

States of America if we are going to take away all that terrorists use to recruit people to fight the West. They do not like the way we treat women with equality in the United States. They do not like a lot of our social values and mores. They do not even like the fact that we hold elections.

So because that is used as a recruitment tool, we are going to stop doing all of that? What sense does this make? We treat people humanely and properly at Guantanamo. People were mistreated in another prison called Abu Ghraib. They are not the same. Abu Ghraib, therefore, does not represent the example of what we should be doing with respect to Guantanamo.

We will have more debate on this subject. I note the time is very short, and I meant to leave a little time for my colleague from Texas. I hope to engage my colleagues in further conversation about this issue. The American people do not want people from Gitmo put into their home States.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent to speak in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I thank the Presiding Officer.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. CORNYN. Actually, Madam President, I intend to speak on the underlying bill. But because the bill manager is not here, I think my remarks are just as appropriate in morning business.

I rise to offer my support as a co-sponsor of the Family Smoking Prevention and Tobacco Control Act, the so-called FDA regulation of the tobacco bill that is currently before the Senate.

This is a rarity these days in Washington. It is actually a bipartisan bill—people of both parties working together to try to solve a real problem—and I want to particularly thank Senator KENNEDY and Senator DODD for their leadership on the bill. I also want to thank the Campaign for Tobacco-Free Kids for organizing more than 1,000 public health groups, faith-based organizations, medical associations, and other partners to support this legislation.

The House, as we know, passed the bill in April on a bipartisan basis, and now it is time for the Senate to do its job this week.

This comes to us in a rather unusual historical and regulatory posture. The fact is, we know tobacco is a killer. It is a killer. It kills 400,000 Americans each year in the United States, including 90 percent of all deaths from lung cancer, one out of every three deaths from other types of cancer, and one out of every five deaths for cardiovascular disease.

The real tragedy is not just that adults choose to smoke and harm their health—and many of whom, unfortunately, die premature deaths as a result—it is that many smokers begin their addiction to tobacco—the nicotine, which is the addictive substance within tobacco—when they are young, before they are able to make intelligent choices about what to do with their bodies and their health.

Every day about 1,000 children become regular daily smokers. Medical professionals project that about one-third of these children will eventually die prematurely from a tobacco-related disease.

Not surprisingly, at a time when we are contemplating health care reform in this country, the huge expense of health care and the fiscal unsustainability of the Medicare program, it is also important to point out that tobacco directly increases the cost of health care in our country. More than \$100 billion is spent every year to treat tobacco-related diseases—\$100 billion of taxpayer money—and about \$30 billion of that is spent through our Medicaid Program.

America has a love-hate relationship with tobacco, and Congress, I should say, and State government does as well. My colleagues will recall that tobacco actually presents a revenue source for the State and Federal Government. One of the most recent instances is when Congress passed a 60-cent-plus additional tax on tobacco in order to fund an expansion of the State Children's Health Insurance Program. So government has become addicted to tobacco, too, because of the revenue stream it presents, and that is true at the Federal level and at the State level.

However, because of the political clout of tobacco companies years back, when the FDA regulation statute was passed, tobacco was specifically left out of the power of the FDA to regulate this drug. The active ingredient I mentioned is nicotine, which was not acknowledged to be an addictive drug for many years until finally the Surgeon General did identify it for what it was: an addictive drug that makes it harder for people, once they start smoking, to quit.

Then, of course, we tried litigation to control tobacco and the spread of marketing tobacco to children and addicting them to this deadly drug, which it is. Then, we found out it had basically no impact, that massive national litigation through the attorneys general in the States. Basically, the only thing that happened as a result of that is lawyers got rich, but it didn't do anything to deal with the problem of marketing tobacco to children.

One might ask, as a conservative: Why would one support more regulation rather than less? Well, because of this split personality the Federal Government has in dealing with tobacco—recognizing it is a deadly drug, recognizing marketing often targets the

most vulnerable among us, and recognizing the fact that it kills so many people and increases our health care costs not only in Medicare but in Medicaid—why in the world wouldn't we ban it? I know the Senator from Oklahoma has said maybe the world would be a better place if tobacco wasn't legal. Well, we all know that is a slippery slope for the individual choices we make. If we were to ban tobacco, we might as well ban fatty food; we might as well ban alcohol. Obviously, the government would become essentially the dictator of what people could and could not do and consume, and I don't think the American people would tolerate it and I think with some good reason.

We have to accept individual responsibility for our choices. But, again, when you target a deadly drug such as tobacco and nicotine—this addictive component of tobacco to children—that, to me, crosses the line where we ought to say the Federal Government does have a responsibility to allow this legal product, if it is going to remain legal, to be used but under a regulatory regime that will protect the most vulnerable among us.

Many States have effective ways to deal with underage use of tobacco. I think the regime in my State of Texas works pretty well, but it is spotty and not uniform across the country; thus, I think, necessitating a Federal response.

This bill—which, as I say, should be our last resort, and in many ways it is—increases Federal regulation, I believe, in a responsible way, under an imperfect situation, where this legal but deadly drug is used by so many people in our country.

This bill gives the Food and Drug Administration the authority to regulate the manufacturing, marketing, and sale of tobacco products. It would restrict marketing and sales to our young people. It would require tobacco companies to disclose all the ingredients in their products to the FDA. There have been various revelations over time that there were actually efforts made by tobacco companies to provide an extra dose of the addictive component of tobacco, which is nicotine, in order to hook people at a younger age. I think by providing for disclosure of all the ingredients of these products to the FDA, and thus to the American people, we can give people at least as much information as we possibly can to make wise choices with regard to their use of tobacco, or not, preferably. It would require larger and stronger health warnings on tobacco products.

This bill would also protect our young people and taxpayers as well. Smokers will pay for the enforcement of these regulations through user fees on manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products. Nonsmokers will not have to pay any additional taxes or fees as a result of this bill.

I hope this bill does some good. I think it will. But the key to reducing

smoking is for individuals to make better choices and for our culture to change, as it has already changed, when it comes to consumption of tobacco products. I think about other examples over time where our culture has changed to where we now do things that are safer and better today than we used to when I was growing up. For example, when I was growing up, seatbelt use was very sparse. As a matter of fact, you could buy a car, and if you wanted a seatbelt, you would have to have somebody install it for you because it didn't come as original, manufactured equipment. Today we know seatbelt use is not only much broader and more widely spread, but you can't get into a car and turn it on without being dinged to death or otherwise reminded that you need to put your seatbelt on. The truth is it has made driving in cars a lot safer. It has kept people healthier, even in spite of accidents they have been involved in, and it has—not coincidentally—helped reduce medical admissions and medical expenses as well.

We know there is also today a greater societal stigma against drunk driving. That was not always the case. As a matter of fact, as a result of many years of public education and stricter law enforcement, now people take a much smarter and well-informed view of drinking and particularly the risks of drinking and driving. We know also that many Americans, in dealing with energy, are dealing more responsibly by recycling and conserving energy. Of course, millions of Americans are trying to do better when it comes to eating right and exercising more frequently so they can protect their own health and engage in preventive medicine, so to speak.

Government can't do it all because, as I said earlier, I think individuals bear a responsibility to make good choices. One thing government can do is help inform those choices. I think this regulation bill will help smokers make better decisions by knowing what is in the tobacco product and allowing the FDA to regulate this drug.

I believe the real drivers of change, though, are not just the government, not the nanny State that will tell us what we can and cannot do, but cultural influences and, indeed, economic incentives which are more powerful than government regulations in influencing individual behavior.

Some have said: Why in the world would we give tobacco regulation to the Food and Drug Administration, a Federal agency with the primary job of determining safety of food and drugs and medical devices as well as efficacy. As a matter of fact, many people have been tempted to buy prescription drugs, let's say, over the Internet but not knowing where they were actually manufactured, whether they were actually counterfeit drugs. So there is not only the question of safety—in other words, if you put it in your mouth, is it going to poison you—but it is also if

you put it in your mouth and you take it expecting it actually to be effective against the medical condition you want to treat. The FDA is a regulatory agency that is supposed to determine not only safety of food and drugs but also their efficacy.

There is a certain anomaly in giving the FDA regulatory authority for something we know will kill people—and does, in fact, kill hundreds of thousands of people—when used as intended by the manufacturer, but I think this is a step in the right direction. I think the world would be a better place—we would all certainly be healthier—if people chose not to use tobacco, and many have made that choice due to the cultural influences we have mentioned, as well as some of the economic incentives that are provided by employers.

As we undertake the task of reforming our health system in America, something that comprises 17 percent of our gross domestic product, I think we could well learn from some of the successful experiences and experiments some employers have used and some workers have used when it comes to drugs such as tobacco. For example, one large grocery company headquartered out in California—Safeway—which also has many employees in Texas, as an employer, they noticed that 70 percent of their health care costs were related to individual behavior, things such as diet, exercise, and, yes, indeed, smoking. They recognized that if they could encourage their employees to get age-appropriate diagnostic procedures for cancer—colon cancer, for example—if they could encourage their employees to quit smoking, if they could encourage their employees to watch their weight and get exercise and to watch their blood pressure and take blood pressure medication where indicated, where they could encourage them to take cholesterol-lowering medication, if they had high cholesterol, that they could not only have healthier, more productive employees, they could actually bring down the costs of health care for their employees as well as their own costs. I think Safeway is just one example of many successful innovators across this country, where people are encouraged to do the right thing for themselves and for their employers and for their families. I think these are the kinds of issues that ought to guide us as we debate health care reform during the coming weeks.

I believe this legislation fills the necessary gap in FDA's regulatory authority, an agency that regulates everything from food to prescription drugs, to medical devices. The only reason tobacco was left out of it is because of the political clout of tobacco years ago. This legislation fills that gap and I think presents the most pragmatic approach to try to deal with the scourge of underage smoking and marketing to children, as well as informing consumers of what they need to know in order to make smart choices for

their own health and for the health of their family.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mrs. BOXER. Madam President, I ask unanimous consent that the period of morning business be extended until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mrs. BOXER. Madam President, I came to the floor to speak in support of the Family Smoking Prevention and Tobacco Control Act and also to express my gratitude to Senator KENNEDY and my colleagues who have pushed so hard for the consideration of this important bill. I am so pleased about the vote last night which allowed us to move forward on this bill.

This would be a historic accomplishment for this Senate, the House, and for the President. I am at a loss to understand how Senators could stand in opposition to this important legislation. To prove the point, I could ask a couple of questions:

What is the leading cause of preventable death in this country, killing over 400,000 Americans a year? The leading cause of preventable death is tobacco.

What causes more deaths than HIV/AIDS, illegal drug use, alcohol use, motor vehicle accidents, suicides, and murders combined? I guess if you ask people out there, they may not know that the answer is tobacco.

What are the only products on the market that kill one-third of their purchasers? Madam President, if you had a health device or any product that kills one-third of its purchasers, we would outlaw that product in a heartbeat. We are not outlawing tobacco; we are simply saying tobacco needs to be controlled by the FDA. Remember, the only product on the market that kills one-third of its purchasers is tobacco, if used as directed.

I could go on and on with these rhetorical questions. Clearly, we know tobacco is the only product on the market that is advertised and sold without any government oversight.

I don't understand how 35 or so of our colleagues think the answer to our pushing for this is no. But then again, that is the answer we get back from the other side of the aisle a lot. I am very grateful to the eight or nine Republicans who joined us. Without them,