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THE FDA'S ANTISMOKING CRUSADE HAS THE GOP FUMING

BYLINE: By John Carey, with Susan Garland, in Washington and with Maria Mallory in Atlanta

HIGHLIGHT:

What's behind David Kessler's push to regulate Big Tobacco?

He has always been controversial, but nobody ever called David A. Kessler nutty -- that is until now. After the Republican takeover of Congress last November, the brash commissioner of the Food & Drug Administration lowered his profile as Washington's most zealous regulation czar. But behind the scenes, he was plotting one of his most audacious moves yet: In mid-July, Kessler sought White House authority to regulate Big Tobacco.

With the FDA already besieged by GOP lawmakers for alleged overregulation of drugs, medical devices, and food, Republicans couldn't believe it. "The FDA has lost its mind," gasped House Speaker Newt Gingrich (R-Ga.). And a former top Bush Administration official says Kessler's latest crusade is "politically crazy." PERSONAL MISSION. Crazy, perhaps. But calculating, for certain. As is often the case with Washington's most admired -- and reviled -- regulator, there is more to David Kessler's brashness than meets the eye. He's on a personal mission. And he's operating on a conviction that, despite all the hand-wringing among Democrats about the political liabilities this will have in key tobacco states, the American public will embrace his cause.

Kessler isn't looking to ban cigarettes altogether. He's focusing on Big Tobacco's Achilles' heel: addiction among adolescents -- a goal that's a winner with voters all across the political spectrum. Changing the habits of America's next generation "could radically reduce the incidence of smoking-related death and disease," Kessler said in a March speech.

Kessler has lowered his sights since last year, when he urged a Democrat-controlled Congress to regulate cigarettes. Instead, he's taking on the tobacco industry through what Democratic pollster Mark Mellman calls "mom-and-apple-pie issues." He wants to limit the locations of -- or ban altogether -- cigarette-vending machines. And the FDA commissioner hopes to strengthen restrictions on marketing aimed at children by prohibiting some promotions, such as free cigarette samples. Kessler probably has the public on his side: A recent survey carried out by the Robert Wood Johnson Foundation found that three-quarters of Americans say they favor banning cigarette-vending machines and self-service cigarette displays in stores entirely.

For now, the White House has responded cautiously. "The President's instincts would be to try to work out an agreement with the industry," notes one senior Clinton Administration official. That won't be easy, since Big Tobacco isn't looking for a compromise. "Kessler apparently has a secret plan to impose more and more regulation from Washington -- regulations that go far beyond youth smoking and strike at the heart of the right of adults to make decisions for themselves," Philip Morris Cos. says in a statement. EGO TRIP. Is Kessler fighting a losing battle? Maybe, but supporters call him gutsy. "His decision to proceed on tobacco may be the product of something that's in short supply in this town -- a determination to do what's right," says one friend.

Critics say Kessler is on an ego trip. "He wants to go down in history as one of the greatest public health crusaders of all time," scoffs one former FDA official. Others say he doesn't always play fair. "He always manipulates the facts so someone else is the villain and he is the hero," says a disgruntled ex-agency official.

Even close friends wonder if the bearded Long Island native might not do better to spend his time expediting approval for new drugs and medical devices, and fixing other FDA shortcomings. And legal experts question whether the FDA, if it succeeds in labeling nicotine a drug, would have any option other than to ban tobacco entirely as unsafe.

Kessler sees himself as a man with a noble purpose. "By the time a person reaches my age, he is supposed to have lost the urgency of ideals," he explained once in a speech. "It hasn't worked that way for me."

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