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Lawmakers balk at tobacco regulation

Offer alternatives to FDA authority

By Joyce Price
THE WASHINGTON TIMES

Opposition is mounting among Democrats and Republicans alike to President Clinton's plan to have the Food and Drug Administration regulate tobacco.

Rep. L.F. Payne Jr., a Virginia Democrat whose constituency includes many tobacco farmers, says that when Congress reconvenes early next month, he'll introduce a bill that would bar the FDA from "regulating the sale or use of tobacco or tobacco products."

A spokeswoman for Senate Democratic Whip Wendell H. Ford of Kentucky says he plans to introduce a bill that would "codify" restrictions Mr. Clinton has proposed for keeping tobacco out of the hands of minors. The Ford bill, however, "would stay away from having the FDA regulate tobacco," spokeswoman Meg Conlon said yesterday.

April Lassiter, spokeswoman for House Majority Whip Tom DeLay, Texas Republican, said her boss "believes the regulation of tobacco is an expansive power for the FDA, a real slippery slope." She said she believes he'd probably "support the kind of provision" Mr. Payne

has proposed, although she could not say with certainty he'd support the Virginia Democrat's bill.

"We'd prefer that it read that the FDA not expand its powers to regulate... without congressional approval," Ms. Lassiter said.

Rep. Clifford B. Stearns, Florida Republican and a member of Commerce's Health and Environment subcommittee that has oversight over the FDA, shares the concerns Ms. Lassiter expressed.

He said that he believes the subcommittee "needs to look at" what Mr. Clinton has proposed, and that the Payne bill would be a "step" in helping Congress determine if "all the president has proposed is necessary."

"We should do things to protect children, not increase regulations" and erode the "freedom of individuals," Mr. Stearns said in an interview.

However, it's uncertain whether the subcommittee, chaired by Rep. Thomas Bliley, Virginia Republican, would take up a tobacco-related bill such as Mr. Payne's.

"Whether the FDA has legal authority to regulate tobacco is a question for the courts, not Congress," Mr. Bliley, also Commerce Committee chairman, said in a statement last week.

Rep. Ron Wyden, Oregon Democrat, who is on the Commerce Committee and its health and edu-

cation subcommittee, said he recognizes Congress has "many tobacco-friendly legislators who are not going to be receptive to aggressive measures" against the industry.

Mr. Wyden said "regulation could be kept in abeyance" if the federal government and tobacco companies would "enter into a legal enforcement agreement" with measures that would penalize vendors that sold tobacco products to children.

In a related development yesterday, a federal appeals court refused to order Mr. Wyden and Rep. Henry Waxman, California Democrat, to turn over internal documents of Brown & Williamson Tobacco Co. they received from a whistleblower.

The two congressmen are constitutionally protected from having to provide the documents to the cigarette maker, said the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Laurence Silberman wrote for the three-judge panel that Mr. Wyden and Mr. Waxman are protected by a clause of the Constitution that shields members of Congress from being questioned about any "speech or debate" in the House or Senate.

• This article is based in part on wire service reports.

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