

## Smoking clearly qualifies for federal regulation

by *The Indianapolis Star*

There's no question tobacco is a toxic substance seething with harmful chemicals. It kills more than 400,000 Americans a year.

There likewise should be no question that the contents, claims and distribution of tobacco products, especially to children, should be regulated by the U.S. Food and Drug Administration.

That used to be the case. But the Supreme Court in 2000 ruled that tobacco in its various forms did not fall under the federal definition of drugs or drug-delivery devices and therefore could not be subject to what then was a robust national program of FDA checks and stings related to sales to minors.

The court did agree, however, that tobacco was addictive and that the FDA was trying to do an important job - thus leaving it to Congress to fix the law and restore the authority. So far, there's been success in the Senate, stonewalling in the House.

This year, with both chambers' having Democratic majorities and broad bipartisan support, chances appear excellent that the FDA will come away armed with the power to help states police marketing to young people and test the veracity of the industry's promotions.

It is no surprise that, during this half-decade, a federal judge has found tobacco companies guilty of racketeering and fraud against the American people; and a study by the Massachusetts Department of Health has turned up a deliberate and secret increase in nicotine content in cigarettes. The watchdog has been on a leash.

With smoking bans, anti-smoking education campaigns and cigarette tax increase proposals covering the landscape, the industry is scrambling for customers by purporting to offer "healthier" alternatives. Unfortunately for the consumer, alluring terms such as "mild" and "low tar" and newfangled confections such as smokeless-spitless tobacco are not subject to official scientific pronouncements about their true nature.

This intolerable situation can change with passage of the FDA tobacco bill. So can the federal government's role vis a vis state efforts to keep kids from smoking. With hundreds of thousands of lives and tens of billions in health care costs at stake, the decision ought to be easy. If beholden legislators from tobacco states try to obstruct the process, their smokescreen must be blown away by the stiff breeze of common sense.

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