



For Immediate Release

Contact: Craig Orfield  
(202) 224-6770

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**Statement of Michael B. Enzi**  
**Senate Committee on Health, Education, Labor and Pensions**

Executive Session on S. 982, the Family Smoking Prevention  
and Youth Tobacco Control Act

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Mr. Chairman, I am glad this Committee is addressing a serious and deadly health issue and I thank you for this committee process. I think it will save time on the floor, especially if both sides work to understand the principles suggested with amendments. I hope both sides will expedite the markup and help maintain quorum so we can finish. On almost every bill we recognize some issues are too tough to resolve on first try and agree to continue to work on them prior to the bill going to the floor, usually leaving only a very few issues to debate when the bill comes to the floor. That kind of cooperation has changed this committee on many issues from the most contentious committee to the most productive committee.

Tobacco is a scourge on our society. I have raised this issue before, but I won't stop until people listen. Smoking kills. There is no such thing as a safe cigarette. These are not mere platitudes. They are the deadly truth. Tobacco kills more Americans each year than alcohol, cocaine, crack, heroin, homicide, suicide, car accidents, fire and AIDS combined. My fierce opposition to smoking is a result of smoking killing my Dad - and my Mom - and my mother-in-law - and from second-hand smoking conclusively affecting me. This is not political. This is personal.

There is no such thing as a safe cigarette. How many times have we heard these words? But let's take a moment and really think about what this means. There is no such thing as a safe cigarette. If this is true, and I believe it is, then efforts to remove one of the four thousand chemicals from tobacco smoke are fruitless. If there is no such thing as a safe cigarette, then banning one additive or even a hundred additives gets us nowhere in terms of public health.

We have to reduce people's exposure to tobacco to reap any health benefits. We need to focus our attention away from the lit end of the cigarette, and towards the person who is using tobacco. We need to fight the addiction head on, not tinker at the margins with cigarette composition. Banning one toxin or another just isn't good enough to make a dent in this public health menace.

Today we are considering legislation that would force the Food and Drug Administration regulate tobacco. This proposal has a considerable amount of support, but I suggest my colleagues ask themselves: What will it mean to have cigarettes and tobacco products regulated by the Food and Drug Administration?

The FDA has been the gold standard among public health regulators the world over. For more than a century, the FDA has protected the public -- from filthy conditions in meat packing plants to birth defects caused by thalidomide. But FDA's victories and challenges are not all in the past. Every day there is something new for the FDA to protect us from.

It is evident from report after report in the press and from the agency itself that the FDA is overworked and underfunded. We, as a nation, currently ask the FDA to be responsible for so many things: ensuring that new drugs and medical devices are safe and effective; safeguarding the nation's food supply; regulating the manufacture and distribution of food additives and drugs that will be given to animals; and increasing the security of our blood supply.

In each of these key activities, the role of the FDA is to protect our health. In providing that protection, the FDA examines key scientific facts and weighs the balance of benefit to our society and risk to our health. It is incomprehensible to me to extend that critical role to an FDA risk/benefit analysis of tobacco.

A cigarette is the only consumer product which when used as directed kills its consumer. Trying to make cigarettes safer through a billion-dollar bureaucracy is a waste of time and money. The right approach is to get people to stop smoking, or better yet, to never start. But there is nothing in this bill to do that. There is not one penny for cessation. Not one penny to help people kick this deadly habit. Incentives to change behavior, such as quitting smoking seem to be widely supported for health care reform. I am counting on a program in health care reform that will charge more for insurance for those who smoke but pay back and reward those who quit.

When the HELP Committee last marked up this legislation, things were rocky at the FDA. Now they are critical. That agency simply cannot be tasked with regulating tobacco, or its entire public health mission could collapse. Food safety and drug safety have to be the top priorities for FDA. It's in their name!

FDA approves cures, not poisons. Forcing the FDA to regulate tobacco but not letting them ban it, as some of my colleagues propose, would undermine the long history of the agency protecting and promoting the public health. Even when a tobacco

product is found to be doing harm, under this bill, there is a very cumbersome procedure to impose any regulation while people continue to die. Even if there are numerous examples of unexpected problems, the usual FDA power to remove a product that is an "imminent hazard" doesn't exist. That approach is "all hat and no cattle" as we say in Wyoming about imported ranchers.

In closing, every day, we hear about some new problem the Food and Drug Administration faces in protecting our health. From contaminated peanut butter to tainted toothpaste to counterfeit blood thinner, this agency is in dire need of Congressional support to carry out its mission. We should be focusing our efforts on increasing the number of inspectors, and on updating the food safety authorities, not on adding an impossible burden that perverts the agency's mission.

My record is clear when it comes to tobacco. I am no friend of big tobacco and I have never taken a dime of tobacco company money for my campaigns. I don't intend to start now. But I absolutely reject the notion that the way to show you're for kids and against Big Tobacco is by sending the Nation's premier public health watchdog out to fight for safety with one hand tied behind its back. We can do better. We just have to think bigger. I have ideas to make a real impact on the public health and win the war on tobacco, not sign a peace treaty with Philip Morris.

I will be offering amendments to strengthen this bill, preserve FDA's mission, and help people quit using tobacco. My key recommendation is to move the jurisdiction of tobacco regulation to CDC. That agency already has some authority, staff and resources. They already have an Office on Smoking and Health. I think that should be the Office on Smoking or Health, because we all know you can't have both. CDC would need more authority than it has now, but at least the foundation for regulation is there.

There are other key items the chairman might want to accept in Committee to save time and improve the bill. For example, I want to ensure the safety of consumers in tobacco studies and trials. We can't allow the tobacco companies to police the safety of these studies. FDA can't be in every facility all the time, so we should instead require independent oversight of those studies, to protect consumers. Another change that could be accepted is to raise the civil penalties on manufacturers for when they violate the law. We talked about this during the last Congress. I withdrew my amendment then because we were still working out the numbers on the drug safety side. Well, that's been done for a year and a half. I have an amendment to match the drug safety maximum penalties. I'll tell you more about these and other amendments as we get to them.

I hope you will consider my proposals carefully, and stand with me to fight tobacco.

Thank you.

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