

member by the Department of Veterans Affairs as disability compensation; to the Committee on Armed Services.

TITLE 38 AMENDMENT LEGISLATION

• Mr. JEFFORDS. Mr. President, I reintroduce a bill to change current law that requires amounts paid to a member of the Armed Forces under the Special Separation Benefits and Voluntary Separation Incentive Programs be offset from amounts subsequently paid to that individual by the Department of Veterans Affairs as disability compensation.

Since the end of the cold war, our country has called on military personnel to participate in several dangerous military operations, most recently in the Persian Gulf, Somalia, and Haiti. These personnel have served our country well. Unfortunately, due to language in the Department of Defense [DOD] Authorization Act for fiscal years 1992 and 1993, veterans who participate in the Department of Defense's downsizing by selecting one of two options, either a special separation bonus [SSB] lump sum payment or a voluntary separation incentive [VSI] monthly payment, are prevented from receiving both disability compensation from the VA and benefits from the SSB and VSI programs until the separation compensation is offset completely. My bill will address this injustice by repealing these provisions and allow for concurrent receipt. It will also be retroactive to December 5, 1991, so service members not able to receive payment concurrently since 1991 will be reimbursed for their lost compensation.

Mr. President, SSB and VSI benefits are for services rendered as well as compensation for the veterans' participation in the DOD's downsizing. VA disability pay is compensation for mental or physical disabilities incurred in that service. These are two separate compensations serving two very different purposes. Therefore, it is unfair to the veteran to offset one payment with another.

Aside from the unfairness of offsetting the costs of unrelated compensation benefits, many veterans who returned from the Persian Gulf war have come down with strange illnesses which are believed to be related to their service in the Persian Gulf. Individuals who have accepted SSB or VSI payments are suffering both physically and financially, as many cannot work under the conditions from which they are suffering. Repealing the offset will help ease this financial suffering.

I urge the Congress to correct this injustice to our Nation's veterans and provide these veterans with the proper care and compensation they deserve. •

By Mr. HELMS (for himself, Mr. FAIRCLOTH, and Mr. WARNER):

S. 1295. A bill to prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other pro-

fessional motor sports association by the Secretary of Health and Human Services or any other instrumentality of the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NASCAR LEGISLATION

Mr. HELMS. Mr. President, North Carolina is the home of professional auto racing and it is on behalf of literally thousands of Tar Heels and millions of other NASCAR racing fans across America that I today offer in the Senate the companion bill of the Motor Sports Protection Act which was introduced in the House on September 6 by the Honorable DAVID FUNDERBURK, who ably represents the Second North Carolina Congressional District.

Mr. President, the announcement last month of plans by the Food and Drug Administration to designate tobacco has created much concern in my State, and other tobacco-producing southern States. This is an example of how Washington bureaucrats increase their regulatory power at the expense of the livelihoods of the Nation's farmers and manufacturers. The FDA's attack on tobacco advertising is sure to have a tremendously adverse effect on NASCAR racing.

The issue is whether companies have a right to advertise their products. Advertising is a lawful act and tobacco is a lawful commodity. Unless and until tobacco is banned, proper advertising of this lawful product must not be denied by bureaucratic wherein.

So, this bill will limit the Federal bureaucracy from imposing advertising restrictions on any sponsors of pro racing. The motor sports industry contributes more than \$2 billion to the South's economy every year. Racing fans are hard working, law-abiding Americans—they don't deserve bureaucratic mistreatment.

Mr. President, not too long ago, the "King" of racing Richard Petty retired. He left at a time when his name was synonymous with NASCAR racing. He was a perfect example of what can be accomplished with determination, faith, and family values. Richard Petty's success was built on the cooperation of his family, friend, and companies that supported him throughout his career.

My friend, Richard Petty sends word that he will very much appreciate Senators' support of this bill, and so will I.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA MOTOR SPEEDWAY,
Rockingham, NC, September 19, 1995.
Hon. JESSE A. HELMS,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATOR HELMS: I am writing to express my concern about President Clinton's plan to regulate tobacco and their sponsor-

ship of motorsports events at North Carolina Motor Speedway. The FDA's proposed regulation will have a severe impact, not only on the Speedway, but also on Moore, Richmond, and surrounding counties. Loss of sponsorships might mean ticket prices could go up, quality of events and facilities could go down, which could contribute to lower attendance. Our area depends heavily on revenue from those attending motorsports and other sponsored events. Local communities will be an economic loser from reduced attendance at events.

I would appreciate you writing back to me with your views on this important issue. Thank you.

Sincerely,

JO DEWITT WILSON,
President.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. LUGAR, and Mr. COCHRAN):

S. 1296. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan; to the Committee on Finance.

THE QUALIFIED FOOTBALL COACHES PLAN TECHNICAL CORRECTIONS ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself and Senator BREAUX, I rise today to introduce the Qualified Football Coaches Plan Technical Corrections Act of 1995. We are joined in this effort by Senators LUGAR, and COCHRAN.

As the title indicates, this bill is a technical correction to ensure the proper qualification of a retirement plan for many of America's college football coaches. All of us in this body are in favor of encouraging retirement saving. However, the retirement plan set up for many of these football coaches is in serious jeopardy.

Mr. President, let me explain what brought us to the point we are today on this issue. In 1987, Congress recognized the unique aspects of the coaching profession and passed legislation to permit the American Football Coaches Association [AFCA] to set up and maintain a qualified cash and deferred arrangement under Section 401(k) of the Internal Revenue Code. The bill amended Title I of ERISA to permit such a plan to be treated as a qualified multiemployer plan. Due to the frequency with which football coaches change jobs, legislation was needed to assist them in maintaining a retirement plan that is adequately portable.

In reliance on this legislation, the American Football Coaches Association, which represents over 4,400 college football coaches at 676 schools, sponsored a 401(k) plan for its members that today has over 500 participants.

However, on the same day this legislation was passed, Congress was involved in addressing another problem contained in ERISA that was unrelated to the football coaches retirement plan. The problem was an unfavorable Tax Court ruling that held that the ERISA standard regarding employer withdrawals from pension plans, rather than the standard under the Internal

104TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by the Secretary of Health and Human Services or any other instrumentality of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITION.**

4 The Secretary of Health and Human Services or any
5 other official or instrumentality of the Federal Govern-
6 ment—

1 (1) shall not regulate the promotion or use of
2 tobacco or tobacco products, used or purchased by
3 the National Association of Stock Car Automobile
4 Racing, its agents or affiliates, or any other profes-
5 sional motor sports association under the Federal
6 Food, Drug, and Cosmetic Act (21 U.S.C. 321 et
7 seq.);

8 (2) shall not take any action under the Federal
9 Cigarette Labeling and Advertising Act (15 U.S.C.
10 1331 et seq.), or the Comprehensive Smokeless To-
11 bacco Health Education Act of 1986 (15 U.S.C.
12 4401 et seq.), with respect to tobacco, tobacco prod-
13 ucts, or tobacco advertising used by the National As-
14 sociation of Stock Car Automobile Racing, its agents
15 or affiliates, or any other professional motor sports
16 association; and

17 (3) shall not enforce any Executive order issued
18 by the President to enforce any Federal law relating
19 to—

20 (A) the use of tobacco and tobacco prod-
21 ucts used or purchased by the National Associa-
22 tion of Stock Car Automobile Racing, its agents
23 or affiliates, or any other professional motor
24 sports association; or

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S.L.C.

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1 (B) tobacco, tobacco products, or tobacco
2 advertising used by the National Association of
3 Stock Car Automobile Racing, its agents or af-
4 filiates, or any other professional motor sports
5 association.

6 **SEC. 2. CONSTRUCTION.**

7 The provisions of section 1 shall not be construed to
8 have any effect on a State law that prohibits the distribu-
9 tion of tobacco or tobacco products to individuals under
10 the age of 18.

11 **"SEC. 3 PROHIBITION ON REGULATION OF TOBACCO**
12 **PRODUCTS.**

13 "Nothing in this Act or any other Act shall provide
14 the Food and Drug Administration with any authority to
15 regulate in any manner tobacco or tobacco products."

TI08952447

H.R.2414 As introduced in the House, September 28, 1995

104th CONGRESS
1st Session

H. R. 2414

To establish the Federal authority to regulate tobacco and other tobacco products containing nicotine.

IN THE HOUSE OF REPRESENTATIVES

September 28, 1995

Mr. Baesler introduced the following bill; which was referred to the Committee on Commerce

A BILL

To establish the Federal authority to regulate tobacco and other tobacco products containing nicotine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Smoking Prevention Act of 1995".

SEC. 2. AUTHORITY TO REGULATE TOBACCO AND OTHER PRODUCTS CONTAINING NICOTINE.

(a) Food and Drug Administration.--The Secretary of Health and Human Services does not have any authority under--

TI08952448

(1) the Federal Food, Drug, and Cosmetic Act,

(2) the Federal Cigarette Labeling and Advertising Act, or

(3) the Comprehensive Smokeless Tobacco Health Education Act of 1986,

to regulate the manufacture, labeling, sale, distribution, and advertising and promotion of tobacco and other tobacco products containing nicotine.

(b) Federal Authority.--The Federal authority to regulate the sale, distribution, and advertising and promotion of tobacco and other tobacco products containing nicotine is established as a condition to the receipt by States of the Federal preventive health and health services block grant.

SEC. 3. REGULATION OF STATE AUTHORITY.

(a) In General.--Section 1926(a)(1) of the Public Health Service Act (42 U.S.C. sec. 300x-26(a)(1)) is amended to read as follows:

"(1) In general.--Subject to paragraph (2), for fiscal year 1997 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law which provides the following:

(A) Minors.--

"(i) Sales.--It shall be unlawful to sell tobacco and other tobacco products containing nicotine to an individual under the age of 18. Tobacco and other tobacco products containing nicotine may be sold only to individuals who present a document containing the individual's photograph and date of birth. Any person who violates this paragraph shall be fined in the amount that a person who sells alcoholic beverages to a minor is fined under State law.

"(ii) Purchase.--It shall be unlawful for an individual under the age of 18 to purchase any tobacco and other tobacco product containing nicotine. Any individual who violates this paragraph for the first time shall be fined not more than \$100, required to perform community service, or required to attend education and training in the hazards of smoking. Any individual who violates

this paragraph more than once shall be fined not more than \$100, required to perform community service, and required to attend education and training in the hazards of smoking. Such education and training shall be funded by the fines collected under this paragraph.

"(iii) Identification.--It shall be unlawful for an individual to present identification for the purchase of tobacco and other tobacco products containing nicotine which is false. Any individual who violates this paragraph shall be fined not more than \$250, required to perform community service, and required to attend education and training in the hazards of smoking.

"(B) Sales of specific products.--It shall be unlawful to sell--

"(i) individual cigarettes, and

"(ii) packages of cigarettes which contain less than 20 cigarettes.

Any person who violates this subsection shall be fined in the amount that a person who sells alcoholic beverages to a minor is fined under State law.

"(C) Vending machines.--No person, firm, partnership, company, or corporation shall operate a vending machine which dispenses cigarettes or smokeless tobacco products unless such vending machine is in a location that is in plain view and under the direct supervision and control of the individual in charge of the location or such individual's designated agent or employee, except that this subparagraph shall not apply in the case of a vending machine that is located--

"(i) at a private club;

"(ii) at a bar or bar area of a food service establishment;

"(iii) at a factory, warehouse, tobacco business, or any other place of employment which has an insignificant portion of its regular workforce comprised of individuals under the age of 18 years and only if such machines are located in an area that is not accessible to the general public;

"(iv) in any place if the vending machine is equipped with a device which controls the sale of tobacco products from the machine to individuals under the age of 18; or

"(v) in such other location or made available in another manner that is expressly permitted under applicable State law.

"(D) Self-service displays.--It shall be unlawful to make tobacco and other tobacco products containing nicotine available to individuals under the age of 18 in self-service displays which are not under the supervision of an individual over the age of 18. Any person who violates this subsection shall be fined in the amount that a person who sells alcoholic beverages to a minor is fined under State law.

"(E) Samples.--It shall be unlawful to distribute free samples of tobacco and other tobacco products containing nicotine to individuals under the age of 18 through the mail or otherwise. Any person who violates this subparagraph shall be fined in the amount that a person who sells alcoholic beverages to a minor is fined under State law.

"(F) Use of mail.--It shall be unlawful to distribute tobacco and other tobacco products containing nicotine through the mail to individuals under the age of 18. Such tobacco products when distributed through the mails is nonmailable matter and such distribution shall be penalized in accordance with chapter 30 of title 39, United States Code.

"(G) General requirements applicable to sales.--Tobacco and other tobacco products containing nicotine which are offered for sale at retail must be in the sight and control of the person responsible for making the sales. Any person offering such products for sale at retail shall post, in accordance with regulations of the State, signs stating the minimum purchase age, stating health warnings, and stating the penalties for violations of the requirements of this paragraph. Any person who violates this subparagraph shall be fined in the amount that a person who sells alcoholic beverages to a minor is fined under State law.

"(H) Notice to employees.--Each owner of a retail establishment which sells tobacco and other tobacco products containing nicotine

shall notify each individual employed in the establishment as a retail sales clerk that the sale of tobacco and such products to individuals under the age of 18 and the purchase by such individuals of tobacco and such products are prohibited. Such notice shall be provided to such an employee before such employee begins work as a retail sales clerk or if such work has been begun, within 30 days of the date of the enactment of this paragraph. Such an employee shall sign a form stating that such employee has been notified of the prohibited acts. Such an owner shall retain such forms and make them available to persons conducting inspections under this paragraph. An owner who fails to make such notice or retain such a form shall be fined not less than \$100 and not more than \$250.

"(I) Licenses.--No person may engage in the retail sale of cigarettes without a license issued for such purpose by the State. The license shall be--

"(i) issued in accordance with such system,

"(ii) issued for such fee, and

"(iii) issued for such term,

as the State shall establish. The State shall establish penalties (including loss of license) for sales without a license and other sales in violation of this paragraph.

"(J) State responsibilities.--The State shall conduct annual random unannounced inspections of over-the-counter and vending machine outlets for the sale of tobacco and other tobacco products containing nicotine to assure that sales of tobacco and other tobacco products containing nicotine are being made in accordance with this paragraph so that individuals under the age of 18 do not have access to tobacco and other tobacco products containing nicotine.

"(K) Advertising.--

"(i) Billboards.--Billboards which advertise tobacco and other tobacco products containing nicotine may not be placed within the line of sight of any individual in a school or in an area designated as a playground.

"(ii) Brand names and logos.--The brand name or logo of a manufacturer of tobacco and other tobacco products containing nicotine may not be placed on any item marketed specifically to minors, including toys and video games."

(b) Conforming Amendments.--Section 1926 of the Public Health Service Act (42 U.S.C. sec. 300x-26) is amended--

(1) in subsection (a)(2), by striking "1993" and inserting "1997";

**(2) in subsection (a)(2), by striking "1994" and inserting "1998";
and**

(3) in subsection (a)(2), by striking "1995" and inserting "1999";

**(4) in subsection (d)(1), by striking "1995" and inserting "1999";
and**

(5) in subsection (d)(2), by striking "1994" and inserting "1998".

(c) Noncompliance.--Section 1926(c) of the Public Health Service Act (42 U.S.C. sec. 300x-26(c)) is amended--

(1) in paragraph (1), by striking "10 percent" and inserting "20 percent";

(2) in paragraph (2), by striking "20 percent" and inserting "40 percent";

(3) in paragraph (3), by striking "30 percent" and inserting "60 percent"; and

(4) in paragraph (4), by striking "40 percent" and inserting "80 percent".

(d) Enforcement.--Section 1926 of the Public Health Service Act (42 U.S.C. sec. 300x-26) is amended by adding at the end thereof the following:

"(e) Enforcement.--Any amounts made available to a State through a grant under section 1921 may be used to enforce the laws described in subsection (a)."

SEC. 4. REPORT.

The Secretary of Health and Human Services shall make an annual report to the Congress on the actions taken by the States in compliance with section 1926(a)(1) of the Public Health Service Act as amended by section 3.