

**An update on the tobacco bills that ASDA and ADEA lobbied for at National Lobby Day in 2007. Persistence pays off in the end.**

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The New York Times

**House Passes Tobacco Bill, but Senate Battle Looms**

By DUFF WILSON

WASHINGTON — The House of Representatives on Thursday passed by a wide margin legislation to give the Food and Drug Administration sweeping new powers over tobacco products, which kill an estimated 400,000 Americans each year.

Despite the 298-to-112 House vote, though, a closer battle is likely in the Senate between public health advocates and some tobacco industry supporters. Senator Richard M. Burr, Republican of North Carolina, the nation's leading tobacco producing state, has threatened a filibuster.

And while the cigarette leader Philip Morris supports the legislation, other big tobacco companies oppose it.

Senator Edward M. Kennedy, a prime sponsor in the Senate, plans to introduce a version of the House bill later this month after a two-week congressional recess. Mr. Kennedy will work for speedy passage, said his spokeswoman, Melissa Wagoner.

President Obama also strongly supports the legislation, the Office of Management and Budget said Wednesday, in the new administration's first official statement on the issue.

"Cigarette smoking is the leading preventable cause of death in the United States and is a contributing factor to scores of diseases and conditions inflicting misery upon millions of our citizens," the administration statement said. "Further, tobacco use is a major factor driving the increasing costs of health care in the U.S. and accounts for over a hundred billion dollars annually in financial costs to the economy."

As passed by the House the legislation would set up a new F.D.A. office, financed by industry fees, with powers to restrict harmful chemicals in existing tobacco products — including nicotine and possibly, after further study, menthol. The F.D.A. would also be empowered to approve or reject new tobacco products and to expand marketing restrictions and warning labels.

Representative Henry A. Waxman, Democrat of California and a main sponsor of the legislation, said it had taken more than a decade to regulate tobacco, since the F.D.A. first sought that power and the Supreme Court ruled it needed congressional authority.

“We’ve come to what I hope will be an historic occasion, and that is finally doing something about the harm that tobacco does to thousands and thousands of Americans who die each year, and stopping the attempt to get our children to smoke,” Mr. Waxman said during a two-and-a-half hour House debate Wednesday evening. “It has taken us far too long to get to this point.”

Last year the Senate did not act on its version of the House bill. The Senate was facing the triple threats of a filibuster, a Bush White House veto and a time crunch, with only one month to act before adjourning for the election. But the Senate did have 60 sponsors last year, including Barack Obama, and now there are now at least seven more Democrats in the chamber.

“The House’s quick action gives the Senate plenty of time to act this year,” said Matthew L. Myers, president of the Campaign for Tobacco-Free Kids, the lead Washington advocacy group for the bill. The legislation is also supported by an additional 1,000 or so public health, medical, religious and other organizations.

John R. Seffrin, chief of the American Cancer Society Cancer Action Network, said in a statement, “We’re in the best position we’ve ever been in to see this legislation pass and become law.”

In the Senate, Mr. Burr, who has threatened a filibuster on the measure patterned after the House bill, has introduced an alternative bill that would promote “reduced risk” tobacco products rather than cracking down on new and existing products. His home state, North Carolina, has an estimated 10,000 high-paying jobs in tobacco manufacturing and includes R.J. Reynolds Tobacco and Lorillard Tobacco, the nation’s second and third largest cigarette makers.

In the House debate Wednesday evening Virginia Foxx, Republican of North Carolina, attacked the legislation as “an unnecessary and expensive regulatory scheme at the expense of our rural farming communities, our small businesses and the American economy.”

The House rejected an amendment by Steve Buyer, Republican of Indiana,

to set up a government office other than the F.D.A. to oversee tobacco and to promote smokeless tobacco products. Mr. Buyer argued that the Waxman legislation would make it difficult for the F.D.A. to approve new, smokeless products and help cigarette users reduce their risk of disease.

Mr. Waxman responded that new, supposedly safer products would be approved only if they were scientifically proven to reduce health risks to society as a whole. Rather than helping smokers quit, Mr. Waxman said, smokeless products might introduce tobacco to youth, promote nicotine addiction and discourage people from really quitting.

A memo to Democrats Thursday from the House majority leader, Steny Hoyer of Maryland, said the Buyer amendment “would gut the F.D.A. tobacco bill, strip F.D.A. of regulatory authority over tobacco, allow tobacco companies to target children, and exempt smokeless tobacco from regulation.”

Jared Polis, Democrat of Colorado, said during the House debate: “Tobacco use is the single largest cause of preventable death in our country. Yet it continues to receive less regulation than a head of lettuce.”

Mr. Polis was one of several members who shared personal stories. His partner’s mother died of cancer two years ago. “It was very painful,” he said, “and of course, her wish in her dying breath was that she never started smoking.”

## **House approves bill giving government powers to regulate tobacco products**

By ERICA WERNER

Associated Press Writer

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WASHINGTON (AP) - The federal government would for the first time have regulatory powers over the tobacco industry under a bill the House approved Thursday after years of campaigning by anti-smoking forces.

The measure, passed 298-112, gives the Food and Drug Administration authority to regulate -- but not ban -- cigarettes and other tobacco products.

The Senate could take up its version of the bill later this month, and supporters have expressed confidence they can overcome expected resistance from tobacco-state senators. The White House supports the legislation, a shift from the Bush administration which threatened to veto a House-passed measure last year.

President Barack Obama has spoken publicly about his own struggles to kick a smoking habit.

"This vote brings us closer to putting a deceitful and dangerous industry under the watchful eyes of government regulators," American Heart Association CEO Nancy Brown said in a statement.

The bill was sponsored by Energy and Commerce Committee Chairman Henry Waxman, D-Calif., who in 1994 summoned the heads of big tobacco to a memorable hearing where they testified that nicotine was not addictive.

Waxman and his Senate counterpart, Sen. Edward Kennedy, D-Mass., have promoted legislation giving the FDA regulatory powers over tobacco products since the Supreme Court in 2000 ruled that the agency did not have that authority.

"We have come to what I hope will be an historic occasion, and that is finally doing something about the harm that tobacco does to thousands and thousands of Americans who die each year," Waxman said Wednesday as lawmakers debated his Family Smoking Prevention and Tobacco Control Act.

His bill wouldn't let the FDA ban nicotine or tobacco outright, but the agency would be able to regulate the contents of tobacco products, make public their ingredients, prohibit flavoring, require much larger

warning labels and strictly control or prohibit marketing campaigns, especially those geared toward children.

Opponents from tobacco-growing states such as top-producing North Carolina argued that the FDA had proven through food safety failures that it's not up to the job. They also said that instead of unrealistically trying to get smokers to quit or prevent them from starting, lawmakers should ensure they have other options, like smokeless tobacco.

That was the aim of an alternate bill offered by Rep. Steve Buyer, R-Ind., who would leave the FDA out and create a different agency within the Health and Human Services Department. His proposal failed on a 284-142 vote.

"Effectively giving FDA stamp of approval on cigarettes will improperly lead people to believe that these products are safe, and they really aren't," Buyer said. "We want to move people from smoking down the continuum of risk to eventually quitting."

Major public health groups, including the American Lung Association and the American Medical Association, wrote to lawmakers asking them to oppose Buyer's bill, contending it would leave tobacco companies without meaningful regulation and able to make untested claims about the health effects of their products.

Rep. Mike Rogers, R-Mich., also was unsuccessful in changing a provision that allows the FDA to tap its general fund for about six months to get the new program started. He argued that money would be diverted from the agency's already overstretched food inspection and disease research budgets. Waxman countered that the user fees from the tobacco industry would pay for the new FDA office and that any money borrowed from the general fund would be paid back without affecting other programs.

Buyer pointed out that Waxman's bill is supported by the nation's largest tobacco company, Marlboro maker Philip Morris USA. Officials at rival tobacco companies contend the Waxman bill could lock in Philip Morris' market share.

Kennedy plans to introduce his version of the legislation after Congress returns from a recess later this month. Sen. Richard Burr, R-N.C., is expected to lead the opposition, but supporters are confident they can clear the 60-vote threshold needed to break a filibuster.

## **House Passes Bill Granting FDA Power To Regulate Tobacco**

By Jared A. Favole and Alicia Mundy

Of DOW JONES NEWSWIRES

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WASHINGTON (Dow Jones)--The House on Thursday overwhelmingly passed landmark legislation giving the U.S. food and Drug Administration power to regulate tobacco.

The vote passed 298-112.

The bill faces an uphill battle in the Senate, where lawmakers from tobacco-producing states oppose the legislation. The bill doesn't give the FDA power to ban existing tobacco products but gives the agency power to restrict sales on safety grounds. The FDA also would be able to stop companies from touting their brands as "low tar" and "mild" and restrict advertising to plain black-and-white ads.

Health advocates say advertising restrictions are a key tool to keeping tobacco products away from children and young adults.

The bill passed the House last July but wasn't pushed in the House amid concerns then-President George W. Bush would veto it. President Barack Obama backed the bill while in the Senate, and the White House said it "strongly supports" the legislation, suggesting it may have more legs in the Senate.

But a senator from one of the largest tobacco-producing states, Sen. Richard Burr, R.-N.C., has threatened to filibuster the bill.

The bill will be funded by the tobacco industry via user fees. Rep. Mike Rogers, R.-Mich., said he was concerned the bill will overburden the FDA and take away resources from other areas of the agency.

Rep. Henry Waxman, D.-Calif., said money from the FDA's general fund will be used for only the first six months until the industry fees are adequate to fund the program. Money borrowed from the general fund will be paid back by the user fees, Waxman said.