

# Senate to vote on FDA power to regulate tobacco

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In this Jan. 9, 2009 file photo, Sen. Dick Durbin, talks with reporters during a news conference in Chicago. (AP Photo/Nam Y. Huh, File)

(AP) -- A tobacco control bill set to win Senate approval would give the federal government broad new powers to monitor and change a toxic substance that contributes to some 400,000 deaths every year.

The legislation, heading for a vote Thursday, would for the first time give the Food and Drug Administration legal authority to regulate the sale, manufacturing and marketing of [tobacco](#) products.

Supporters hailed it as a milestone in efforts to reduce smoking, comparable to the 1964 surgeon general's warning that smoking causes lung cancer, the 1990 banning of smoking on planes and the 1998

settlement in which the tobacco industry pledged the states \$206 billion to help fund anti-tobacco campaigns.

"This moment has been coming for 20 years," said Sen. Dick Durbin of Illinois, the Senate's second-ranking Democrat. "We're going to be able to protect millions of children and Americans from deadly tobacco-related disease."

The House has already passed a similar bill, and resolution of relatively minor differences would send it to President Barack Obama. Unlike former President George W. Bush, who fought previous FDA regulation bills, Obama supports it.

Congress has been trying to exert government controls over tobacco, one of the few consumable products not regulated by the FDA, for well more than a decade. That effort became more imperative after the Supreme Court, in a 5-4 ruling in 2000, ruled that the FDA did not have the authority to oversee tobacco products under current law.

The bill would allow the FDA to require changes to nicotine yields and other chemicals in cigarettes and other tobacco products, although it could not ban nicotine. It would require tobacco companies to provide detailed lists of ingredients and any changes in those ingredients.

The bill would ban the use of expressions such as "light" and "mild" that might mislead people into thinking there was less health risk in the product.

The FDA would also have the power to restrict tobacco marketing; require pre-market approval of all new tobacco products; ban candied or flavored tobacco products that anti-smoking groups see as a way to entice young people into smoking; limit ads in publications with significant teen readership; and impose stronger warning labels on

cigarette packages.

The new FDA office would be financed through a user fee paid by tobacco companies, based on their share of the market. Earlier this year, Congress raised the federal cigarette tax, by 62 cents to \$1.01, to help pay for expansion of a federal health program for children.

Anti-smoking groups predicted the legislation could have a real effect in cutting into the 3,500 young people who smoke cigarettes for the first time every day, the 40 million Americans who smoke and the \$100 billion in annual health care costs related to treatment of tobacco-related illnesses.

"This bill has the power to finally break the dangerous chain of addiction for millions of Americans and save them from a lifetime of dependence, disease and premature death that comes from tobacco use," said John R. Seffrin, chief executive officer of the American Cancer Society Cancer Action Network.

Lawmakers portrayed the bill as a major first step in bringing down health care costs, an essential goal of the health care overhaul legislation that is the top priority of the Obama administration this year.

"This bill may do more in the area of prevention, if adopted, than anything else we may include in the [health care](#) bill in the short term," said Sen. Christopher Dodd, D-Conn., who managed the bill on the Senate floor in the absence of the ailing Sen. Edward Kennedy, D-Mass., the bill's main sponsor.

Opponents, led by Republican Sen. Richard Burr of the tobacco-growing state of North Carolina, argued that the [FDA](#), which is in charge of ensuring the safety of food and drug products, was the wrong place to regulate an item that is injurious to health.

He also contended that the bill would restrict tobacco companies, including several based in his state, from developing new products that might be less harmful to users. He unsuccessfully proposed the creation of a new agency that would both regulate tobacco products and encourage efforts to make cigarettes less harmful.

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The bill is H.R. 1256.

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