

105TH CONGRESS  
1ST SESSION

# H. R. 2740

To limit attorneys' fees in the tobacco settlement.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1997

Mr. MCINNIS (for himself, Mr. COX of California, and Mr. MCHALE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To limit attorneys' fees in the tobacco settlement.

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. FINDINGS.**

4       Congress makes the following findings:

5               (1) Under the proposed settlement between the  
6       tobacco industry and the various State Attorneys  
7       General, the attorneys involved in negotiating the  
8       settlement are entitled to reasonable fees.

9               (2) Under the proposed settlement, the tobacco  
10      companies would pay \$368,500,000,000 to be allo-  
11      cated among various public health programs.

1           (3) It is expected that of the total tobacco set-  
2           tlement of \$368,500,000,000 as much as  
3           \$111,000,000,000 could be taken away from public  
4           health programs for attorneys' "contingency fees".

5           (4) Since no national settlement can take effect  
6           without Congressional action to change existing law,  
7           the approval of Congress is necessary for the terms  
8           of the settlement, including the part relating to at-  
9           torneys' fees, to take effect.

10          (5) While the average annual gross receipts for  
11          the 100 top-grossing law firms in America last year  
12          was \$18,000,000, a 30 percent contingency fee  
13          would yield an average of approximately  
14          \$925,000,000 per law firm involved in the litigation  
15          pending prior to the settlement.

16          (6) A casual decision at a young age to use to-  
17          bacco products often leads to addiction, serious dis-  
18          ease, and premature death as an adult. Nearly 90  
19          percent of adult smokers began smoking at or before  
20          the age of 18. Smoking rates among youngsters are  
21          at their highest levels in 16 years. Every day an-  
22          other 3,000 children and adolescents become regular  
23          smokers. Therefore, the epidemic of youth addiction  
24          has enormous public health consequences.

1           (7) While attorneys are entitled to be paid for  
2           their time and effort, the maximum possible amount  
3           of moneys from any tobacco settlement should go di-  
4           rectly to benefit public health, with the highest pri-  
5           ority being given to efforts focused on persuading  
6           children not to smoke rather than to awards leading  
7           to unreasonable attorneys' fees.

8   **SEC. 2. LIMIT ON DIVERSION OF PUBLIC HEALTH FUNDS**  
9                           **TO ATTORNEYS.**

10       (a) **GENERAL LIMITATION.**—Notwithstanding any  
11       other provision of law, any attorneys' fees paid in connec-  
12       tion with the settlement of an action maintained by a  
13       State against 1 or more tobacco companies to recover to-  
14       bacco-related medicaid expenditures or for other causes of  
15       action involved in the settlement agreement dated June  
16       20, 1997, shall not exceed \$150 per hour, together with  
17       reimbursement of actual out-of-pocket expenses as ap-  
18       proved by the court in such action.

19       (b) **FEE ARRANGEMENTS.**—Subsection (a) shall  
20       apply to attorneys' fees provided for or in connection with  
21       an action of the type described in such subsection under  
22       any—

- 23               (1) court order;  
24               (2) settlement agreement;  
25               (3) contingency fee arrangement;

1 (4) arbitration procedure;

2 (5) alternative dispute resolution procedure (in-  
3 cluding mediation); or

4 (6) other arrangement providing for the pay-  
5 ment of attorneys' fees.

6 (c) REQUIREMENTS.—No award of attorneys' fees  
7 shall be made under any national tobacco settlement until  
8 the attorneys involved have—

9 (1) provided to the Congress a detailed time ac-  
10 counting with respect to the work performed in rela-  
11 tion to any legal action which is the subject of the  
12 settlement or with regard to the settlement itself;  
13 and

14 (2) made public disclosure of the time account-  
15 ing under paragraph (1) and any fee arrangements  
16 entered into, or fee arrangements made, with respect  
17 to any legal action that is the subject of the settle-  
18 ment.

19 (d) EFFECTIVE DATE.—The limitation on the pay-  
20 ment of attorneys' fees contained in this section shall be-  
21 come effective on the date of enactment of any Act enacted  
22 in connection with the national tobacco settlement.

23 (e) REPORT.—Each attorney whose fees are subject  
24 to this section shall, within 30 days of the date of the  
25 enactment of this Act, submit to Committees on the Judi-

1 ciary of the House of Representatives and the Senate a  
2 comprehensive record of the time and expenses for which  
3 the fees are to be paid. Such record shall be subject to  
4 section 1001(a) of title 18, United States Code.

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