~~
& new legis - Dem-ad/Kerry

Outline of Possible Scaled Back Compromise on Tobacco

Highlights

- No tax increase on low income Americans -- requires industry, not smokers, to pay.
- No new Federal programs -- block grants to States.
- Much smaller bill -- just 5 titles instead of 15.
- Annual payments reduced from \$1.10/pack to \$0.75/pack, payable by the companies with no "pass through."

Specifics

Title I -- Regulation of the Tobacco Industry

Combines the non-controversial pieces from the McCain bill:

- **FDA:** Includes the FDA provisions in the McCain bill which were negotiated by Senator Frist (this includes the advertising restrictions from the FDA rule).
- **Tobacco Product Warnings:** Provides cigarette label and advertising warnings.
- **Document Disclosure:** Establishes a national tobacco document depository.
- **Environmental Tobacco Smoke:** Adopts McCain compromise, which allows States to opt out of the Federal requirements if they have similar State laws.
- **Youth Access:** States enforce youth access restrictions, including penalties on youths who purchase or possess tobacco products.

Title II -- Fees on companies for continued marketing to kids (Look-back)

Changes Durbin-DeWine look-back amendment by dropping industry-wide payments. Reduces maximum aggregate company payments from \$7 B to \$5 B.

Title III -- National Tobacco Trust Fund

Payments: Requires tobacco companies (not smokers) to make annual payments of 75 cents/pack (no required pass-through to consumers). If youth smoking does not decline by 50% in five years, a supplemental annual payment of an additional 50 cents/pack will be triggered.

Spending: No new Federal programs. 75% of revenues will go to States: 1/3 for tobacco control programs, 1/3 for the menu of items included in the McCain manager's amendment, and 1/3 unrestricted. All of the remainder would go to marriage penalty tax relief, or possibly Medicare (subject to discussions with Republican leaders). Any revenue from the supplemental annual payment would go to Medicare or tax relief.

Title IV -- Farmers

Incorporate provisions of LEAF Act (as modified by Sen. Ford), but require industry to fund this program directly and separately from annual payments. Sunset transition programs after 10 years, not 25.

Title V -- Liability

Adopt Gregg-Leahy language.

CC: EK, CR
+ return

H state AG agreement

Outline of Possible Scaled Back Compromise on Tobacco

Highlights

- Assumes separate settlement of State suits – no liability provisions.
- Recovers money for Federal health expenditures on smoking-related illnesses.
- Protects all American children with uniform Federal regulations to reduce youth smoking and invests in public health through tobacco control programs.
- Provides transition assistance to farmers.
- Annual payments reduced from \$1.10/pack to \$0.40/pack, payable by the companies with no “pass through.”

Specifics

Title I – Federal Regulation of the Tobacco Industry

Combines the non-controversial pieces from the McCain bill:

- **FDA:** Includes the FDA provisions in the McCain bill which were negotiated by Senator Frist (this includes the advertising restrictions from the FDA rule).
- **Tobacco Product Warnings:** Provides cigarette label and advertising warnings.
- **Environmental Tobacco Smoke:** Adopts McCain compromise, which allows States to opt out of the Federal requirements if they have similar State laws.
- **Counter-Advertising:** Adopts McCain/Jeffords proposal on counter-advertising.

Title II – Fees on companies for continued marketing to kids (Look-back)

Changes Durbin-DeWine look-back amendment by dropping industry-wide payments. Reduces maximum aggregate company payments from \$7 B to \$5 B.

Title III – National Tobacco Trust Fund

Payments: Requires tobacco companies, not smokers, to make annual payments of 40 cents/pack (no required pass-through to consumers). If youth smoking does not decline by 50% in five years, a supplemental annual payment of an additional 40 cents/pack will be triggered.

Spending:

- **Public Health:** Provides \$300 million/year to FDA for enforcement, \$500 M/year for counter-advertising and \$100M/year for the Indian Health Service. Waives Federal recovery of Medicaid recoupment for those States that agree to spend 25% of any tobacco suit settlement on cessation and community based prevention activities.
- **Reimbursing Federal Taxpayers:** All of the remainder would go to Medicare and the Veterans. Any revenue from the supplemental annual payment would go to Medicare.

Title IV – Farmers

Incorporate provisions of LEAF Act (as modified by Sen. Ford), but require industry to fund this program directly and separately from annual payments. Sunset transition programs after 10 years, not 25.