



June 12, 2009

The Family Smoking Prevention and Tobacco Control Act (H.R. 1256)

Committee on Energy and Commerce

H.R. 1256 amends the Federal Food, Drug, and Cosmetic Act (FFDCA) to grant the Food and Drug Administration (FDA) authority to regulate the advertising, marketing, and manufacturing of tobacco products. H.R. 1256, as amended by the Senate, passed the House on June 12, 2009, by a vote of 307 to 97. It has the support of over 1,000 public health, faith, and other organizations from around the country, including the American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, and the Campaign for Tobacco-Free Kids. The legislation:

Reinstates FDA's 1996 Rule. H.R. 1256 requires that the FDA's 1996 Rule, restricting tobacco marketing and sales to youth take effect within one year of enactment. The regulation:

- Bans all outdoor tobacco advertising within 1,000 feet of schools and playgrounds;
- Bans all remaining tobacco-brand sponsorships of sports and entertainment events;
- Bans free giveaways of any non-tobacco items with the purchase of a tobacco product;
- Limits to black-and-white text only advertising in publications with significant teen readership, as well as outdoor and point-of sale advertising except in adults-only facilities;
- Restricts vending machines and self-service displays to adult-only facilities; and
- Requires retailers to verify age for all over-the-counter sales and provides for Federal enforcement and penalties against retailers who sell to minors.

Grants FDA specific authority to restrict tobacco marketing. FDA would have authority to develop regulations that restrict the advertising and promotion of a tobacco product consistent with, and to the full extent permitted by, the first amendment to the Constitution.

Requires detailed disclosure of tobacco product ingredients. **Tobacco companies would be required to disclose to the FDA the ingredients in each tobacco product, giving the Agency the information needed to begin reducing the harm caused by tobacco products and educating the public about the health effects of tobacco use.**

Allows FDA to require changes to tobacco products to protect the public health. FDA would be granted authority to require changes in current and future tobacco products to protect public health, such as the reduction or elimination of harmful ingredients, additives and constituents, including menthol. FDA would be granted authority to reduce nicotine, but would not be allowed to require the reduction of nicotine in a tobacco product to zero or to ban a class of tobacco products.

Strictly regulates "reduced harm" products. H.R. 1256 prohibits the use of descriptors, such as "light", "mild", and "low" on labels or in advertising. FDA could review the marketing of such products and determine if the applicant demonstrates that the product, as actually used by consumers, will significantly reduce harm and the risk of tobacco-related diseases to individual tobacco users and benefit the health of the population as a whole – taking into account both users of tobacco products and persons who do not currently use tobacco products.

Requires larger, more specific health warnings. H.R. 1256 requires cigarette health warnings to cover the top 50% of the front and rear panels of the package and directs FDA to issue a rule requiring graphic warning labels on cigarette packages within two years of enactment. For other tobacco products, the bill requires health warnings to cover the top 30% of the front and rear panels of the package and gives FDA the authority to require graphic warning labels that cover 50% of the front and rear panels of the package. The Secretary could revise labeling requirements, including text and format size. New warning labels also would be required in advertising and would be required to comprise 20% of the advertisement's area.

Fully funds FDA tobacco activity through a user fee on tobacco manufacturers. **All tobacco-product-related FDA costs are allocated among the manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products sold in the United States, based on the manufacturers' respective shares of the entire U.S. market.**