

THE WHITE HOUSE
WASHINGTON

Office of Legislative Affairs

Fax Cover Sheet

Date Sept 20, 1995To: Jennifer O'Connor

Fax Number:

6-7929

From: _____ at (202) 456-6620.

Comments: _____

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Number of pages w/cover: 17

*Ann
Johnson
6-6620*

*line HD**208-2713**Jander*

Summary of Youth Smoking Prevention Act of 1995

1. Prohibits the sale of tobacco and other tobacco products containing nicotine to individuals under the age of 18 in all fifty states as a condition of the receipt by the States of the federal preventive health and health services block grants.
2. Imposes, for the first time, fines for selling tobacco products to minors that are consistent with the fines for selling alcoholic beverages to minors under state law.
3. Requires that minors purchasing tobacco products will be fined, or required to perform community services, or required to attend education and training courses on the hazards of smoking for a first offense. Repeated violations will lead to a combination of the three penalties. Fines will not be more than \$100.
4. Prevents minors from purchasing tobacco products with fake IDs by imposing fines of not more than \$250. It also requires them to perform community service and attend education and training courses on the hazards of smoking.
5. Mandates that fines collected for violations listed in items 3 & 4 will be used for education and training courses on the hazards of smoking.
6. Outlaws the sale of "kiddie" packs or single cigarettes.
7. Requires states to restrict vending machine sales of cigarettes and/or smokeless tobacco to supervised locations such as bars, private clubs, or places of employment such as factories and warehouses.
8. Forbids the distribution of free samples of tobacco products to individuals under 18 through the mail or other means.
9. Prohibits the sale of tobacco products through the U.S. Mail to any individual under the age of 18.
10. Requires owners of retail establishments selling tobacco products to notify their employees of the prohibition against selling such products to minors. Employees must sign a statement that they will not willingly sell tobacco products to minors.
11. Obligates retail sites to obtain state license for the sale of tobacco products, which can be revoked for flagrant violations of this Act.
12. Compels states to conduct annual random unannounced inspections of over-the-counter and vending machine sales of tobacco products.
13. Bans outdoor advertising of cigarettes and smokeless tobacco on billboards "within the line of sight" of an individual in a school

or area designated as a playground.

14. Debars the use of brand name or logo of a tobacco manufacturer on any item marketed specifically to minors, including toys and video games.

15. Maintains enforcement scheme of current SAMHSA law (relating to state laws on underage smoking and tobacco use).

16. Doubles applicable penalties under current SAMHSA law and applies them to enforcement.

17. Allows states to use SAMHSA formula grant funding to enforce state laws on underage smoking and tobacco use.

18. Requires the Secretary of Health and Human Services to provide annual reports to Congress on state actions taken to comply with this act.

19. Bans the FDA from taking any steps to regulate cigarettes and other tobacco products.

[DISCUSSION DRAFT]

SEPTEMBER 14, 1995

104TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. BAESLER introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish the Federal authority to regulate tobacco and
other tobacco products containing nicotine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Youth Smoking Pre-
5 vention Act of 1995".

6 **SEC. 2. AUTHORITY TO REGULATE TOBACCO AND OTHER**
7 **PRODUCTS CONTAINING NICOTINE.**

8 (a) **FOOD AND DRUG ADMINISTRATION.**—The Sec-
9 retary of Health and Human Services does not have any
10 authority under—

1 (1) the Federal Food, Drug, and Cosmetic Act,
2 (2) the Federal Cigarette Labeling and Adver-
3 tising Act, or
4 (3) the Comprehensive Smokeless Tobacco
5 Health Education Act of 1986,
6 to regulate the manufacture, labeling, sale, distribution,
7 and advertising and promotion of tobacco and other to-
8 bacco products containing nicotine.

9 (b) FEDERAL AUTHORITY.—The Federal authority
10 to regulate the sale, distribution, and advertising and pro-
11 motion of tobacco and other tobacco products containing
12 nicotine is established as a condition to the receipt by
13 States of the Federal preventive health and health services
14 block grant.

15 SEC. 3. REGULATION OF STATE AUTHORITY.

16 (a) IN GENERAL.—Section 1926(a)(1) of the Public
17 Health Service Act (42 U.S.C. sec. 300x-26(a)(1)) is
18 amended to read as follows:

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 for fiscal year 1997 and subsequent fiscal years, the
21 Secretary may make a grant under section 1921
22 only if the State involved has in effect a law which
23 provides the following:

24 “(A) MINORS.—

1 “(i) SALES.—It shall be unlawful to
2 sell tobacco and other tobacco products
3 containing nicotine to an individual under
4 the age of 18. Tobacco and other tobacco
5 products containing nicotine may be sold
6 only to individuals who present a document
7 containing the individual's photograph and
8 date of birth. Any person who violates this
9 paragraph shall be fined in the amount
10 that a person who sells alcoholic beverages
11 to a minor is fined under State law.

12 “(ii) PURCHASE.—It shall be unlawful
13 for an individual under the age of 18 to
14 purchase any tobacco and other tobacco
15 product containing nicotine. Any individual
16 who violates this paragraph for the first
17 time shall be fined not more than \$100, re-
18 quired to perform community service, or
19 required to attend education and training
20 in the hazards of smoking. Any individual
21 who violates this paragraph more than
22 once shall be fined not more than \$100, re-
23 quired to perform community service, and
24 required to attend education and training
25 in the hazards of smoking. Such education

1 and training shall be funded by the fines
2 collected under this paragraph.

3 “(iii) IDENTIFICATION.—It shall be
4 unlawful for an individual to present iden-
5 tification for the purchase of tobacco and
6 other tobacco products containing nicotine
7 which is false. Any individual who violates
8 this paragraph shall be fined not more
9 than \$250, required to perform community
10 service, and required to attend education
11 and training in the hazards of smoking.

12 “(B) SALES OF SPECIFIC PRODUCTS.—It
13 shall be unlawful to sell—

14 “(i) individual cigarettes, and

15 “(ii) packages of cigarettes which con-
16 tain less than 20 cigarettes.

17 Any person who violates this subsection shall be
18 fined in the amount that a person who sells al-
19 coholic beverages to a minor is fined under
20 State law.

21 “(C) VENDING MACHINES.—No person,
22 firm, partnership, company, or corporation shall
23 operate a vending machine which dispenses
24 cigarettes or smokeless tobacco products unless
25 such vending machine is in a location that is in

1 plain view and under the direct supervision and
2 control of the individual in charge of the loca-
3 tion or such individual's designated agent or
4 employee, except that this subparagraph shall
5 not apply in the case of a vending machine that
6 is located—

7 “(i) at a private club;

8 “(ii) at a bar or bar area of a food
9 service establishment;

10 “(iii) at a factory, warehouse, tobacco
11 business, or any other place of employment
12 which has an insignificant portion of its
13 regular workforce comprised of individuals
14 under the age of 18 years and only if such
15 machines are located in an area that is not
16 accessible to the general public;

17 “(iv) in any place if the vending ma-
18 chine is equipped with a device which con-
19 trols the sale of tobacco products from the
20 machine to individuals under the age of
21 18; or

22 “(v) in such other location or made
23 available in another manner that is ex-
24 pressly permitted under applicable State
25 law.

1 “(D) SELF-SERVICE DISPLAYS.—It shall
2 be unlawful to make tobacco and other tobacco
3 products containing nicotine available to indi-
4 viduals under the age of 18 in self-service dis-
5 plays which are not under the supervision of an
6 individual over the age of 18. Any person who
7 violates this subsection shall be fined in the
8 amount that a person who sells alcoholic bev-
9 erages to a minor is fined under State law.

10 “(E) SAMPLES.—It shall be unlawful to
11 distribute free samples of tobacco and other to-
12 bacco products containing nicotine to individ-
13 uals under the age of 18 through the mail or
14 otherwise. Any person who violates this sub-
15 paragraph shall be fined in the amount that a
16 person who sells alcoholic beverages to a minor
17 is fined under State law.

18 “(F) USE OF MAIL.—It shall be unlawful
19 to distribute tobacco and other tobacco products
20 containing nicotine through the mail to individ-
21 uals under the age of 18. Such tobacco prod-
22 ucts when distributed through the mails is non-
23 mailable matter and such distribution shall be
24 penalized in accordance with chapter 30 of title
25 39, United States Code.

1 “(G) GENERAL REQUIREMENTS APPLICA-
2 BLE TO SALES. Tobacco and other tobacco
3 products containing nicotine which are offered
4 for sale at retail must be in the sight and con-
5 trol of the person responsible for making the
6 sales. Any person offering such products for
7 sale at retail shall post, in accordance with reg-
8 ulations of the State, signs stating the mini-
9 mum purchase age, stating health warnings,
10 and stating the penalties for violations of the
11 requirements of this paragraph. Any person
12 who violates this subparagraph shall be fined in
13 the amount that a person who sells alcoholic
14 beverages to a minor is fined under State law.

15 “(H) NOTICE TO EMPLOYEES.—Each
16 owner of a retail establishment which sells to-
17 bacco and other tobacco products containing
18 nicotine shall notify each individual employed in
19 the establishment as a retail sales clerk that the
20 sale of tobacco and such products to individuals
21 under the age of 18 and the purchase by such
22 individuals of tobacco and such products are
23 prohibited. Such notice shall be provided to
24 such an employee before such employee begins
25 work as a retail sales clerk or if such work has

1 been begun, within 30 days of the date of the
2 enactment of this paragraph. Such an employee
3 shall sign a form stating that such employee
4 has been notified of the prohibited acts. Such
5 an owner shall retain such forms and make
6 them available to persons conducting inspec-
7 tions under this paragraph. An owner who fails
8 to make such notice or retain such a form shall
9 be fined not less than \$100 and not more than
10 \$250.

11 “(I) LICENSES.—No person may engage in
12 the retail sale of cigarettes without a license is-
13 sued for such purpose by the State. The license
14 shall be—

15 “(i) issued in accordance with such
16 system,

17 “(ii) issued for such fee, and

18 “(iii) issued for such term,

19 as the State shall establish. The State shall es-
20 tablish penalties (including loss of license) for
21 sales without a license and other sales in viola-
22 tion of this paragraph.

23 “(J) STATE RESPONSIBILITIES.—The
24 State shall conduct annual random unan-
25 nounced inspections of over-the-counter and

1 vending machine outlets for the sale of tobacco
2 and other tobacco products containing nicotine
3 to assure that sales of tobacco and other to-
4 bacco products containing nicotine are being
5 made in accordance with this paragraph so that
6 individuals under the age of 18 do not have ac-
7 cess to tobacco and other tobacco products con-
8 taining nicotine.

9 "(K) ADVERTISING.—

10 "(i) BILLBOARDS.—Billboards which
11 advertise tobacco and other tobacco prod-
12 ucts containing nicotine may not be placed
13 within the line of sight of any individual in
14 a school or in an area designated as a
15 playground.

16 "(ii) BRAND NAMES AND LOGOS.—

17 The brand name or logo of a manufacturer
18 of tobacco and other tobacco products con-
19 taining nicotine may not be placed on any
20 item marketed specifically to minors, in-
21 cluding toys and video games.

22 (b) CONFORMING AMENDMENTS.—Section 1926 of
23 the Public Health Service Act (42 U.S.C. sec. 300x-26)
24 is amended—

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HLC.

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1 (1) in subsection (a)(2), by striking "1993" and
2 inserting "1997";

3 (2) in subsection (a)(2), by striking "1994" and
4 inserting "1998"; and

5 (3) in subsection (a)(2), by striking "1995" and
6 inserting "1999";

7 (4) in subsection (d)(1), by striking "1995"
8 and inserting "1999"; and

9 (5) in subsection (d)(1)67, by striking "1994"
10 and inserting "1998".

11 (c) NONCOMPLIANCE.—Section 1926(c) of the Public
12 Health Service Act (42 U.S.C. sec. 300x-26(c)) is amend-
13 ed—

14 (1) in paragraph (1), by striking "10 percent"
15 and inserting "20 percent";

16 (2) in paragraph (2), by striking "20 percent"
17 and inserting "40 percent";

18 (3) in paragraph (3), by striking "30 percent"
19 and inserting "60 percent"; and

20 (4) in paragraph (4), by striking "40 percent"
21 and inserting "80 percent".

22 (d) ENFORCEMENT.—Section 1926 of the Public
23 Health Service Act (42 U.S.C. sec. 300x-26)by adding at
24 the end thereof the following:

1 (1) in subsection (a)(2), by striking "1993" and
2 inserting "1997";

3 (2) in subsection (a)(2), by striking "1994" and
4 inserting "1998"; and

5 (3) in subsection (a)(2), by striking "1995" and
6 inserting "1999";

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18 (3) in paragraph (3), by striking "30 percent"
19 and inserting "60 percent"; and

20 (4) in paragraph (4), by striking "40 percent"
21 and inserting "80 percent".

22 (d) ENFORCEMENT.—Section 1926 of the Public
23 Health Service Act (42 U.S.C. sec. 300x-26)by adding at
24 the end thereof the following:

1 “(e) ENFORCEMENT.—Any amounts made available
2 to a State through a grant under section 1921 may be
3 used to enforce the laws described in subsection (a).”.

4 SEC. 3. REPORT.

5 The Secretary of Health and Human Services shall
6 make an annual report to the Congress on the actions
7 taken by the States in compliance with section 1926(a)(1)
8 of the Public Health Service Act as amended by section
9 2.

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) **ISSUANCE BY SECRETARY OF GUIDELINES.**—The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a).

(c) **APPLICABILITY TO TERRITORIES.**—The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

SEC. 1928. (300x-28) STATE LAW REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 18.

(a) **RELEVANT LAW.**—

(1) **IN GENERAL.**—Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

(2) **DELAYED APPLICABILITY FOR CERTAIN STATES.**—In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1995 and subsequent fiscal years.

(b) **ENFORCEMENT.**—

(1) **IN GENERAL.**—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

(2) **ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.**—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will—

(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

(B) annually submit to the Secretary a report describing—

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

(c) **NONCOMPLIANCE OF STATE.**—Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year.

(d) **DEFINITION.**—For purposes of this section, the term "first applicable fiscal year" means—

(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

(2) fiscal year 1994, in the case of any other State.

SEC. 1927. (300a-37) TREATMENT SERVICES FOR PREGNANT WOMEN.

(a) **IN GENERAL.**—A funding agreement for a grant under section 1921 is that the State involved—

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

(2) will, in carrying out paragraph (1), publicize the availability to such women of services from the facilities and the fact that the women receive such preference.

(b) **REFERRALS REGARDING STATES.**—A funding agreement for a grant under section 1921 is that, in carrying out subsection (a)(1)—

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—

THE WHITE HOUSE
WASHINGTON

Office of Legislative Affairs

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Date Sept 20, 1995

To: Jennifer O'Connor

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From: _____ at (202) 456-6620.

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Number of pages w/cover: ~~17~~ 2

DATE: 10-4

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

PHONE: (202) 690-7627FAX: (202) 690-7380

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
ROOM 416-G HUMPHREY BUILDING

TO : Jennifer O'Connor

OFFICE : _____

PHONE NO : _____

FAX NO : 456-7929

TOTAL PAGES
(INCLUDING COVER): 3

FROM:

[] JERRY D. KLEPNER

[] RICHARD J. TARPLIN

[] HELEN MATHIS

[☒] KEVIN BURKE

[] SANDI EUBANKS BROWN

[] ROSE CLEMENT LUSI

[] STEPHANIE WILSON

[] JIM HICKMAN

REMARKS:

*Andy Hyman asked me to fax you
These Two items: a summary of The Brazilian
Tobacco bill & a side-by-side comparison
of The 3 major Tobacco bills.*

YOUTH SMOKING PREVENTION ACT (H.R. 2414, Baesler)

Advertising Restrictions

- ▶ Billboard advertisements may not be within the line of sight of those in a school or playground.
- ▶ Tobacco logos or brand names may not be used on any product marketed specifically to minors, including toys or video games.

Sale and Distribution Restrictions

- ▶ States must make it unlawful for anyone to sell or distribute tobacco products to anyone under 18; states must also make it unlawful for anyone under 18 to purchase tobacco products.
- ▶ States must issue licenses to retailers of tobacco products and such licenses can be revoked for repeated violations; states are required to conduct annual random unannounced inspections of license-holders.
- ▶ Those illegally selling or buying tobacco products shall be fined; the fines paid to the state pay for education programs related to the hazards of smoking.
- ▶ The Secretary may make a SAMHSA grant and preventative health services block grant only to the states that make underage buying or selling of tobacco products unlawful.
- ▶ Cigarette vending machines are allowed if they are:
 - in view of the retailer;
 - in places that do not permit anyone under 18, like a bar or club;
 - in a place of employment inaccessible to the general public;
 - have a device that controls the sale of tobacco products to anyone under 18
 - if they are in another location permitted by state law.
- ▶ The sale of individual cigarettes or of packages of cigarettes which contain less than 20 cigarettes is expressly prohibited.
- ▶ Free samples and tobacco products sent by mail are expressly prohibited to anyone under 18.

FDA Prohibition

- ▶ The FDA is expressly prohibited from regulating tobacco or tobacco products in any manner.

PRESIDENT'S INITIATIVE TO REDUCE UNDERAGE TOBACCO USE

Comparison of Legislative Proposals

	President's Initiative	Sen. Ford (S. 1262)	Rep. Baesler (HR 2414)	Rep. Payne (H-R 2283)
RETAIL SALES	requires face-to-face sale w/ age verification	not permitted to those under 18; enforced by state laws	not permitted to those under 18; enforced by state laws	
VENDING MACHINES	not permitted	allowed in adult settings & in view of retailer; allows state exceptions.	allowed in adult settings & in view of retailer	
COUPONS	not permitted	only to those 18 or older	only to those 18 or older	
SELF-SERVICE DISPLAYS	not permitted	no restriction	must be supervised by someone older than 18	
SINGLE CIGARETTES	not permitted	no restriction	not permitted	
PACKS W/ FEWER THAN 20 CIGARETTES	not permitted	no restriction	not permitted	
BILLBOARDS	must be more than 1000 ft from school or playground; all others b/w text only	must be more than 500 feet from school (playgrounds not mentioned); no text restrictions	not allowed w/in line of sight of school or playground; no text restriction	
PRINT ADS	8/w text only in publications 15% of whose readers are under 18	not permitted in publications 15% of whose readers are under 18	no restriction	
NON-TOBACCO PRODUCT RESTRICTIONS	items w/ cigarette brand names and logos are prohibited	no restriction	logos and brand names are not permitted on products marketed to children	
SPONSORSHIPS	prohibited using brand names	no restriction	no restriction	
FDA REGULATION		prohibited	prohibited	prohibited
PUBLIC EDUCATION FUND	\$150 million annually from the tobacco companies	not included	States may use fines collected for education programs	

DATE: 10-5

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

PHONE: (202) 690-7627FAX: (202) 690-7380

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
ROOM 416-G HUMPHREY BUILDING

FROM:

TO : Jennifer O'Connor

[] JERRY D. KLEPNER

OFFICE : _____

[] RICHARD J. TARPLIN

PHONE NO : _____

[] HELEN MATHIS

FAX NO : 456-7929

[x] KEVIN BURKE

TOTAL PAGES
(INCLUDING COVER) : 2

[] SANDI EUBANKS BROWN

[] ROSE CLEMENT LUST

[] STEPHANIE WILSON

[] JIM HICKMAN

REMARKS:

*This side by side replaces the
one I faxed you earlier.
Sorry.*

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COUPONS	not permitted	only to those 18 or older; allows for state exceptions	only to those 18 or older	
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PRINT ADS	B/w text only in publications 15% of whose readers are under 18	not permitted in publications 15% of whose readers are under 18	no restriction	
~NON-TOBACCO PRODUCT RESTRICTIONS	items w/ cigarette brand names and logos are prohibited	brand names & logos may not be used on video games in family amusement centers; allows for state exceptions	logos and brand names are not permitted on products marketed to children	
SPONSORSHIPS	prohibited using brand names	no restriction	no restriction	
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SEPTEMBER 14, 1995

104TH CONGRESS
1ST SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mr. BAESLER introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish the Federal authority to regulate tobacco and
other tobacco products containing nicotine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Youth Smoking Pre-
5 vention Act of 1995".

6 **SEC. 2. AUTHORITY TO REGULATE TOBACCO AND OTHER**
7 **PRODUCTS CONTAINING NICOTINE.**

8 (a) **FOOD AND DRUG ADMINISTRATION.**—The Sec-
9 retary of Health and Human Services does not have any
10 authority under—

1 (1) the Federal Food, Drug, and Cosmetic Act,
2 (2) the Federal Cigarette Labeling and Adver-
3 tising Act, or
4 (3) the Comprehensive Smokeless Tobacco
5 Health Education Act of 1986,
6 to regulate the manufacture, labeling, sale, distribution,
7 and advertising and promotion of tobacco and other to-
8 bacco products containing nicotine.

9 (b) FEDERAL AUTHORITY.—The Federal authority
10 to regulate the sale, distribution, and advertising and pro-
11 motion of tobacco and other tobacco products containing
12 nicotine is established as a condition to the receipt by
13 States of the Federal preventive health and health services
14 block grant.

15 SEC. 3. REGULATION OF STATE AUTHORITY.

16 (a) IN GENERAL.—Section 1926(a)(1) of the Public
17 Health Service Act (42 U.S.C. sec. 300x-26(a)(1)) is
18 amended to read as follows:

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 for fiscal year 1997 and subsequent fiscal years, the
21 Secretary may make a grant under section 1921
22 only if the State involved has in effect a law which
23 provides the following:

24 “(A) MINORS.—

1 “(i) SALES.—It shall be unlawful to
2 sell tobacco and other tobacco products
3 containing nicotine to an individual under
4 the age of 18. Tobacco and other tobacco
5 products containing nicotine may be sold
6 only to individuals who present a document
7 containing the individual’s photograph and
8 date of birth. Any person who violates this
9 paragraph shall be fined in the amount
10 that a person who sells alcoholic beverages
11 to a minor is fined under State law.

12 “(ii) PURCHASE.—It shall be unlawful
13 for an individual under the age of 18 to
14 purchase any tobacco and other tobacco
15 product containing nicotine. Any individual
16 who violates this paragraph for the first
17 time shall be fined not more than \$100, re-
18 quired to perform community service, or
19 required to attend education and training
20 in the hazards of smoking. Any individual
21 who violates this paragraph more than
22 once shall be fined not more than \$100, re-
23 quired to perform community service, and
24 required to attend education and training
25 in the hazards of smoking. Such education

1 and training shall be funded by the fines
2 collected under this paragraph.

3 “(iii) IDENTIFICATION.—It shall be
4 unlawful for an individual to present iden-
5 tification for the purchase of tobacco and
6 other tobacco products containing nicotine
7 which is false. Any individual who violates
8 this paragraph shall be fined not more
9 than \$250, required to perform community
10 service, and required to attend education
11 and training in the hazards of smoking.

12 “(B) SALES OF SPECIFIC PRODUCTS.—It
13 shall be unlawful to sell—

14 “(i) individual cigarettes, and

15 “(ii) packages of cigarettes which con-
16 tain less than 20 cigarettes.

17 Any person who violates this subsection shall be
18 fined in the amount that a person who sells al-
19 coholic beverages to a minor is fined under
20 State law.

21 “(C) VENDING MACHINES.—No person,
22 firm, partnership, company, or corporation shall
23 operate a vending machine which dispenses
24 cigarettes or smokeless tobacco products unless
25 such vending machine is in a location that is in

1 plain view and under the direct supervision and
2 control of the individual in charge of the loca-
3 tion or such individual's designated agent or
4 employee, except that this subparagraph shall
5 not apply in the case of a vending machine that
6 is located—

7 “(i) at a private club;

8 “(ii) at a bar or bar area of a food
9 service establishment;

10 “(iii) at a factory, warehouse, tobacco
11 business, or any other place of employment
12 which has an insignificant portion of its
13 regular workforce comprised of individuals
14 under the age of 18 years and only if such
15 machines are located in an area that is not
16 accessible to the general public;

17 “(iv) in any place if the vending ma-
18 chine is equipped with a device which con-
19 trols the sale of tobacco products from the
20 machine to individuals under the age of
21 18; or

22 “(v) in such other location or made
23 available in another manner that is ex-
24 pressly permitted under applicable State
25 law.

1 “(D) SELF-SERVICE DISPLAYS.—It shall
2 be unlawful to make tobacco and other tobacco
3 products containing nicotine available to indi-
4 viduals under the age of 18 in self-service dis-
5 plays which are not under the supervision of an
6 individual over the age of 18. Any person who
7 violates this subsection shall be fined in the
8 amount that a person who sells alcoholic bev-
9 erages to a minor is fined under State law.

10 “(E) SAMPLES.—It shall be unlawful to
11 distribute free samples of tobacco and other to-
12 bacco products containing nicotine to individ-
13 uals under the age of 18 through the mail or
14 otherwise. Any person who violates this sub-
15 paragraph shall be fined in the amount that a
16 person who sells alcoholic beverages to a minor
17 is fined under State law.

18 “(F) USE OF MAIL.—It shall be unlawful
19 to distribute tobacco and other tobacco products
20 containing nicotine through the mail to individ-
21 uals under the age of 18. Such tobacco prod-
22 ucts when distributed through the mails is non-
23 mailable matter and such distribution shall be
24 penalized in accordance with chapter 30 of title
25 39, United States Code.

1 “(G) GENERAL REQUIREMENTS APPLICA-
2 BLE TO SALES. Tobacco and other tobacco
3 products containing nicotine which are offered
4 for sale at retail must be in the sight and con-
5 trol of the person responsible for making the
6 sales. Any person offering such products for
7 sale at retail shall post, in accordance with reg-
8 ulations of the State, signs stating the mini-
9 mum purchase age, stating health warnings,
10 and stating the penalties for violations of the
11 requirements of this paragraph. Any person
12 who violates this subparagraph shall be fined in
13 the amount that a person who sells alcoholic
14 beverages to a minor is fined under State law.

15 “(H) NOTICE TO EMPLOYEES.—Each
16 owner of a retail establishment which sells to-
17 bacco and other tobacco products containing
18 nicotine shall notify each individual employed in
19 the establishment as a retail sales clerk that the
20 sale of tobacco and such products to individuals
21 under the age of 18 and the purchase by such
22 individuals of tobacco and such products are
23 prohibited. Such notice shall be provided to
24 such an employee before such employee begins
25 work as a retail sales clerk or if such work has

1 been begun, within 30 days of the date of the
2 enactment of this paragraph. Such an employee
3 shall sign a form stating that such employee
4 has been notified of the prohibited acts. Such
5 an owner shall retain such forms and make
6 them available to persons conducting inspec-
7 tions under this paragraph. An owner who fails
8 to make such notice or retain such a form shall
9 be fined not less than \$100 and not more than
10 \$250.

11 “(I) LICENSES.—No person may engage in
12 the retail sale of cigarettes without a license is-
13 sued for such purpose by the State. The license
14 shall be—

15 “(i) issued in accordance with such
16 system,

17 “(ii) issued for such fee, and

18 “(iii) issued for such term,

19 as the State shall establish. The State shall es-
20 tablish penalties (including loss of license) for
21 sales without a license and other sales in viola-
22 tion of this paragraph.

23 “(J) STATE RESPONSIBILITIES.—The
24 State shall conduct annual random unan-
25 nounced inspections of over-the-counter and

1 vending machine outlets for the sale of tobacco
2 and other tobacco products containing nicotine
3 to assure that sales of tobacco and other to-
4 bacco products containing nicotine are being
5 made in accordance with this paragraph so that
6 individuals under the age of 18 do not have ac-
7 cess to tobacco and other tobacco products con-
8 taining nicotine.

9 “(K) ADVERTISING.—

10 “(i) BILLBOARDS.—Billboards which
11 advertise tobacco and other tobacco prod-
12 ucts containing nicotine may not be placed
13 within the line of sight of any individual in
14 a school or in an area designated as a
15 playground.

16 “(ii) BRAND NAMES AND LOGOS.—

17 The brand name or logo of a manufacturer
18 of tobacco and other tobacco products con-
19 taining nicotine may not be placed on any
20 item marketed specifically to minors, in-
21 cluding toys and video games.

22 (b) CONFORMING AMENDMENTS.—Section 1926 of
23 the Public Health Service Act (42 U.S.C. sec. 300x-26)
24 is amended—

1 (1) in subsection (a)(2), by striking "1993" and
2 inserting "1997";

3 (2) in subsection (a)(2), by striking "1994" and
4 inserting "1998"; and

5 (3) in subsection (a)(2), by striking "1995" and
6 inserting "1999";

7 (4) in subsection (d)(1), by striking "1995"
8 and inserting "1999"; and

9 (5) in subsection (d)(1)67, by striking "1994"
10 and inserting "1998".

11 (c) NONCOMPLIANCE.—Section 1926(c) of the Public
12 Health Service Act (42 U.S.C. sec. 300x-26(c)) is amend-
13 ed—

14 (1) in paragraph (1), by striking "10 percent"
15 and inserting "20 percent";

16 (2) in paragraph (2), by striking "20 percent"
17 and inserting "40 percent";

18 (3) in paragraph (3), by striking "30 percent"
19 and inserting "60 percent"; and

20 (4) in paragraph (4), by striking "40 percent"
21 and inserting "80 percent".

22 (d) ENFORCEMENT.—Section 1926 of the Public
23 Health Service Act (42 U.S.C. sec. 300x-26)by adding at
24 the end thereof the following:

1 (1) in subsection (a)(2), by striking "1993" and
2 inserting "1997";

3 (2) in subsection (a)(2), by striking "1994" and
4 inserting "1998"; and

5 (3) in subsection (a)(2), by striking "1995" and
6 inserting "1999";

7 (4) in subsection (d)(1), by striking "1995"
8 and inserting "1999"; and

9 (5) in subsection (d)(1)67, by striking "1994"
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17 and inserting "40 percent";

18 (3) in paragraph (3), by striking "30 percent"
19 and inserting "60 percent"; and

20 (4) in paragraph (4), by striking "40 percent"
21 and inserting "80 percent".

22 (d) ENFORCEMENT.—Section 1926 of the Public
23 Health Service Act (42 U.S.C. sec. 300x-26)by adding at
24 the end thereof the following:

1 “(e) ENFORCEMENT.—Any amounts made available
2 to a State through a grant under section 1921 may be
3 used to enforce the laws described in subsection (a).”.

4 SEC. 3. REPORT.

5 The Secretary of Health and Human Services shall
6 make an annual report to the Congress on the actions
7 taken by the States in compliance with section 1926(a)(1)
8 of the Public Health Service Act as amended by section
9 2.

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) **ISSUANCE BY SECRETARY OF GUIDELINES.**—The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a).

(c) **APPLICABILITY TO TERRITORIES.**—The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

SEC. 1926. [300x-26] STATE LAW REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 18.

(a) **RELEVANT LAW.**—

(1) **IN GENERAL.**—Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

(2) **DELAYED APPLICABILITY FOR CERTAIN STATES.**—In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1995 and subsequent fiscal years.

(b) **ENFORCEMENT.**—

(1) **IN GENERAL.**—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

(2) **ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.**—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will—

(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

(B) annually submit to the Secretary a report describing—

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

(c) **NONCOMPLIANCE OF STATE.**—Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year.

(d) **DEFINITION.**—For purposes of this section, the term “first applicable fiscal year” means—

(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

(2) fiscal year 1994, in the case of any other State.

SEC. 1927. [300x-27] TREATMENT SERVICES FOR PREGNANT WOMEN.

(a) **IN GENERAL.**—A funding agreement for a grant under section 1921 is that the State involved—

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

(2) will, in carrying out paragraph (1), publicize the availability to such women of services from the facilities and the fact that the women receive such preference.

(b) **REFERRALS REGARDING STATES.**—A funding agreement for a grant under section 1921 is that, in carrying out subsection (a)(1)—

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—