Meeting Requests

Date Rcd	From	To	Regarding	Action
	Thomas Arthur, Havatampa, Inc.	Bowles	Cigars	7/29 w/ Mardo, Dinge 11:30 am
7/17	NACS Siegner / Chanlers	Reed		8/1 mtg, Call
7/25	George Kargisianis	Dudley	Health & Welfare Pension plans	
7/23	John Fithian	Kagan	Freedom to Advertise Coalition	8/1 Reed / Shalala Woolley invites
	Michael Levy / Norm Brounstein	Mays	Liggett mtg w/ Bruce, Elena, Shalala	
FF 7/28	James Christian, Jr.	Reed/Shalala	Smokeless Tobacco	
7/31	Judy Caldwell - Lyn Marcuse Membership Director, Al Lawy Ex VP, ACCP	Bruce via Elizabeth	Am College of Chest Physicians	Offered Aug 8 btw noon - 3:30

FAX Transmission

PATTON BOGGS, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6000

CLIENT NUMBER: 2666.100

Please deliver the following pages:

TO: Elizabeth Drye

FAX NO.: 202-456-7028

FROM: James B. Christian, Jr.

DATE: July 28, 1997

TOTAL NUMBER OF PAGES (Including cover page): 4

PLEASE NOTE: The information contained in this facsimile is confidential and is intended only for the use of the person named above. If this facsimile has come to you in error, please call the sender or operator at the number given below. Any distribution or copying of this facsimile is strictly prohibited.

Our telecopier direct line is: (202) 457-6315.

OPERATOR: Sandra Hileman

OPERATOR NO.: 202-457-6071

COMMENTS:

Hard copy to follow via messenger.

SENT BY:Xerox Telecopier 7021 ; 7-28-97 ; 9:49AM ; 01155531112→ 94567028;# 2

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2550 M STREET, N.W.
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July 28, 1997

VIA MESSENGER

Jerry handling through Congressman Turner's office

Ms. Elizabeth Drye
Associate Director
Domestic Policy Council
The White House
Old Executive Office Building, Room 222
17th and Pennsylvania Avenue, NW
Washington, DC 20500

Re: **Meeting with Smokeless Tobacco Manufacturers**

Dear Ms. Drye:

It is my understanding that you are responsible for coordinating meetings and input between interested parties and Mr. Reed and Secretary Shalala regarding the proposed tobacco settlement. As discussed in the attached letter, a majority of smaller smokeless manufacturers, not named in state suits and which were not parties to the settlement negotiations, clearly face being put out of business if the proposed settlement is accepted. This would be particularly unfair given the fact that government studies show illegal underage consumption of products manufactured by these small manufacturers is low and decreasing.

I appreciate both your consideration of our concerns and your assistance in facilitating a meeting with Mr. Reed and Secretary Shalala.

Sincerely,

James B. Christian Jr. /skh

James B. Christian, Jr.

JBC/skh
Attachment

PATTON BOGGS, L.L.P.
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WRITER'S DIRECT DIAL
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July 18, 1997

VIA FACSIMILE AND MESSENGER

The Honorable Donna E. Shalala
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Bruce N. Reed
Assistant to the President for Domestic Policy
and Director of the Domestic Policy Council
The White House
2nd Floor/West Wing
Washington, D.C. 20500

Re: **Meeting with Smokeless Tobacco Manufacturers**

Dear Secretary Shalala and Mr. Reed:

I write on behalf of the Smokeless Tobacco Council ("STC") to request a meeting regarding the proposed global tobacco settlement ("the proposed settlement"). As discussed in more detail below, the proposed settlement will put small smokeless tobacco manufacturers out of business even though government studies show their products have low and decreasing rates of use by minors. At the same time, the settlement will enhance the competitive market positions of some tobacco conglomerates who negotiated the proposed deal.

The STC is composed of five of the smallest manufacturers of smokeless tobacco products. These products have been manufactured in much the same way and form for over two hundred years. Most importantly, they are marketed and sold to adults. In fact, Matt Myers, General Counsel of the National Center for Tobacco Free Kids, stated during testimony on June 26 before the Senate Judiciary Committee: *"The smokeless numbers [for underage use] actually surprised me . . . use of smokeless tobacco among teenagers over the last five years has not shown the same trends [as cigarettes]."* (Emphasis added).

While Mr. Myers may be surprised, the STC is not. The available government statistics have been supportive of Mr. Myers' statement for some time. The 1994 *Healthy People 2000* review found that use among 12-17 year old males *dropped* from 6.6% in 1988 to 4.8% in 1992. The 1994 *National Household Survey on Drug Abuse* showed underage use at only 3.9% for the same group. Furthermore, the "Monitoring the Future" survey, conducted under the auspices of

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the National Institute on Drug Abuse and proposed by the settlement as the standard for measuring underage use, puts underage smokeless tobacco use at 2.6% (average daily use 8th, 10th, and 12th grade, previous year).

The irony is that under the current terms of the proposed settlement the small STC members, whose products have low and decreasing rates of underage use according to government surveys, are likely to be put out of business even as some tobacco conglomerates not only survive, but actually consolidate and enlarge their respective market shares. The major financial provisions of the proposed settlement (the annual payment, volume adjustments and surcharge calculation) are of such magnitude that only the largest and most profitable tobacco manufacturers will be able to continue in business. In some cases, even though a company or sector may experience falling sales of its product (which is the case with loose leaf products, for example), it will be denied economically appropriate adjustments so long as overall tobacco industry sales are rising.

These perverse economic effects are compounded because the proposed settlement fails to take into account the sales demographics of different tobacco products by punishing all companies, big and small alike, as if their products were purchased by minors to the same extent. Furthermore, the large market share companies astonishingly grant to themselves more advertising rights than their smaller rivals under the terms of the settlement. The proposed settlement was negotiated exclusively by the largest manufacturers and marketers of tobacco products, therefore, it is not surprising that the benefits go to the large companies while the burdens fall disproportionately on the small businesses that were not party to the negotiations, including many of the small market share members of the STC.

I urge you to examine the economic impact of the proposed agreement on small business manufacturers while keeping in mind not only the agreement's stated purpose (a drastic reduction in the illegal underage use of tobacco products), but also its potentially anti-competitive effects (small business destruction coupled with large business consolidation of market share).

Representatives of these small manufacturers would appreciate the opportunity to review their concerns with you. I will contact your office shortly to arrange for such a meeting.

Very truly yours,

James B. Christian, Jr.

James B. Christian, Jr.

FAX Transmission

PATTON BOGGS, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6000

CLIENT NUMBER: 2666.100

Please deliver the following pages:

TO: Paul Weinstein, Jr.

FAX NO.: 202-456-7028

FROM: James B. Christian, Jr.

DATE: July 28, 1997

TOTAL NUMBER OF PAGES (including cover page): 4

PLEASE NOTE: The information contained in this facsimile is confidential and is intended only for the use of the person named above. If this facsimile has come to you in error, please call the sender or operator at the number given below. Any distribution or copying of this facsimile is strictly prohibited.

Our telecopier direct line is: (202) 457-6315.

OPERATOR: Sandra Hileman

OPERATOR NO.: 202-457-6071

COMMENTS:

Hard copy to follow via messenger.

PATTON BOGGS, L.L.P.
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(202) 457-6000
FACSIMILE: (202) 457-6315

WRITER'S DIRECT DIAL
(202) 457-6484

July 28, 1997

VIA MESSENGER

Mr. Paul Weinstein, Jr.
Special Assistant to the President and Chief of Staff
Domestic Policy Council
The White House
Old Executive Office Building, Room 217R
17th and Pennsylvania Avenue, NW
Washington, DC 20500

Re: **Meeting with Smokeless Tobacco Manufacturers**

Dear Mr. Weinstein:

It is my understanding that you have examined some of the economic implications of the proposed tobacco settlement. As discussed in the attached letter, a majority of smaller smokeless tobacco manufacturers, not named in state suits and which were not parties to the settlement negotiations, clearly face being put out of business if the proposed settlement is accepted. This would be particularly unfair given the fact that government studies show illegal underage consumption of products manufactured by these small manufacturers is low and decreasing.

I appreciate both your consideration of our concern and your assistance in facilitating a meeting with Mr. Reed and Secretary Shalala.

Sincerely,

James B. Christian, Jr. /ska

James B. Christian, Jr.

JBC/skh
Attachment

PATTON BOGGS, L.L.P.
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000

FACSIMILE: (202) 457-6315

WRITER'S DIRECT DIAL
(202) 457-6484

July 18, 1997

VIA FACSIMILE AND MESSENGER

The Honorable Donna E. Shalala
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Bruce N. Reed
Assistant to the President for Domestic Policy
and Director of the Domestic Policy Council
The White House
2nd Floor/West Wing
Washington, D.C. 20500

Re: **Meeting with Smokeless Tobacco Manufacturers**

Dear Secretary Shalala and Mr. Reed:

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The irony is that under the current terms of the proposed settlement the small STC members, whose products have low and decreasing rates of underage use according to government surveys, are likely to be put out of business even as some tobacco conglomerates not only survive, but actually consolidate and enlarge their respective market shares. The major financial provisions of the proposed settlement (the annual payment, volume adjustments and surcharge calculation) are of such magnitude that only the largest and most profitable tobacco manufacturers will be able to continue in business. In some cases, even though a company or sector may experience falling sales of its product (which is the case with loose leaf products, for example), it will be denied economically appropriate adjustments so long as overall tobacco industry sales are rising.

These perverse economic effects are compounded because the proposed settlement fails to take into account the sales demographics of different tobacco products by punishing all companies, big and small alike, as if their products were purchased by minors to the same extent. Furthermore, the large market share companies astonishingly grant to themselves <u>more</u> advertising rights than their smaller rivals under the terms of the settlement. The proposed settlement was negotiated exclusively by the largest manufacturers and marketers of tobacco products, therefore, it is not surprising that the benefits go to the large companies while the burdens fall disproportionately on the small businesses that were not party to the negotiations, including many of the small market share members of the STC.

I urge you to examine the economic impact of the proposed agreement on small business manufacturers while keeping in mind not only the agreement's stated purpose (a drastic reduction in the illegal underage use of tobacco products), but also its potentially anti-competitive effects (small business destruction coupled with large business consolidation of market share).

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James B. Christian, Jr.

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July 28, 1997

VIA MESSENGER

Ms. Elizabeth Drye
Associate Director
Domestic Policy Council
The White House
Old Executive Office Building, Room 222
17th and Pennsylvania Avenue, NW
Washington, DC 20500

Re: **Meeting with Smokeless Tobacco Manufacturers**

Dear Ms. Drye:

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James B. Christian Jr. /skh

James B. Christian, Jr.

JBC/skh
Attachment

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July 18, 1997

VIA FACSIMILE AND MESSENGER

The Honorable Donna E. Shalala
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Bruce N. Reed
Assistant to the President for Domestic Policy
and Director of the Domestic Policy Council
The White House
2nd Floor/West Wing
Washington, D.C. 20500

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Representatives of these small manufacturers would appreciate the opportunity to review their concerns with you. I will contact your office shortly to arrange for such a meeting.

Very truly yours,

James B. Christian, Jr. /pum

James B. Christian, Jr.

JENNIFER D. DUDLEY
07/25/97 10:34:47 AM

Record Type: Record

To: Elizabeth Drye/OPD/EOP

cc:
Subject: Passin' the Buck

I got a call from a guy named George Kargesianis, who represents Health and Welfare Pension Plans and would like to get a meeting to discuss the tobacco settlement. Have you guys had or will you be having a meeting that could include him?

His number is 206/624-5370

asbestos mtg

8/1 Reed/Shalala mtg. - Woolley Turks

FAX Transmission

PATTON BOGGS, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6000

CLIENT NUMBER: Freedom to Advertise 3026.100

Please deliver the following pages:

TO:	Ms. Elizabeth Drye, Associate Director, Domestic Policy Council
FAX NO.:	202-456-7028
FROM:	Tom O'Donnell
DATE:	July 23, 1997

TOTAL NUMBER OF PAGES (including cover page): 3

Our telecopier direct line is: (202) 457-6315.

OPERATOR:	Carol Millspaw
OPERATOR NO.:	457-5255

COMMENTS:

Elizabeth,

Here's the letter John Fithian sent to Elena. John's number is 457-5607. I can be reached at 457-6106. Hope things aren't too crazy for you (but I know better). If you ever get *really* bored, give me a call and we can get together for a drink or something to eat. Thanks for your help.

Tom O'D

FREEDOM TO ADVERTISE COALITION

American Advertising Federation (AAF)
1101 Vermont Ave., NW
Suite 500
Washington, DC 20005
(202) 898-0089

American Association of Advertising Agencies (4-As)
1899 L Street, NW
Suite 700
Washington, DC 20036
(202) 331-7345

Association of National Advertisers (ANA)
700 11th Street, NW
Suite 650
Washington, DC 20001
(202) 626-7800

Direct Marketing Association (DMA)
1111 19th Street, NW
Suite 1100
Washington, DC 20036
(202) [illegible]

Magazine Publishers of America (MPA)
[illegible] Conn. Ave., NW
Suite [illegible]
Washington, DC [illegible]
(202) [illegible]

Outdoor Advertising Association of America (OAAA)
[illegible] M Street, NW
Suite [illegible]
Washington, DC [illegible]
(202) [illegible]

Point of Purchase Advertising Institute (POPAI)
[illegible] L Street, NW
[illegible] Floor
Washington, DC [illegible]
(202) [illegible]

July 3, 1997

The Honorable Elena Kagan
Deputy Assistant to the President
for Domestic Policy
The White House
2nd Floor, West Wing
Washington, D.C. 20500

Re: **Request to Appear Before Tobacco Settlement Review Panels on Regulatory and Legal Issues**

Dear Ms. Kagan:

I understand that you have been appointed to chair two of the four panels of the Administration's task force to review the tobacco settlement. The Freedom to Advertise Coalition, representing a broad cross-section of advertising, publishing and media interests, requests the opportunity to appear before the review panels on regulatory and legal issues. The Coalition strongly supports the effort to reduce tobacco use by children. We believe, however, that the advertising restrictions proposed by the settlement raise serious First Amendment issues regarding the protection of truthful commercial speech, and could set a dangerous precedent for similar restrictions on other legal products and services.

The tobacco settlement imposes sweeping restrictions on every tobacco advertising media. If adopted by the Congress and approved by the President, the restrictions will constitute the broadest advertising censorship ever proposed by the federal government. As such, legislation which included the restrictions would likely fail a court challenge under the test set forth for commercial speech regulation in Central Hudson Gas & Electric Corp. v. Public Service Comm'n, 447 U.S. 557 (1980) and other cases.

To be sure, any private organization may voluntarily relinquish its advertising rights without running afoul of the First Amendment. If the proposed advertising restrictions are truly voluntary, and are to be contained solely in private contracts and consent decrees, no precedent would be set for similar restrictions on other products and services. If Congress mandates advertising restrictions through the enactment of law, however, that enactment clearly implicates the First Amendment. Indeed, the First Amendment says that "Congress shall make no law . . . abridging the freedom of speech . . . ."

If permitted to appear before your panels, the Freedom to Advertise Coalition will (1) describe the breadth and potential effect of the proposed advertising restrictions; (2) encourage the Administration to recommend to Congress that the advertising restrictions not be included in legislation; and (3) describe the First Amendment implications raised by the restrictions if they are included in legislation.

The Freedom to Advertise Coalition was formed in 1987 out of concern for the right to truthfully and nondeceptively advertise all legal products and services. The Coalition's members include the American Advertising Federation, the American Association of Advertising Agencies, the Association of National Advertisers, the Direct Marketing Association, the Magazine Publishers of America, the Outdoor Advertising Association of America, and the Point-of-Purchase Advertising Institute.

We would welcome the opportunity to contribute to your deliberations.

Sincerely,

John Fithian, Counsel
Freedom to Advertise Coalition

Patton Boggs, L.L.P.
2550 M St., NW
Washington, D.C. 20037
(202) 457-5607

Chambers Associates Incorporated • Public Policy Consultants

805 15th Street, N.W
Suite 500
Washington, D.C. 20005
(202) 371-9770
FAX (202) 371-6601

Eliz.

July 17, 1997

Mr. Bruce N. Reed
Assistant to the President for Domestic Policy
Executive Office of the President
West Wing
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Bruce:

As the largest retailer of cigarettes in the nation, the National Association of Convenience Stores (NACS) has undertaken an aggressive campaign to address the issue of tobacco use by minors. Yet, despite playing a pivotal role, retailers were not included in the settlement negotiations.

NACS has developed an extensive program to deal with the under age smoking problem which has as its cornerstone the concept of shared responsibility between retailers, law enforcement, communities, and families. Their proposal, H.R. 2017, which has been introduced by Sanford Bishop (D-GA) in the House, takes a very aggressive approach to preventing tobacco use by minors. Enclosed are materials which will help you to better understand their proposals.

We would like to arrange a meeting with you and NACS to discuss how we can work together both on the overall settlement as well as on an affective retail component. We look forward to meeting with you in the near future to discuss the tobacco settlement and the concerns of convenience stores.

Sincerely,

Letitia
Letitia Chambers
President

Bill
William A. Signer
Vice President

enclosures

Communities Keeping Kids from Tobacco

The Tobacco Use by Minors Deterrence Act: A Community-Based Solution to Underage Tobacco Use

An Overview

Tobacco use among minors is a vexing public health dilemma with far-reaching implications for the quality of life of U.S. citizens and our nation's health care system. While recent FDA regulations take a limited view of the problem by addressing only tobacco advertising and retail "carding," a new bill before Congress offers a more aggressive, comprehensive, hands-on approach. Called the "Tobacco Use by Minors Deterrence Act," it fights the battle where it can really be won, in communities, neighborhoods and families across the nation.

The bill empowers communities to make a difference

The legislation would provide financial incentives for states to enact laws that combine the efforts of retailers, their employees, law enforcement and families to strike at the problem of kids obtaining and using tobacco. Incorporating 11 recommendations from a 1994 State Attorneys General report on tobacco use among youth, and nine recommendations from the Institute of Medicine's 1994 report *Growing Up Tobacco Free*, the bill establishes a "community contract" among all of the individuals who face the problems on a daily basis.

Retailers step up to the front line with tough new initiatives

In the bill, retailers lead the fight by undertaking a number of important new efforts. Details include:

- Adoption of a self-funding state license program to sell tobacco products, similar to liquor licenses.
- Acceptance of fines on store owners and employees for selling tobacco to minors.
- Restrictions on unsupervised access to tobacco displays.
- Use of random, unannounced inspections by local law enforcement.
- Extensive employee training on tobacco laws.
- Elimination of sales of single, out-of-pack cigarettes or smokeless tobacco products.
- Control of access to vending machines by checking identification of vending-machine customers.
- Elimination of free tobacco samples without proof of age.
- Installation of over-the-counter signs reminding employees and minors of underage smoking laws.
- Application of above-mentioned stringent standards not only to cigarettes and smokeless tobacco, but to cigars and pipe tobacco as well.
- Ban of tobacco sales over the Internet.

(more)

Law enforcement, families and kids share the responsibility as well

While retailers are committed to leading the fight, they can't win the war alone. To be successful, their efforts must be combined with greater involvement from families, better understanding by minors of the risks of tobacco, and more committed law-enforcement efforts. The bill also outlines a role for:

- State and local law enforcement officials, who would more aggressively enforce laws against tobacco use by minors.
- Families, who would be contacted in the event their child is caught with possession of tobacco products.
- Minors, who if caught breaking the law by attempting to purchase or use tobacco would be subject to punishments that are meaningful to them, including fines, notification of parents, community service and possible loss of driving privileges.

Minors who choose to break the law must take responsibility

Young people often deny risks they think are in the "distant future," and most are driven by peer pressure to smoke. This bill contains a plan to teach young people that illegal, self-destructive behavior comes at a price – not only a health-related consequence, but an immediate, real-world price in terms they understand.

In other words, the bill establishes constructive punishments for minors who choose to break the law by using tobacco – punishments that will make any perceived benefits from tobacco use, such as "looking cool" or fitting in with friends, simply not worth it. One program with just such an approach in Woodridge, Illinois saw tobacco use among minors decrease from 16 percent to five percent over a two-year period. If kids think Mom and Dad could find out, or even worse, that they may risk their right to drive a car, they might think twice about using or trying to buy tobacco.

Enact this bill today!

This bill is a good bill – it calls on retailers to step up to the plate to put a stop to kids buying tobacco. It calls on families to educate and guide young people away from tobacco-related risks. And it calls on minors who choose to break the law by using tobacco to take responsibility for their actions.

It is a comprehensive approach that rallies the power of the individual community. It is the only approach that will squelch this crucial public health threat.

###

Communities Keeping Kids from Tobacco

The Tobacco Use by Minors Deterrence Act Reaches Farther Than New FDA Regulations

This bill positions communities as the solution; the FDA regulations do not

Recent FDA regulations seek to restrict tobacco advertising and mandate more stringent "carding" at retail counters. But they place no substantial burdens on retailers who sell tobacco, no consequences on minors who purchase and use tobacco, and no incentive for families to get involved. In other words, the people who can make the greatest impact are wholly excluded from the FDA plan.

This legislation provides immediate action, not long-term litigation

The Tobacco Use by Minors Deterrence Act also offers an immediate, legislative solution to this daunting public health challenge. The new FDA regulations could be litigated for years and cost taxpayers millions of dollars. The Tobacco Use by Minors Deterrence Act could be implemented immediately and enforced by state and local authorities and the Federal Trade Commission with its more than 30 years of experience in regulating tobacco.

Tobacco Use by Minors Deterrence Act	FDA Regulations
Requires retailers to adopt self-funding state licensing	Does not address
Fines retailers for selling tobacco to minors	Does not address
Subjects minors caught buying or using tobacco to meaningful punishments	Does not address
Contacts parents if minors caught with tobacco	Does not address
Requires retail employee training	Does not address
Bans tobacco sales over the Internet	Does not address
Controls sale of cigars and pipe tobacco to minors	Does not address
Bans sale or distribution of tobacco to minors	Bans only sale
Restricts unsupervised access to tobacco displays	Bans self-serve displays where minors permitted
Requires retailers to check ID of vending-machine customers	Bans vending machines where minors are allowed
Requires verification of ID in accordance with applicable state law	Requires verification of ID for all customers under 27
No sales of loose, single cigarettes	Same

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Section -by-Section Analysis

AMENDMENT TO SECTION 1926 OF THE PUBLIC HEALTH SERVICE ACT

The legislation dovetails with and expands upon on what is popularly known as the "the Synar amendment" to the ADAMHA Reorganization Act of 1992 (relating to the sale or distribution of tobacco products to individuals under the age of 18), P.L. No. 102-321 Stat. 394 (1992). The Department of Health and Human Service issued proposed regulations to implement this legislation on August 26, 1993 and final regulations on February 19, 1996. The Substance Abuse and Mental Health Administration currently oversees and reports to Congress on this regulation.

The regulation promulgated to implement this legislation requires states (1) have in effect a state law prohibiting the sale and distribution of tobacco products to minors; (2) enforce such laws; (3) conduct annually, random, unannounced inspections of tobacco outlets; (4) negotiate a strategy and timeframe for achieving an inspection failure rate of no more than 20 percent; (5) identify a State agency responsible for enforcing the State law on tobacco sales/distribution. Reports are submitted annually to the Department of Health and Human Services. States that fail to comply with the enforcement requirements will be penalized 10 percent of their grant in the first applicable year, 20 percent in the second, 30 percent in the third, and 40 percent in the fourth, and thereafter.

PROHIBITION ON DISTRIBUTION TO MINORS

Prohibits distribution of tobacco products (including cigars and pipe tobacco) to anyone under 18 years of age. Prohibits an individual of legal age to purchase tobacco products with the intent of providing it to a minor. Retailer and employee penalties for violation include civil fines of $25 for the first violation; $50 for the second violation; $150 for third and subsequent violations. In addition, employers of a retail establishment are fined $150 if the same employee has sold a tobacco product to a minor more than once.

- An employees has a defense if he or she relied upon proof of age that appeared to be valid and if unannounced inspections are not conducted in accordance with the legislation; (a driver's license or another form of identification issued by a governmental authority that includes a photograph and date of birth will suffice)
- An employer has a defense if it can prove that it has trained its employees regarding the prohibition on sales to minors and the employee has acknowledged that he or she understands the law.

PURCHASE, RECEIPT, OR POSSESSION BY MINORS PROHIBITED

Prohibits a minor from purchasing, attempting to purchase, receiving or attempting to receive, possessing or attempting to possess, smoking or attempting to smoke. or otherwise using or consuming or attempting to use or consume a tobacco product in a public place.

Penalties for a first violation include a civil money fine of between $25.00 and $150.00; community service; and suspension of the individual's drivers license. It is up to the discretion of the judge whether to impose all of these penalties. After the second violation, it is mandatory that a drivers license suspension be imposed for at least 30 days.

The law enforcement agency must notify the individual's parent, guardian, or custodian as to the nature of the violation within 48 hours. The notification can be made through any practicable means such as telephone, mail, or person-to-person. In addition, before an employee or owner can be prosecuted, law enforcement must also prosecute the minor.

<u>SAMPLING</u>
Prohibits sampling of tobacco products in places that are not restricted to individuals under the age of 18. Imposes a civil money penalty of $150 for violations.

<u>OUT-OF-PACKAGE DISTRIBUTION</u>
Prohibits the distribution of cigarettes or smokeless tobacco products in an opened package. Imposes a civil money penalty of $150 for each violation.

<u>SIGNAGE</u>
Requires the posting of signage that communicates that the sale and purchase of tobacco products is prohibited by law to those under 18 and that proof of age may be demanded. Imposes a civil money penalty of $150 for each violation.

<u>DISPLAYS</u>
Requires tobacco displays to be maintained in locations that are within the line of sight or under the control of the cashier or other employee. The term "under the control" means that within the reach of the cashier or protected by other security, surveillance, or detection methods, including electronic scanners. The term "within the line of sight" means visible to a cashier or other employee, whether directly or by means of mirrors or monitors.

<u>NOTIFICATION TO EMPLOYEES</u>
Requires employers to implement a training program notifying all employees that distribution of tobacco products to individuals under 18 years of age is prohibited. Requires employees to implement an effective training program to assist employees in eliminating sales to minors. In addition, the employees, once trained, must acknowledge in writing or electronic form, that he or she understands his or her legal responsibilities and may be responsible for a civil money penalty of $150 for violation.

<u>VENDING MACHINES</u>
Vending machines are allowed under the following circumstances:
o Permitted in establishments restricted to individuals 18 and over;
o Permitted in all other facilities with a "lockout device" attached to the vending machine. The lockout device must adhere to the following condition (1) disables machine unless released by a trained employees who is at least 18 years of age; (2) only one sale of the tobacco products occurs when the release mechanism for the machine is activated; (3) not accessible to customers; (4) continues to lockout when power to the device is interrupted or discontinued.

<u>RANDOM UNANNOUNCED INSPECTIONS: REPORTING AND COMPLIANCE</u>
Requires that the enforcement of this Act must be conducted by the State police or the local law enforcement authority designated by the State Police. In addition, use of compliance test otherwise known as "sting operations" must be conducted under the following circumstances:

- Before using a minor for the sting operation, the written consent of the minor's parents or legal guardian must be obtained;
- The minor used in the sting operation must be under the direction and supervision of the State;
- A minor used in a sting operation cannot "sting" a store in which the minor is a regular customer;
- The minor conducting the sting operation must present their correct proof age if requested during the "sting."

LICENSURE

Any person engaged in the distribution at retail of tobacco products must apply and receive a license. A separate license is required for each place of business where tobacco products are sold to the public. A license fee of $25 will be imposed for each license. The license is valid for 1 year from the date of issuance. Penalties for operating without a license will accrue at the amount of $50 for each day. Any store that continues to sell tobacco products after the license has been suspended or revoked will be penalized at $100 for each day after the store has received notice of suspension or revocation.

SUSPENSION, REVOCATION, DENIAL, AND NONRENEWAL OF LICENSES

Once a court has determined that a violation has occurred, the State shall notify the licensee in writing, that any subsequent violation at the same place of business may result in a suspension of the license for a period determined by the State.

- *Suspension of License*: If a further violation occurs at the same store, the State may initiate administrative action to suspend the license for a period to be determined by the State. Once the State notifies the licensee of the initiation of the suspension action, the licensee has 30 days to demonstrate why suspension of the license may be unwarranted or unjust.
- *Revocation of License:* The State may revoke the license that has been previously suspended during the one year period in which the license was issued if a further violation of the Act is committed involving the same store. The licensee, after being notified by the state, will have 30 days to demonstrate why revocations of the license would be unwarranted or unjust.
- *Fees:* When a license has been suspended or revoked, the licensee must pay the State $50 for renewal or reissuance of the license at the same place of business.
- *New License Application:* Revocation or suspension of a license at one place a business shall not last longer than 12 months and may not be grounds to deny application at another place of business
- *Judicial Review:* A licensee has the option to seek judicial review of an action by the State to suspend, revoke, or deny a new license by filing a complaint in court with jurisdiction over the matter.

PREEMPTION

This Act would preclude a county, city, town, or other political subdivision of the State to enact separate measures that are inconsistent with this Act.

SALES BY THE INTERNET

Prohibits tobacco sales though the internet.

USE OF PENALTY MONIES AND FEES

Civil money penalties for violations and license fees collected under this act can only be used to defray the cost of administration and enforcement of the Act.

Communities Keeping Kids from Tobacco

Coalition Membership

National Association of Police Organizations

General Conference of Seventh Day Adventists

Law Enforcement Alliance of America

National Association of Convenience Stores

Amusement and Music Operators Association

National Fraternal Order of Police

NEWS from Congressman Sanford Bishop

2nd Congressional District, Georgia | 1632 Longworth HOB, Washington, D.C. 20515

FOR IMMEDIATE RELEASE
June 12, 1997

CONTACT
Selby McCash
202-225-3631

REPRESENTATIVE SANFORD BISHOP INTRODUCES CRITICAL NEW BILL TO SEVER CONNECTION BETWEEN TEENS AND TOBACCO

Focus is on Community Involvement, Shared Responsibility

Representative Sanford Bishop (D-GA) broke critical ground today in the fight against tobacco use by minors, proposing a plan to empower local communities, retailers, families and kids in a unified front to keep tobacco out of the hands of children.

"It's time for our nation to kick the teen-tobacco habit," said Rep. Bishop. "This bipartisan bill offers the most creative, comprehensive approach to date to effectively address teens and tobacco. It takes the issue out of Washington to local communities coast to coast."

The bill is called the Tobacco Use by Minors Deterrence Act, and it engages neighborhood retailers, their employees, law enforcement, families and kids to share the responsibility of curbing underage tobacco access and use. The Tobacco Use by Minors Deterrence Act includes recommendations from a 1994 report on tobacco use among youth and responsible retailing, published by a working group of state attorneys general and from the Institute of Medicine's 1994 report Growing Up Tobacco Free.

The bill provides federal financial incentives for states to enact a model law, combining the best features of state and local laws that have cracked down on kids buying and use tobacco and "raises the bar" for other states to follow suit.

(MORE)

Among the shared responsibilities included in the Tobacco Use by Minors Deterrence Act:

- Retailers would enroll in licensing programs to sell tobacco, assume penalties for breaking the law, train employees, invite unannounced inspections, restrict unsupervised access to tobacco displays, require photo ID for vending machine sales, and electronically lock-out minors from vending machine sales.

- Families would join retailers' efforts by calling on local law enforcement to contact them when their son or daughter is caught using tobacco products.

- Local law enforcement would step up enforcement efforts.

- Kids who decide to use tobacco and get caught would receive meaningful punishments, such as fines, community service, parental notification and possible loss of driving privileges.

- Tobacco sales to minors over the Internet would be banned.

In addition to cigarettes and smokeless tobacco, the bill also applies the same stringent standards to the sale of cigar and pipe tobacco.

"Kids today often don't understand, or refuse to acknowledge that they have a responsibility to obey laws regarding tobacco use. If young people know their parents will receive a phone call if they're caught using tobacco, or even worse, they could lose their driver's license, it could help build up just enough courage to say no," said Rep. Bishop.

The Tobacco Use by Minors Deterrence Act evolved from and builds upon the most effective and reasonable elements of state laws related to minors and tobacco. Georgia law currently requires retailers to have a license to sell tobacco, but that license cannot be revoked. Under this proposal, retailers would risk losing their tobacco license if they sell the products to minors.

"By encouraging states to enact laws that have teeth, this bill establishes a nationally uniform policy to address access, distribution and use of tobacco by our nation's underage kids. Tobacco consumption should be an adult decision, and my bill respects that prerogative, while cracking down on the irresponsible behavior of minors and the retailers who illegally sell tobacco."

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CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
SENIOR VICE PRESIDENT
MEMBERSHIP POLICY GROUP

June 10, 1997

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310 202/887-3403 FAX

The Honorable Sanford Bishop
United States House of Representatives
Washington, D.C. 20515

Dear Representative Bishop:

I would like to congratulate you on your leadership to provide a legislative solution to deter tobacco use by minors. Given the adverse ramifications of tobacco usage by minors for various industries and sectors of our country, there could be no more critical time to directly address this problem.

Your legislation appears to be more than willing to meet this charge because it recognizes clearly that any solution must be a collaborative one, involving retailers, law enforcement officials, and families and kids. This aggressive, targeted enforcement approach could make the difference in enhancing the quality of life for today's minors and future generations.

As reflected throughout our nation's history, the best solutions to the most challenging problems have come by way of a hands-on approach. In this case, the people who can make the greatest impact, communities, neighborhoods, and families, are given the tools necessary to combat an issue that has serious implications for the youth of our country and on our nation's health care system.

I wish you the best of luck in your efforts to advance this important piece of legislation.

Sincerely,

R. Bruce Josten

NEWS RELEASE

FOR IMMEDIATE RELEASE
June 16, 1997

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NACS Praises Groundbreaking Legislation To Deter Tobacco Use by Minors

Measure Calls For Stricter Retailer Initiatives, Law Enforcement, Community Participation

ALEXANDRIA, VA -- Sweeping bi-partisan legislation designed to keep tobacco products out of the hands of minors gains the support of the National Association of Convenience Stores (NACS). The "Tobacco Use By Minors Deterrence Act" provides financial incentives for states to enact laws that combine the efforts of retailers, their employees, law enforcement officials, families and kids to share the responsibility of curbing underage tobacco access and use.

NACS supports the bill because it calls for all parties work together to address the issue of tobacco use among minors.

"The measure strikes at the problem of kids' tobacco use from every possible angle," says John Hansen, NACS Chairman of the Board and President and CEO of Kwik Trip, Inc. (La Crosse, WI). "Retailers clamp down on access to tobacco, and families and law enforcement crack down on minors' willingness to use tobacco. While other efforts on this issue have failed, this represents a plan for success."

The bill, which applies to all tobacco products, calls for retailers to undertake initiatives such as paying stiff penalties for selling tobacco to minors, increasing employee training, undergoing unannounced inspections and restricting access to tobacco displays. The measure also penalizes minors who break the law by attempting to purchase or use tobacco. If caught, minors would face fines, the notification of parents, community service and possible loss of driving privileges. The bill also bans the sale of tobacco products over the Internet.

--more--

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"Anyone who is truly concerned about this issue should support this bill," Hansen notes. "This approach is a holistic approach to this critical health threat that has proven success already in select communities. Let's make it work on a national scale."

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The National Association of Convenience Stores is an international trade association representing almost 3,300 convenience store operators, petroleum marketers and suppliers. Retail members operate almost 63,000 convenience stores around the world. The convenience store industry posted $151.9 billion in total sales in 1996 and accounts for 54 percent of all gasoline sold in the United States.

NACS continues to be an integral part of the convenience store industry through its annual meeting and trade show, training programs, information center, government relations and public affairs program.

For more information on the Association, you can log on to C-Store Central, the industry Web site owned and operated by NACS, at ***www.cstorecentral.com***. You also can dial NACSfax, NACS' 24-hour fax-on-demand system, at 1-800-555-4633 (1-703-684-6411, international).

Amusement & Music Operators Association
Representing the Commercial Amusement, Music, Entertainment & Vending Industry
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June 12, 1997

The Honorable Sanford Bishop
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressmen Bishop:

I write today, on behalf of the members of the Amusement and Music Operators Association (AMOA) to voice our strong support of "Tobacco Use by Minors Deterrence Act of 1997" legislation which you introduced today.

The tobacco vending industry and AMOA have long supported age restricted access to tobacco products from vending machines, and we therefore praise the mission of your legislation to prevent underage smoking. We specifically support the vending portions of your legislation which call for the use of state-of-the-art "lock-out" vending machine devices. As you know, these devices make under age purchases virtually impossible. If enacted, your legislation would do what not even the FDA 1996 tobacco regulations could -- keep tobacco products securely locked away from children even when a supervisor is busy or distracted.

A total ban on vending would mean the end of our industry of small businessmen and women nationwide. The typical tobacco vending company in the U.S. has five employees. There are approximately 2,000 of these small companies nationwide.

By passing your legislation, Congress can help eliminate under age tobacco sales and, at the same time, save a U.S. industry made up of hard working small businessmen and women.

AMOA looks forward to working with you to educate the U.S. Congress about the vending industry and the important state-of-the-art lock out devices it supports. We believe that once the facts are learned, your colleagues in the Congress will agree that your legislation holds the answer to tobacco vending machines sales.

Thank you for your commitment to the health and well being of our nations youth as well as to the health of small businesses and the American dream.

Yours truly,

Mark Levine
Treasurer, Melo-Tone Vending
AMOA Tobacco Vending Committee

ML/mlg

690-7694

MEMORANDUM

BROWNSTEIN HYATT FARBER & STRICKLAND, P.C.
601 Pennsylvania Avenue, N.W., Suite 900
Washington, D.C. 20004-2601
Ph: 202-434-8246; Fx: 202-393-7864

Date/Day:	**July 22, 1997/Tuesday**
To:	**Cathy Mays**
From:	**Michael B. Levy/Norm Brownstein**
Subject:	**Meeting Request**
Pages:	**1**
Fax:	**456-5542**

We are writing, at the request of Bruce Lindsey, to ask that Bennett LeBow and representatives of the Liggett Group meet with members of the Administration's tobacco working group. It was Mr. Lindsey's suggestion that Mr. Reed involve Elena Kagan and Secretary Shalala in these meetings. Mr. LeBow is available at any time and we are willing to set up the meeting as soon as possible in the next two weeks.

If you have any further questions, please do not hesitate to call. Our primary scheduling contact is Judy Miles at 202-434-8246. Or you may also contact Connie Butler at 303-534-6335.

Michael Levy can be reached at 202-434-8375(o) or 202-546-4118(h).

Congress should acknowledge Liggett's contribution in bringing about the global tobacco settlement and should honor its agreements.