

stand in adjournment until 9:30 a.m. on Wednesday, May 20.

I further ask that, on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of the pending amendments to the tobacco legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCAIN. Mr. President, a motion to table the Kennedy amendment and the Ashcroft amendment is expected to occur by midmorning. In addition, several other amendments are expected to be offered. Therefore, votes can be expected throughout the day and into the evening on Wednesday.

ORDER FOR ADJOURNMENT

Mr. MCCAIN. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I join all of my colleagues in thanking our friend and colleague and chairman of our task force, Senator CONRAD, for the enormously informative presentation that was made in support of our proposal before the Senate now, which is to raise the cost of a pack of cigarettes by \$1.50.

I thank my colleague and friend, Senator KERRY, for his comments and for all the work he has done, as well, in bringing us to where we are in this legislative session, so that we are having an opportunity to debate these issues on the floor of the Senate and having an opportunity to express a judgment about these matters this afternoon, again tomorrow, and the remainder of this week.

This is enormously important. Perhaps, in many respects, it is the most important measure that we will have before the Senate in this term—certainly one of the most important public health issues that we will have before the Senate. I think it is important that the American people give focus and attention to this issue and, in particular, to the amendments we are now discussing and debating on the increase of the per pack cost of cigarettes.

I also mention our colleague and friend, the chairman of the committee, Senator MCCAIN. I, too, want to join in expressing appreciation for the fact that we had the opportunity to get to

this legislation through his leadership. Now we have an opportunity to strengthen and improve it. We are grateful for his leadership.

Mr. President, I want to just take a few moments to respond to the issue that Senator MCCAIN spoke to when we were making the presentation about the importance of increasing the price per pack by \$1.50. Senator MCCAIN at that time talked about, what is magical about \$1.50? What is really the difference between that and \$2 or \$2.50 or \$3?

Mr. President, I think it is important to understand why we do have the \$1.50. It is, as I mentioned earlier, and as Senator LAUTENBERG and Senator CONRAD have pointed out, the recommended figure by not just the majority, but the entirety of the public health community, to be essential if we are going to have some impact in reducing cigarette smoking by teenagers in this country and also to achieve the goal that was established by the attorneys general in their own proposal. They established a 10-year goal of 60 percent. That was in the initial proposal made by the attorneys general—the 60 percent.

In our Committee on Labor and Human Resources, which had the consideration of this legislation for a short period of time—we had the jurisdiction because of the responsibility that the committee has regarding the Food and Drug Administration, and we had a markup on the legislation—we had a majority of the members who said, “We don’t want to see a reduction of 60 percent, we want a reduction of 80 percent.” If we are going to accept that, then we have to find out how we are going to get and reach that particular goal. That is really the fundamental issue. It doesn’t do much good to say we are going to set a goal of 30, 40, 50, or 60 percent and then not take the steps to be able to achieve it.

The attorneys general went with 60 percent. The goal established out of the Commerce Committee was 60 percent. So it is fair enough to ask ourselves, will we reach that goal of 60 percent with the proposal of the Commerce Committee? And what we are saying is that we will not. You won’t reach that with \$1.10. You will get maybe into a 34, 36 percent reduction, but you are not going to get the 60 percent reduction, which has been the goal—and I think a worthwhile goal—to see that 60 percent of the young people in this country are going to stop smoking over a period of 10 years. We will be able to reach that with \$1.50. I will come back and explain that in greater detail in a few moments. We will be able to reach that and give the authority for that.

The chairman of the Commerce Committee says we will get there, and if we don’t get there on the front end, we will get there on the back end by the requirements we have on the look-back provisions. But I think it is fair to say that with the look-back provisions, and the capping of the payments on the

look-back provisions of some \$4 billion, that the best estimate, even if you are going to have the violations of the look-back provisions, you are only talking about perhaps 15 or 20 cents more per pack.

So you get up to maybe \$1.30 or \$1.35. But you still are not getting to where the health economists and professionals say you have to get in order to have the significant reduction.

That is really the issue that is before the Senate. That is the question that we are going to decide on tomorrow.

What is the justification for not taking the recommendations of the public health community? What is possibly the reason for not doing so? There are those who can say, “Well, if you do so you are going to pay for the industry itself.” Senator CONRAD just responded to that.

I come back to the excellent testimony we had before the Judiciary Committee and before the task force that responds to that which estimates that even with \$1.50 as Jeffrey Harris, who is probably the most thoughtful and competent unbiased health economist who has studied this for the longest period of time, has estimated that even with an increase of \$1.50, that by the year 2003 the profits for the industry will be in excess of \$5 billion just on the domestic sales of product here in the United States, a very, very generous profit for this industry—a generous profit for the industry even at \$1.50.

What is possibly the reason not to support the recommendation of the public health community which says we ought to go to \$1.50 a pack if we are serious about stopping young people from smoking?

That is overwhelming testimony. That is overwhelming presentation. It is overwhelming evidence. It has not been rebutted. It won’t be rebutted. It hasn’t been rebutted tonight. It won’t be rebutted tomorrow. And it has not been rebutted by any of the publications, including the tobacco industry itself. It has not been rebutted.

We will come back to what the tobacco industry has been doing. So this is the issue. Why wouldn’t we want to do it? What is going to be the argument against it? I don’t find the arguments very persuasive. I do not hear them. It is just, “Well, we have a better way of doing it.” But we are taking a very significant chance. Why do that when we have such overwhelming and powerful evidence this amendment can make a significant difference, and based upon the human tragedy that is taking place among our teenagers every single day across this country? It isn’t a problem that is becoming less important. It is becoming more important. It isn’t an issue that is resolving itself. It is becoming more acute. That is the question that we can ask.

We in this body tomorrow can take a major step in improving the quality of life for young people in this country for years ahead. The overwhelming majority of the American people are for it.

The powerful special interests of the tobacco industry are against it. And we are going to find out here on the floor of the Senate when that rollcall is going to be there whether we are going to stand with the families and stand with the children of this country and stand with the future, or whether we are going to stand with an industry that has been so discredited in terms of its representations and presentations in this whole discussion and debate and over the period of this past year. That is the issue. I don't think we can have many that are more clearly defined than the one we have before us and will have before us tomorrow.

According to University of Illinois Professor Chaloupka, the Nation's leading authority on the impact of higher cigarette prices on teenage smoking, a \$1.50 per pack increase in cigarette prices will reduce the teenage smoking by 56 percent over 10 years. A \$1.10-a-pack increase, on the other hand, will reduce youth smoking rates by only 34 percent. In fact, the \$1.15 increase will only return youth smoking to its 1991 level because of the recent surge in teenage smoking rates. That is clearly unacceptable.

FDA Commissioner David Kessler has called smoking a "pediatric disease with its onset in adolescents." In fact, studies show that over 90 percent of the current adult smokers began to smoke before they reached the age of 18.

It makes sense for Congress to do what we can to discourage young Americans from starting to smoke during these critical years. A \$1.50-a-pack increase over 3 years is the right medicine. A \$1.10 increase won't do the job.

Youth smoking in America has reached epidemic proportions. According to a report issued last month by the Centers for Disease Control and Prevention, smoking rates among high school students soared by nearly a third between 1991 and 1997. Among African-Americans, the rates have soared by 80 percent. More than 36 percent of high school students smoke, a 1991 year high.

With youth smoking at crisis levels and still increasing we cannot rely on halfway measures. Congress must use the strongest legislative tools available to reduce youth smoking as rapidly as possible.

Mr. President, let's take a look at what has been happening to the teenagers in this country over the period of the recent years. Tobacco use, as mentioned, is a "pediatric disease with its onset in adolescents." It is no coincidence that teenage smoking has continued to increase since the early 1990s. The industry has systematically reduced its prices on cigarettes and increased its spending on marketing and promotional strategies targeted at youth.

A significant date in this cynical manipulation is April 2, 1993, a day which will live in infamy in the tobacco industry. On that day, often called "Marlboro Friday," the Nation's larg-

est tobacco company, Philip Morris, fired the opening salvo in the new price strategy which reversed a decade-long decline in youth smoking in the United States. Philip Morris slashed 40 cents off the price of Marlboro, its most popular brand of cigarettes among children. The strategy was defined to protect its profits against generic and discount brands which were capturing an increased share of the market.

Let me show this chart which gives the overall changes about what is happening with teenage smoking here in the United States. In 1991, it increased 27 percent; in 1993, 30 percent; in 1995, 34.5 percent; in 1997, 36.4 percent; a yearly average of a 32-percent rise since 1991.

This is going up so rapidly that we have to ask ourselves what are we going to do to try to slow it down? What can we do to possibly stop it? And the goals that have been set by the attorneys general and by the Commerce Committee is 60 percent. Let's try to do that. The best way is with the \$1.50.

Teenage smoking on the rise. Just look at who has been the targets of the tobacco companies.

Blacks and non-Hispanic increased 80.2 percent. They have been targeted by the industry. They have been successful. Hispanic, up 34 percent, and white and non-Hispanic, 28 percent. They have been the targets of the tobacco industry effort to expand their market to bring these young people into addiction to be the source of profits for future years.

The tobacco industry looks at a child, and, says, "This is my profit for the future years. See what I can do to get that child addicted."

You say, "How can you say that, Senator? How can you make a statement like that on the floor of the U.S. Senate?"

Listen to what the Philip Morris memo says in 1987 at the Minnesota trial.

The '82-'83 round of price increases prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the non-starters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again.

This isn't a statement made by the Senators from Massachusetts, North Dakota or New Jersey. Here it is in the words of the tobacco industry. Listen to what they say about an increase in price.

The '82-'83 price increase prevented 500,000 teenagers from starting to smoke. This means that 420,000 of the nonstarters would have been Philip Morris smokers.

That is their percent of the market. We were hit hard. We don't need that to happen again.

Well, they will have a chance to have it happen to them again tomorrow at noontime when we do what the cigarette companies dread the most, give them an increase in price. That is what they dread the most. We will hear, oh, my goodness, all this fluttering around

over this tax bill—can we afford it; it is regressive, and all the rest.

If you want to stop teenagers from smoking, there it is, according to the industry itself. And now, Mr. President, we see what has happened. Every parent in this country ought to be concerned about the explosion in the numbers of teenage smokers in this country with an extraordinary rise, the fastest rise we have seen really in the history of any kind of documentation about kids smoking.

Now, you can say let's look again at what was really the reason for this.

Well, Mr. President, I suppose it is all summarized best by this Philip Morris memo. We can see now what they were talking about when you look at what has happened to the real price—the impact on teen smoking from 1980 to 1995. Here is the steep increase in the price, and here is the decline in the teenage smoking.

That is what Philip Morris was talking about—the '1982-'83 increase in the price and the decline in the teenage smoking, right there. There it is, Mr. President. And that represents the 420,000 Philip Morris potential smokers who didn't get started—in just that short line here.

But now let's look at what has happened with the price over the rest of the period of time. We had the gradual increase. And we will hear more about that. That is basically the monitoring and increasing of what? You say, Senator, well, it is just the price that is going up. How could they possibly—why would they do that?

Well, there is no question the price was on the rise all through here and look what was happening with teenage smoking, Mr. President. Look what was happening with teenage smoking. As the prices were going up here, the number of teenage smokers was coming down here.

We are challenged: Well, who are these public health officials? Where are these studies? What kind of findings is Dr. Koop referring to?

Just look at this record. Just look at this record as to what is happening out there in the countryside, the dramatic increases in the number of kids that are going ahead and smoking and look in the more recent times. And then look what happened where you have the increase in the price and the decline here. And then we see the drop, the real price right here corresponding to the dramatic increase and leveling off.

See the drop here, Mr. President. You see the drop in the real price and the explosion of teenage smoking. How many times do we have to make this case?

Well, you know something. People can say, "Well, look, it is flattened off." This hasn't flattened off.

Well, what happened in the interim? What happened in the interim is the explosion of the tobacco industry in advertising, \$5 billion a year in advertising. And that has made sure that these

kids continued on with their smoking. They monitor this carefully, what the price and the necessary advertising is. They take the focus groups; they do their polling; they do their marketing surveys. And then they know exactly what to do, how to calculate this, and that is what they are doing.

This whole group, increasing 30 percent a year during all of this period of time, are the kids that are being addicted to smoking. As we found out in our Judiciary Committee, we are a Nation that is concerned about what we are going to do about the problems of substance abuse, and just about every professional will tell you that the gateway in terms of the use of heroin, cocaine, the other substance abuse starts with smoking—and starts with teenage smoking. And they can draw you a correlation about where those kids start getting off the straight and narrow path almost by the time they begin to smoke as kids. That record is out there. I will put some of that in the RECORD and reference it tomorrow morning, Mr. President, but that is a fact and they can demonstrate that to you. That makes the case about as well as it can be made.

I don't know how much more convincing you have to be. I do not hear the response from our colleagues and friends who are opposed to this. According to Jeffrey Harris, health economist at MIT, who is the most experienced, thoughtful and knowledgeable, and certainly the most experienced in terms of these issues, the profit even with \$1.50 for the industry itself will be \$5.1 billion—\$5.1 billion—\$5.7 billion under the McCain bill; with no legislation, \$6.3 billion. Very, very profitable industry. And another \$2 billion to \$3 billion per year from international cigarette sales and from nontobacco products—Miller, Kraft, Nabisco.

We are talking about economic dynamite when we are talking about these companies. And they shed these crocodile tears if we propose putting on a \$1.50 per pack.

The thing we do know, Mr. President, is that we will have a significant impact in reducing teenage smoking. Why take a chance? Why take a chance of not doing this job right? Why take a chance of not taking the steps that are necessary to move ahead to make a difference for all of these kids? I do not understand it.

We have heard about some of the reasons why we should not do it. I think the Senator from North Dakota stated it well. If we do it, the arguments have been made, they won't be profitable. That has been responded to. If we do it, we are going to get into questions of smuggling. We will have to deal with this issue. And as Senator CONRAD had pointed out, the smuggling is not taking place in the countries with the highest costs, which you would normally think. Countries where smuggling is the greatest is where the prices are, in some instances, a quarter or a third of the higher price, but fail to

have effective law enforcement provisions. So you can say, "Well, what are you going to have in terms of law enforcement provisions?"

Mr. President, others will speak to this. But just to mention briefly: Closed distribution systems; require licensing of everyone in the cigarette distribution chain, manufacturer or wholesaler, distributor and retailer; all cigarettes manufactured for export must be clearly marked so they can be easily identified; additional law enforcement resources for Customs and ATF.

We hear excellent responses from those who have responsibilities for smuggling, and they have answered to that. So we know we are going to have minimal impact on the profits of the industry. We know it can work effectively on smuggling. And we know what group in our society is going to benefit the most.

Let me just continue about the teenagers and some of the things that happen to these teenagers. Philip Morris reduced prices by 50 cents in my own State of Massachusetts and New York, both of which had recently increased their cigarette tax. This is some 3 years ago. A month later, R.J. Reynolds, the Nation's second largest cigarette company, which manufactures Camel cigarette, responded by matching Philip Morris price cuts on its most popular brands with teenagers, and the price cuts came at the same time the Federal tax was being increased from 20 to 24 cents a pack and a larger tobacco increase was being considered to fund the Clinton administration's proposal for health care reform. In addition to the price cuts, the tobacco industry continued to spend on advertising, promotional giveaways, T-shirts, coupons, sports gear, buy-some-get-some-free offers to increase sales.

And, as I mentioned, much of this advertising was targeted to children and adolescents, promising popularity, excitement, success, for those who begin to smoke. It is no coincidence, then, that the price cuts and increased advertising aimed at kids led to the rise in teenage smoking.

I just show that, time in and time out, if you lower the price and you increase the advertising, you increase the teenage smoking. That is as clear as it is that we are standing tonight. You just cannot argue with those facts; they are indisputable. And, still, we are having to make this case for the increase, for \$1.50. The \$1.50 per pack will address these problems. We will see this dramatic reduction in teenage smoking. It has been stated by those who have studied and reviewed this. The amendment we are proposing provides for the cigarette price index of \$1.50 a pack for the next 3 years. The \$1.10 increase over 5 years in the managers' amendment is not adequate to achieve the youth smoking reduction goals.

If you had the \$1.10 in 1 year, even \$1.10 in 2 years, you would have some

impact. But \$1.10 over 5 years is not going to have the kind of impact, even with the look-back provisions, that those who support that proposal are supporting, particularly if you are talking about reductions of 60 percent. You cannot have it both ways. If you are going to reach 60 percent, you have to have the increase in the price, and it has to be fast. And you have to have the corresponding counteradvertising measures and other supports, and a look-back provision that is going to be worthy of the name. But just to say we are establishing a goal and then not to have the real teeth in that proposal I think diminishes what we are stating is our goal and what should be our goal, and that is to pass legislation that is going to do something about kids smoking in our country and around the world.

By raising the price by \$1.50 instead of \$1.10, we will prevent an additional 750,000 children from smoking over the next 5 years. That will mean 250,000 fewer premature deaths from tobacco-induced diseases. What other step could we take here in the U.S. Senate, what could we possibly do in this session, so we could say we will save the lives of 250,000 children in the action of a single day? You don't find it. We won't have it. It is not there. But it will be tomorrow. We will have that kind of impact. And that is the issue.

Public health experts have overwhelmingly concluded that the increase of \$1.50 is the minimum price increase necessary to achieve our youth smoking reduction. Dr. Koop, Dr. Kessler, the Academy of Sciences, the American Cancer Society, the American Heart Association, American Lung Association, American Medical Association, the ENACT Coalition, Save Lives Not Tobacco Coalition, have all stressed the importance of a price increase of at least \$1.50 per pack—some for \$2, most for \$1.50. And even those that were for \$2 believe \$1.50 with adequate look-back can achieve the goal. It is the single most important step we can take to reduce youth smoking.

More than a third of the Members of the Senate have already cosponsored bills proposing \$1.50 increase, because, as our colleagues know, the Budget Committee endorsed a \$1.50 increase on a bipartisan vote, 14 to 8, in March. Last Thursday, a bipartisan majority of the Finance Committee voted for a cigarette price increase of \$1.50. Too many young people are at stake for us to ignore the advice of all of our public health experts. Those efforts were bipartisan. Just as Dr. Koop speaks for Republicans and Democrats, those efforts were bipartisan in the Finance Committee and the Budget Committee. It should be bipartisan tomorrow.

The American people have had enough of the tobacco industry's distortions and denials about the addictiveness of nicotine. They have had enough of the industry's cynical marketing of cigarettes to children. They have had enough of the industry's

decades-long coverup of the health risks associated with smoking.

This is an industry which once argued that cigarettes are no more addictive than Gummy Bears. This is an industry that used Joe Camel in advertising, blatantly designed to hook children on smoking. Now they ask us to believe that a \$1.50 increase will lead to the bankruptcy of big tobacco and a rampant black market for illegal cigarettes. That argument by big tobacco has no more credibility than any of the other false arguments that have been made over the past 30 years and more. Over the years, big tobacco has proved itself to be the master of the big lie. Congress should have learned this lesson long ago, and it is time to trust the Nation's public health leaders, not big tobacco's public health prevaricators.

The tobacco companies have known these facts about addiction. For years they have been fully aware that they need to persuade children to take up smoking in order to preserve their future profits. That is why big tobacco has targeted children, the billions of dollars in advertising and promotional giveaways, their promise of popularity, excitement, and success for young men and women who take up smoking.

The recent documents released in the Minnesota case against the industry reveal the vast extent of the industry's marketing strategy to children. In the 1981 Philip Morris memo entitled "Young Smokers, Prevalence, Implications, Related Demographic Trends," the authors wrote that it is important to know as much as possible about teenage smoking patterns and attitudes. "Today's teenager is tomorrow's potential regular customer and the overwhelming majority of smokers first beginning to smoke while still in their teens and the smoking patterns of teenagers are particularly important to Philip Morris. Furthermore, it is during the teenage years that the initial choice is made."

If nothing is done to reverse this trend in adolescent smoking, the Centers for Disease Control and Prevention estimate 5 million of today's children will die prematurely from smoke-caused illnesses. Five million of today's children will die from smoke-caused illnesses. The American public has had enough of the daily tragedy of death and disease caused by tobacco use. The tobacco industry has literally had a license to kill for many decades. Now the license is being revoked and Americans are demanding dramatic action by Congress to drastically curb youth smoking.

This Congress will be judged, in large measure, by whether or not we respond effectively to that challenge, and increasing cigarette prices by \$1.50 is the most effective way to reduce teenage smoking. The public health community agrees it is the minimum increase needed to achieve 60 percent over 10 years.

The \$1.50 has the broad support of the health community, and it deserves the broad support of the U.S. Senate as well.

In conclusion, I want to mention again what this issue is all about, and that is what this amendment will do for the young people of this country.

We have the \$1.10 increase over a 5-year period that is in the measure that is before us this evening. The measure that we offer will raise the price of cigarettes by \$1.50. The number of children whose lives will be saved by the cigarette price increase by \$1.10, over what it would otherwise be, will be 1 million; increasing cigarettes by \$1.50, an additional 1.25 million. There is for every 10 percent, some 7-percent increase in reduced teenage smoking.

The difference from the \$1.10 and the \$1.50 is 750,000 in terms of those teenagers who will smoke—750,000. Mr. Koop said today the new studies would bring it up to 900,000. But we are talking between 750,000 to 900,000 children, of which some 300,000 of those will die

prematurely. We can save those children. We can save the 750,000 who would otherwise smoke, and we can say to the 300,000 young people, the children in America today, "We can save your lives as well." The question is, Are we willing to take that step to raise the cost by \$1.50?

I certainly hope we will, Mr. President. I point out that even raising it by \$1.50, we will be where most of the European countries are. Even with the \$1.50 increase, the United States will be at \$3.59; France at \$3.50; United Kingdom at \$4.40; Denmark at \$5.10; and Norway at \$6.82. We will be right in the middle of the industrial nations of the world.

Let me say, the tobacco industry makes profits on all of those countries. The tobacco industry makes generous profits from all of these countries that are a good deal higher than even the \$3.50, as well as from the other countries.

Mr. President, this actually is a modest step, a very modest step, but one that is necessary in order to protect the young people of this country. I hope we will do so tomorrow when the roll is called.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in adjournment until tomorrow, May 20, at 9:30 a.m.

Thereupon, the Senate, at 8:23 p.m., adjourned until Wednesday, May 20, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 1998:

THE JUDICIARY

CARL J. BARBIER, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE OKLA JONES, II, DECEASED.