

Side-by-Side Comparison of Main Points from Buyer-McIntyre, Waxman Bills

Main Point	Buyer-McIntyre (H.R. 1261)	Waxman (H.R. 1256)
Regulating Authority	<ul style="list-style-type: none"> • Creates new Tobacco Harm Reduction Center within U.S. Dept. of Health and Human Services to regulate tobacco products • New agency would be able to solely focus on tobacco • Allows FDA to focus on regulating foods and medical products 	<ul style="list-style-type: none"> • Gives FDA sweeping discretionary authority to impose whatever regulations on tobacco it believes provides for the “protection of public health” • Could lead to smokers believing FDA-approved cigarettes are “safer” • FDA is overburdened and struggling • FDA Commissioner cited major concerns if this responsibility given to FDA
Harm Reduction	<ul style="list-style-type: none"> • Establishes relative risks of rankings of tobacco and nicotine products and communicates annually to the public • Regulates based on the concept of “harm reduction” or encouraging adult tobacco consumers who will not quit smoking to switch from cigarettes to products that may have less risk 	<ul style="list-style-type: none"> • Does not establish regulatory framework that would appreciably reduce tobacco-related death and disease • CBO estimates bill would reduce smoking rates by 2 percent over next 10 years
Relative Risk	<ul style="list-style-type: none"> • Recognizes current status of scientific study on comparative risks different types of tobacco pose to adult tobacco consumers • Promotes consumer education about comparative risks of different types of tobacco products 	<ul style="list-style-type: none"> • Makes it virtually impossible for tobacco manufacturers to develop products that have potential to reduce risk of tobacco usage because of lengthy approval process and ingredient restrictions • Impedes accurate communications to adult tobacco consumers about comparative risks of different types of tobacco products

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<p style="text-align: center;">Growers</p>	<ul style="list-style-type: none"> • Provision in the bill explicitly protects tobacco growers <p style="text-align: center;">TITLE VII—TOBACCO GROWER PROTECTION</p> <p>SEC. 701. TOBACCO GROWER PROTECTION.</p> <p>No provision in this Act shall allow the Administrator or any other person to require changes to traditional farming practices, including standard cultivation practices, curing processes, seed composition, tobacco type, fertilization, soil, record keeping, or any other requirement affecting farming practices.</p>	<ul style="list-style-type: none"> • Regulations regarding leaf cultivation and curing are inevitable under FDA regulation - FDA might require tobacco product manufacturers to buy only certain types of tobacco, grown or cured in specified ways • Pesticide restrictions and requirements will increase farmers’ fixed costs and increase liability exposure. FDA and EPA will impose regulations on what pesticides can be used, how much can be used, and when they can be applied. This will be true of imported and domestic leaf, and these requirements can be initiated at the discretion of FDA • Mandatory changes in seed type, possibly including genetically modified organisms, may be required through product changes and/or product standards imposed by FDA • Constituent and ingredient reductions in finished tobacco products will immediately find their way to farm as many suggested changes are not technically achievable through manufacturing process • Gives FDA authority to regulate product blends and product design • Record keeping and certification procedures, from seed to sale, will be required

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Retailers & Wholesalers	<ul style="list-style-type: none"> • Does NOT include authority to regulate the sale and distribution, keeping agency out of warehouses and stores • Establishes a Blue-Ribbon Commission to review and make recommendations to congress on any additional advertising and marketing restrictions • Requires strict state laws for the sale and purchase of tobacco products by a minor making it illegal for a minor to purchase and possess. Spreads the burden of responsibility versus solely on retail • Requires agency to establish tobacco product design standards and determine and make public a list of harmful components by brand style; requires manufacturers to submit extensive lists of ingredients; provides risk and harm reduction information to tobacco users 	<ul style="list-style-type: none"> • Allows FDA authority over the “sale & distribution” of tobacco products • Virtually bans advertising at retail which negatively impacts ability to communicate with adult tobacco consumers • Does not pre-empt states from imposing significant fines on illegal sales to minors making retail the responsible entity • Authority to significantly affect the consumer acceptability of tobacco products by making virtually any changes to the product, jeopardizing commercial viability of entire category • New fees and taxes will encourage consumers to look to alternative sources for tobacco like Internet or Native-American smoke shops
Tax Impact	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Proposes \$7.6 billion in new taxes that are being called “user fees” to pay for FDA regulation that will increase the price of tobacco at retail
Flavors	<ul style="list-style-type: none"> • Bans candy and fruit descriptors for cigarettes 	<ul style="list-style-type: none"> • Bans characterizing flavors for cigarettes
Exports	<ul style="list-style-type: none"> • Exempts export products by requiring tobacco products intended for export to meet the requirements of that country 	<ul style="list-style-type: none"> • Does not exempt
Advertising & Marketing	<ul style="list-style-type: none"> • Establishes Blue Ribbon Panel to make recommendations on effectiveness and constitutionality 	<ul style="list-style-type: none"> • Implements 1996 FDA proposed regulation rejected by U.S. Supreme Court in 2000

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Youth Tobacco-Use Prevention	<ul style="list-style-type: none"> • Requires states to spend minimum of 20 percent of MSA funds on prevention, cessation and harm reduction programs. • Requires states to conform underage sale/purchase/possession laws for tobacco products to those in effect for alcohol products 	<ul style="list-style-type: none"> • Contains no meaningful provisions to further reduce youth tobacco use
Labeling	<ul style="list-style-type: none"> • Imposes new warning labels for all tobacco products placed on front of packaging with ingredient disclosures and other mandated information on back of packaging 	<ul style="list-style-type: none"> • Imposes new warning labels for cigarettes and smokeless products • New warning labels must comprise at least the top 30 percent of the front and rear panels of the package • Gives FDA authority to change required warning labels at its discretion • Requires additional disclosures of things like tar and nicotine yields and ingredients
Bill Crafted	<ul style="list-style-type: none"> • 2009, using latest knowledge on harm reduction, cessation, risk of other tobacco products and risk of FDA overload 	<ul style="list-style-type: none"> • 1996, no significant changes to content in more than a decade
Product Standards	<ul style="list-style-type: none"> • Agency must base actions on what is feasible and promote the health of current users of tobacco products 	<ul style="list-style-type: none"> • FDA provided with virtually unfettered authority to mandate changes in the interest of “public health”