

FDA Regulation of Tobacco

Seeing Through the Smoke

The Food and Drug Administration (FDA) protects the public by working to improve the safety of the food we eat as well as the medical devices, prescription and over-the-counter drugs, vaccines and cosmetics we use. Tobacco products, however—including cigarettes—are not regulated by the FDA or any other federal agency, despite the fact that these products are both highly addictive and contain harmful toxins and carcinogens detrimental to human health. These harmful effects injure users, and in the case of secondhand smoke, nonusers as well. In fact, tobacco use is the leading preventable cause of death in the United States, causing more than 400,000 premature deaths annually. In March 2000, the Supreme Court found that the FDA does not have the authority under current law to protect the public by regulating tobacco products. For this situation to change, Congress must pass legislation giving the FDA such authority—an action that the American Public Health Association (APHA) has long called for in its efforts to reduce tobacco use and prevent illness and disability from this addictive drug.

Get the Facts

- Tobacco use is the leading preventable cause of death in the United States, causing more than 400,000 deaths annually. This number is equivalent to all of the residents of Omaha, Neb.; Kansas City, Mo.; Virginia Beach, Va.; or Cleveland, Ohio.
- The number of deaths caused by tobacco use is greater than those caused by AIDS, alcohol, car accidents, fires, murders and suicides combined.
- Tobacco costs the United States more than \$96 billion in health costs annually, including roughly \$30 billion in Medicaid costs, \$27.4 billion in Medicare costs and \$400–\$500 million for health complications associated with tobacco use by pregnant women.
- \$2.6 billion is spent annually through Social Security survivors' benefits to help support the more than 300,000 children who have lost at least one of their parents from a death caused by smoking.
- 77 percent of voters support Congress passing legislation to grant the FDA authority to regulate tobacco.
- Every day, 4,000 children try a cigarette for the first time.
- Roughly 90 percent of all smokers start in their teen years.
- More than 6 million children under the age of 18 today will die in the future from smoking if nothing changes.
- Tobacco use causes nearly nine in 10 cases of lung cancer.
- Tobacco use is responsible for approximately one in three cancer deaths.
- Tobacco use causes about 20 percent of deaths from heart disease.
- Tobacco companies spend \$15.1 billion annually on cigarette marketing and promotions. This is equivalent to \$41 million a day.

Sources: Centers for Disease Control and Prevention, U.S. Census Bureau, Zhang et al., Thun M, American Cancer Society, U.S. Department of Health and Human Services, Campaign for Tobacco-Free Kids, Substance Abuse and Mental Health Services Administration, U.S. Federal Trade Commission, Leistikow B et al.



What Would FDA Regulation of Tobacco Look Like?

Under currently proposed legislation, the FDA's regulation of tobacco products would look a bit different from its regulation of food, drugs and other consumer products. Normally, the FDA determines that food is safe to eat, and that prescription drugs are safe and effective. However, the FDA cannot follow this logic for tobacco products, as no tobacco product is ever safe. Instead, the FDA would be evaluating the effects of tobacco products on the public's health. For example, if a tobacco company decided that it wanted to make a change in ingredients of a certain cigarette brand and type, the FDA would have to evaluate if this action would improve or worsen the health effects of smoking, both to the individual smoker and the population as a whole. The FDA would also be able to require that tobacco companies take harmful ingredients out of their products and reduce the level of nicotine in cigarettes. It is important to note that under pending legislation the FDA would only have authority over tobacco companies and tobacco products—the FDA would not have authority over tobacco farmers and growers.

Other provisions of current legislative proposals supported by APHA include:

- **The Secretary of Health and Human Services would have the ability to restrict tobacco advertising and promotion to the fullest extent allowed by the First Amendment of the U.S. Constitution.**
- **The FDA would have the authority to restrict advertising and promotional efforts that target children.** This means that tobacco companies would not be able to sponsor sports and other entertainment events, nor would they be able to advertise outdoors within 1,000 feet of schools and playgrounds. The FDA would have the authority to implement additional penalties and safeguards to ensure that tobacco products are not sold to minors.
- **Tobacco companies would be required to tell the FDA what's in their tobacco products.** The FDA would then tell the American public the harmful and potentially harmful ingredients in each cigarette and other tobacco product brand.
- **Cigarettes would no longer be able to come in flavors besides tobacco and menthol.** This means no cigarettes with fruit flavoring or those that taste like candy, which have been proven to be attractive to kids.
- **The health warnings on cigarettes would be larger, more specific and easier to read than they currently are.**
- **The FDA would have to approve any tobacco products that are supposedly "light," "low in tar" and ultimately marketed to be healthier for the individual user.** Tobacco products, such as cigarettes, would not be allowed to be called "light" unless there is strong scientific evidence proving that they are indeed healthier to the user.
- **States and localities would be given the authority to regulate cigarette marketing and advertising, which they are currently restricted from doing.**
- **The FDA would be provided with adequate funding necessary to carry out these new responsibilities from a user fee imposed upon tobacco manufacturers.**

Legislative Activities APHA Is Supporting

- **APHA supports H.R. 1256/S.982, the Family Smoking Prevention and Tobacco Control Act.** Introduced by Representatives Henry Waxman (D-Calif.) and Todd Platts (R-Pa.) and Senator Edward Kennedy (D-Mass.), this legislation would grant the Food and Drug Administration the authority to regulate tobacco products, regulate and restrict tobacco product advertising and marketing and change the health warning labels of tobacco products.

