



NATIONAL CENTER FOR TOBACCO-FREE KIDS

Statement of Matthew Myers

President

Campaign for Tobacco-Free Kids

Before the U.S. House Judiciary Committee
Subcommittee on Courts, the Internet and Intellectual
Property

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My name is Matthew Myers. I am the President of the National Center for Tobacco-Free Kids. We want to thank you for inviting the Campaign to testify on legislation drafted by Congressman Green. While we support the concept of providing the State Attorneys General with authority to enforce violations of this Act, regrettably, we must oppose the legislation as drafted.

Current Internet sales of tobacco raise two serious issues: uncontrolled sales to youth and evasion of state sales and tobacco related excise taxes. The twin problems of youth access and tax evasion need to both be addressed, preferably in one bill, but if not in one bill in two bills that contain adequate provisions to make a real difference. This bill as currently drafted does not deal with the problem of sales to young people at all; and it is our assessment that its limited proposal to address the problem of the evasion of state sales and tobacco related excise taxes will be ineffective. If its enactment prevents or forestalls the passage of legislation that effectively addresses these problems, it will do more harm than good. Even worse, it would undermine the longstanding, bipartisan efforts of Congressman Meehan, former Congressman Hansen and others to enact a comprehensive solution by giving the false impression that the problems had been effectively addressed.

There are seven specific areas in which the legislation offered by Congressman Green fails to meet what we believe are the minimum standards necessary for any effective legislation dealing with Internet tobacco sales.

- 1. The legislation should apply to all tobacco products, not just cigarettes.*
- 2. The legislation should explicitly impose the burden of either paying or insuring that applicable state taxes are paid on the Internet seller rather than on the purchaser.*
- 3. The legislation should apply to all remote sales of tobacco products.*
- 4. The legislation should include an enforcement mechanism that will assure that the states can actually enforce the legislation and block Internet and mail-order sales of tobacco products for which state taxes have not been paid.*
- 5. The Civil Action section of the legislation should provide for civil fines and give the federal government the right to seek civil fines and civil damages.*
- 6. The criminal penalties should be increased beyond the inadequate penalties established in the original Jenkins Act in 1949.*
- 7. The legislation does not require Internet and mail-order sellers to keep any records of their sales and deliveries into a state.*

In sum, this bill addresses a legitimate problem, but does not do so effectively. If the goal is to insure that state tobacco taxes are collected on Internet tobacco sales, the bill as drafted will not accomplish its purpose