



For Immediate Release

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Contact: news@nacsonline.com

(703) 684-3600

NACS Opposes FDA Bill to Regulate Tobacco as Drafted

ALEXANDRIA, Va. -- The NACS Government Relations Board Committee unanimously voted to oppose Sen. Mike DeWine (R-OH) and Sen. Ted Kennedy's (D-MA) new bill to permit the U.S. Food and Drug Administration to regulate the manufacturing, wholesaling, distributing and retailing of tobacco as it was introduced.

"Although the authors indicated that retailers' concerns were addressed in this new bill, they fell short in several areas and did not deal with some major points of contention at all," said Sam Turner, chairman of the NACS Government Relations Board Committee. "Without changes to the DeWine-Kennedy bill, NACS will oppose this legislation. We have drafted several changes that if included, could dramatically change our opinion. We are working proactively on those changes."

It is NACS' opinion that the fundamental problems with the Kennedy-DeWine bill include:

It is not comprehensive: The bill does not treat all tobacco equally. To be comprehensive, all retailers of tobacco, including those selling over the Internet, through the mail, through adult-only locations and on Indian reservations, must abide by the same regulations. This bill does not do that. Further the bill does not specify how the law will be enforced (state, local or federal authorities), thereby neglecting the issue of Native sovereignty and enforcement on tribal lands (to which all consumers have access through the Internet).

It is unfair to responsible retailers: Retailers should only be held responsible for those actions over which they have control. For example: If a company trains its associates in an agreed-upon age-verification course, that company should not lose its tobacco license if a trained associate makes a mistake (knowingly or accidentally). If the company is irresponsible and does not prepare its associates properly, only then should the store have its tobacco license suspended. Additionally, retailers should not be held responsible for the numerous warning labels being required on product delivered to them.

There are no penalties for minors: Attempted illegal transactions are initiated by minors, not retailers. There should be adequate penalties to discourage both supply and demand of underage tobacco consumption.

Moreover, this legislation lacks provisions to allow for easier electronic age verification for retailers choosing to use this tool. There are also advertising restrictions which could negatively impact signage inside a store since it may be visible from outside the store. The U. S. Supreme Court struck down a similar restriction as unconstitutional when Massachusetts attempted to implement it.

"NACS is strictly concerned with the retailing provisions in this legislation and until these provisions are fixed appropriately, NACS will continue to fight against passage of this

legislation," said Allison Shulman, NACS director of government affairs.

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The National Association of Convenience Stores (NACS) is an international trade association representing 1,900 retail and 1,800 supplier members. The U.S. convenience store industry, with over 130,600 stores across the country, posted \$337 billion in total sales in 2003, with \$220 billion in motor fuel sales