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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we press on with renewed hope for the debate over crucial issues before us. We know that if we trust You and proceed with honest exchange and civility, You will help us succeed together.

Make us so secure in Your love that our egos will not get in the way; grant us Your power, so we will not need to manipulate in a power struggle; free us from secondary loyalties, so we can focus on the future of our Nation as our primary concern. Thank You for the strength and vitality that You provide. We commit this day and our lives to You. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ALLARD. Thank you, Mr. President.

SCHEDULE

Mr. ALLARD. Mr. President, for the information of all Senators, today the Senate will resume consideration of the tobacco legislation. There are two amendments currently pending, and it is expected that a vote on or in relation to one or both of those amendments will occur by 11 a.m. this morning.

It is hoped that following disposition of those amendments, Members will come to the floor to offer and debate remaining amendments to the tobacco legislation under short time agreements. Therefore, Members should expect

rollcall votes throughout Wednesday's session as the Senate attempts to make good progress on this important bill.

I thank my colleagues for their attention, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is our effort to try to divide the time between now and 11 evenly on both sides, although we are going to do that without a unanimous consent request. We would like to try to do it just as a matter of comity; and hopefully we can make that work.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kennedy/Lautenberg amendment No. 2422 (to amendment No. 2420), to modify those provisions relating to revenues from payments made by participating tobacco companies.

Ashcroft amendment No. 2427 (to amendment No. 2422), to strike those provisions relating to consumer taxes.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I ask the manager that I may have 6 minutes to speak.

AMENDMENT NO. 2422

Mr. WELLSTONE. Mr. President, when the Congress first conceived of comprehensive tobacco legislation, the primary goal was to deter youth smoking—I will say that again—the primary goal was, and is, to deter youth smoking.

We have now discovered, through millions of documents—the State of Minnesota has led the way; my State, Minnesota, has led the way—that the industry has over the years intentionally marketed to our children, intentionally targeted our children. Our children, our sons and daughters—their profits. Our children's lives for their money. This is an unacceptable trade-off.

Mr. President, do not take my words as a Senator from Minnesota as the final words on this matter. Let us just look at the tobacco companies' own documents.

An R.J. Reynolds document penned in 1976:

Evidence is now available to indicate that 14-18 year old group is an increasing segment of the smoking population. RJR-(tobacco) must soon establish a successful new brand in this market if our position in the industry is to be maintained in the long term.

Philip Morris in 1981:

Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . The smoking patterns of teenagers are particularly important to Philip Morris.

The 1998 report, "Taking Action to Reduce Tobacco Use," published by the Institute of Medicine of the National Academy of Sciences, concluded—and I quote—

. . . the single most direct and reliable method for reducing consumption is to increase the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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And, colleagues, we can look at tobacco to see what effect raising prices has.

Between 1979 and 1991, real prices in Canada increased from \$2.09 to \$5.42. And when that happened, the smoking usage among 15- to 19-year-olds fell from 42 percent to 16 percent. This is dramatic evidence; it is not a conjecture on my part. It is an important analysis.

Now, colleagues, the tobacco industry has blitzed the Senate on this amendment. We have a second-degree amendment that doesn't want to do with any raise in price. And what are they saying? They are saying that this will bankrupt us. What are they saying? This will create a black market.

But, Mr. President, Jeffrey Harris, who is a leading and impartial expert, talks about the tobacco industry making about \$5 billion in profits in the year 2003. It does not sound like they are going to go under.

And we can look at other countries—the United Kingdom, Ireland, Denmark, and Finland—all of which have added on taxes to reduce usage, none of which has had a problem with this black market which we are supposed to be faced with.

Mr. President, let me just simply say again what my colleague Senator KENNEDY has said. The \$1.10 tax that we now have, the \$1.10 increase in the price—Senator MCCAIN deserves a tremendous amount of credit for his leadership. But the fact of the matter is, if we had \$1.10, we could decrease youth smoking by about 34 percent; that would be \$1.10. If we went to \$1.50, we could decrease youth smoking close to 56 percent.

I say to my colleagues, even if the evidence is somewhat ambiguous, even if there are other studies suggesting that this might not happen, at least to this extent, what side do we want to err on? Do we want to err on the side of not jacking up the price and dramatically reducing the demand, especially among teenagers and young people, and getting to a 60 percent reduction? Or do we want to err on the side of not having the price high enough, combined with other smoking cessation programs that we need to put in effect, and continuing to see our children addicted, continuing to see our children take up smoking tobacco, and continuing to see our children die at an early age?

Mr. President, let me conclude. Price increases will not bankrupt the industry. Price increases will not create a black market. What price increases will do is save lives. Let me repeat that one more time, because quite often what the tobacco industry has done over the years—I think my State of Minnesota has proven this through the documents that we have unearthed—is what they do is what they know how to do best, which is they simply lie and distort the truth.

So let me be clear about what this amendment is about. Colleagues, the

price increase in the Kennedy amendment will not bankrupt the industry. The price increase that the Kennedy amendment calls for, \$1.50, will not create a black market. What this price increase will do is save lives. It is for the lives of all Americans, it is for the lives of young people that should not die a premature death, that I ask my colleagues to support Senator KENNEDY's amendment.

Yesterday, my colleague from Massachusetts pointed out that an additional 40-percent increase will mean that 750,000 more children will not start smoking—750,000 children that won't start smoking. This is about saving lives. This is, I think, perhaps the most important public health amendment that we have, because if we want to dramatically decrease demand and stop smoking among teenagers, we have to get the price up there to lessen the demand. This amendment does that. I ask all of my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. AL LARD). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to thank my friend and colleague from Minnesota for his excellent presentation and his compelling arguments and for the persuasiveness of his argument.

The fact of the matter is on this issue the American people are on our side. The question is going to be in the next hour and a half or 2 hours whether the Members of this body are going to be on the side of the children of this Nation and on the side of the parents of this Nation in taking the kind of important steps that are recommended virtually by every public health official that has studied this issue over a long period of time. We have placed in the RECORD the various studies and the various support material.

The fact of the matter is, although there is some progress that will be made under the proposal that is before the Senate, what will happen if there is no change at all, if there is no change at all, is that we obviously will not see any reduction in youth smoking. With the proposal that is before the U.S. Senate now, we will see a 34-percent reduction in youth smoking as a result of the increase in the cost of cigarettes. With the \$1.50 increase, a 56 reduction. The attorneys general established as a goal a 60-percent reduction. The Commerce Committee established as a goal a 60-percent reduction. Our particular proposal will go to 56 percent and with the kind of look-back provisions we will obviously be able to achieve this goal. That is what this issue is about.

We will have the opportunity, as the Senator from Minnesota has stated, to save 750,000 American children from smoking, and we will have the opportunity to save some 250,000 to 300,000 lives of children. This is the most important public health issue.

It is important for us to look at what is happening to the young children of

this country over the period of the last 5 years. Look what has happened since 1991, 1993, 1995, 1997. Over this period of time, we have seen the absolute explosion in the utilization of cigarettes by young people in this country. The target of the tobacco industry, as demonstrated by their own material, has been with the youth of this country, and particularly with the minorities of this Nation. All you have to do is look at these statistics from 1991 through 1997. There is an 80-percent increase in black and non-Hispanic use of cigarettes, 80-percent increase. This is what is happening in the United States of America. Among Hispanics, it has gone up some 34 percent over the period of these past 6 years. Among white, non-Hispanic young people in our country, some 28 percent. This is an average rise, since 1997, of 32 percent—32-percent increase.

What all of that means in terms of addiction, what all of that means in terms of the dangers with substance abuse, this is a gateway drug. Members of the Senate are talking about doing something about substance abuse. You have a chance to do it in an hour and a half by doing something about curbing the use by our teenagers of these cigarettes. This is a national tragedy. We have an opportunity in an hour and a half to do something about it.

You can have the various questions whether it really makes much of a difference if we move ahead with an increase in price or does it really make very much difference in terms of the young people of this country. Let's take a look at what the record has been from 1980 to the present time on the issues of price and the issues of teen smoking.

We can have study after study after study, but, Mr. President, for those opposed to this amendment, I hope they would be able to refute what this chart demonstrates, and demonstrates very convincingly. Here we have in the early 1980s and 1982, we have a sharp increase in the costs, the real price of cigarettes, and a sharp decline, considerable sharp decline in teenagers smoking. This is what Philip Morris said about that, and we are not talking about an academic study. We are not talking about medical economists. We are not talking about Members of the Congress and the Senate who just want to see an decrease in smoking because we somehow think there might be some reduction in teenagers smoking.

This is what the industry said in the Philip Morris memo from 1987 that was in the Minnesota trial: "The 1982, 1983 round of price increases prevented 500,000 from starting to smoke"—that is indicated in this line here—"500,000 teenagers from starting to smoke. This means 420,000 of the nonstarters would have been Philip Morris smokers. We were hit hard. We don't need that to happen again."

"We don't need that to happen again."

No wonder out in the waiting room, in the reception room, I can't get in there because of the tobacco lobbyists—high-priced tobacco lobbyists. They don't want this to happen again. And it can happen. It can happen. It can happen in an hour and a half from now if the Members of this body are going to put the public health first in this debate on the issue that we have at hand.

Here the chart shows the increase in the price and the reaction as a result of the statistic—the reduction in teenage smoking—and the tobacco industry acknowledging the relationship. So we have, as we went through the period of the 1980s, the increase in the real price, and we saw a rather significant increase in the real price going up during this period of time, and we see the corresponding reduction in terms of the teenage smoking. Until when? Until when? Until 1991. Then what happened to the real price? The real price went down and the real price went down on what they call Marlboro Friday, when the Nation's largest tobacco company, Philip Morris, fired the newest salvo which reversed the decade-long use in smoking. They slashed 40 cents off the brand of Marlboros, the most popular brand among children. The strategy was designed to protect prices. If Philip Morris reduced prices by 50 percent in Massachusetts, and a month later, R.J. Reynolds—the second largest tobacco company, which manufactures Camels—had a corresponding reduction.

So we have the major tobacco companies going down, the major price going down. Look on this chart what has happened in terms of youth smoking, escalating, going up dramatically. Price decline, youth smoking increases; price increase, youth smoking goes down. We have seen that continue over a long period of time.

We could say what happened in here over the period for the last year or two, we have seen little blips going up, 10 cents, to cover the costs of various settlements they have had, an increase of 35 percent. It would not really reflect on this chart.

Now what we have seen in here is \$5 billion in tobacco industry advertising, an explosion in advertising. It makes our case, Mr. President.

It makes our case for the proposal that we have at hand. Increase the cost and the price of cigarettes, do it in a significant time with a shock treatment of 3 years. The way that we saw it this time, it is going to have a dramatic impact on young people. Increase the antitobacco advertising, which is in this bill; develop the cessation programs, which are in this bill; strengthen the look-back provisions, which are in this bill; do the kind of prohibition on advertising that is in this bill, and you have the combination of elements that will work to bring a significant reduction in teenage smoking—a significant reduction in teenage smoking.

Mr. President, we must have learned from the past. We have a pathway here

that is outlined by the history of this industry, and the things that have been effective—not just studies, not just testimony, not just surmise, but real facts, Mr. President. Over that long period of time, we have the incontrovertible case that has been made here yesterday, last night, and this morning, again, that cannot be answered. We will hear answers like, oh, well, we will develop a smuggling industry; we can't do this because we don't know where the money is going to be expended; we can't do this because we will have this or that kind of a problem.

There is an issue before the Senate: Can we do something with regard to seeing a significant, dramatic reduction in terms of teenage smoking? The answer to that is, yes, by supporting our amendment that virtually every public health official in this country supports—not only Dr. Koop, not only Dr. Kessler, but the Cancer Society, the Lung Society, and every public health group across the Nation, Republican and Democrat alike. That is the issue that we have. Now is the time to make that judgment. We will have the opportunity to do that in a short period of time.

Mr. President, I see others who want to address the Senate. I yield at this time.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, although we haven't established an exact time for the tabling motion, as I mentioned last night, we will try to do them sometime around 11 o'clock. But I do want the proponents and opponents of these amendments to have ample time to discuss and debate. I think we are working on an informal agreement that we will go from side to side. I see the Senator from Missouri here. If it is agreeable, I would like for him to have recognition next. I will just comment briefly, if I could.

If the Ashcroft amendment is agreed to, smokers won't be relieved of any price increase in this bill. Quite the contrary. If the amendment prevails, the States, at an enormous time and expense, will resume their suits, as we all know. There have been four settlements already, and 36 other States are in line. As we know from the other four States, they will prevail. There were four suits, four settlements. Minnesota is receiving twice—double—what they would have received as a result of the June 20 agreement between the attorneys general in the industry.

So let's not have any mistake. This amendment won't eliminate an increase in cigarette prices, because when the tobacco companies agree to pay the State of Minnesota a certain amount of money, they increase the price for a pack of cigarettes in order to be able to make a settlement. That is how it computes. Make no mistake, its passage will delay getting about the business at hand, and 3,000 kids a day will begin to smoke and a thousand

will die substantially earlier as a result.

Mr. President, I will make more comments later. Have no doubt about the effect of the Ashcroft amendment, which would be simply to delay price increases and delay our ability to attack the issue of kids smoking, because there will be added expenses passed on to the consumer as a result of these settlements. In case the Senator from Missouri missed it, Minnesota and the tobacco companies just settled for double what had been in the original settlement. Those costs will be passed on to the person who purchases a pack of cigarettes. Economics work that way.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I wanted to indicate to my friend from Arizona that the Senator from Missouri indicates to me that he intends to speak for a relative period of time. It was agreeable to him as a result of that to try to accommodate a couple of Members over here, unless they want to wait until afterwards. I am just trying to balance it. Could the Senator perhaps give us some indication of the length of time, so we can try to pin this down?

Mr. ASHCROFT. Mr. President, I can't give a specific time. I would be pleased to let a couple of your folks go ahead, and I will follow them if that would be the understanding.

Mr. MCCAIN. We have to go back and forth.

Mr. KERRY. Mr. President, that is fine.

Mr. MCCAIN. He is going to talk sooner or later. I am sorry he can't determine how much time he is going to talk.

Mr. KERRY. Fine, Mr. President. We will try to stick with that.

A NEW GRANDCHILD FOR SENATOR LAUTENBERG

Mr. KENNEDY. Mr. President, a new grandchild for our good friend and colleague from New Jersey was born early this morning. That is joyous and good news. In the midst of this tumultuous debate, we can all join in wishing him congratulations.

Mr. LAUTENBERG. My daughter called at 8:30 saying that she had the baby at home at 5:30.

Thank you very much for the kind words.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. KERRY. With that appropriate announcement, and the joy that it brings, we will yield to the Senator from Missouri and take our licks.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2427

Mr. ASHCROFT. Mr. President, I rise today to discuss the tobacco bill. While