

The PRESIDING OFFICER. The majority leader is recognized.

## CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion on the Dodd substitute amendment to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 1247 to Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Benjamin L. Cardin, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Tom Harkin, Sherrod Brown, Debbie Stabenow, Richard Durbin, Mark Udall, Edward E. Kaufman.

## CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk. This is on the bill itself.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Debbie Stabenow, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Richard Durbin, Mark Udall, Edward E. Kaufman, Tom Harkin, Benjamin L. Cardin, Bill Nelson.

Mr. REID. Madam President, I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. REID. Madam President, I ask unanimous consent to go into a period of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. MCCAIN. Reserving the right to object, what did we do?

Mr. REID. We just went into morning business. We would like to go into morning business.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I have an amendment that I have been trying to get a vote on, I would say to the distinguished majority leader, and it certainly is important to the American people.

It is certainly important on this bill and the function of the FDA concerning the importation of prescription

drugs into this country. I believe the Senator from North Dakota has an amendment. I would agree to a time agreement of an hour to be equally divided, or half hour, and then vote on it.

I think the American people ought to know whether we are going to be able to import prescription drugs into this country so we can save them billions of dollars every year, rather than taking so much of their hard-earned money, especially retirees.

Mr. REID. Madam President, I am happy to respond to my friend. We have been trying for 2 days to move forward on germane amendments. I have had several conversations with Senator DORGAN. I know how important it is to him. I voted with him, and I do every time this matter comes up. As I indicated earlier, I would be happy to work out some kind of agreement.

At this time, until we get some ability to vote on the germane amendments, it doesn't seem like the right thing to do. I am willing, as I have indicated to my friend, Senator DORGAN, to work out an arrangement for him to offer this amendment. This is something that should have been done, I am sorry to say, years ago, not weeks ago. I will work with the Senator from Arizona on this drug reimportation issue, which is important. At this stage, we simply cannot do it; I know of no way to get from here to there.

As I said—and the manager of the bill is here—if we can work something out by Monday, I will be happy to try to work something out. Nobody is trying to stop the Senator from offering that amendment. We have to have an agreement to move forward on the other stuff first because it is germane.

Mr. MCCAIN. Will the Senator yield?

Mr. REID. Yes, without losing my right to the floor.

Mr. MCCAIN. Mr. President, I am very appreciative of the difficulties the majority leader faces on a bill of this nature, the challenges of amendments being nongermane, and also the difficulties he faces in managing legislation. This issue has been around for a long time, I say to my friend from Nevada. We should address it. It is important to the American people. It does have a lot to do with pharmaceuticals in this country and the availability.

Again, I point out to the majority leader that there should not be a lot of debate on this. People have taken their positions.

I have an e-mail that was sent to us by mistake by the lobby for PhRMA, regarding how important it is to stop this amendment and not have a vote on it. If my friend will indulge me, this is urgent. This is from, as I understand it, one of the lobbyists for PhRMA:

The Senate is on the tobacco bill today. Unless we get some significant movement, the full-blown Dorgan or Vitter bill will pass as an amendment and a Cochran or Brownback safety amendment will fail.

(1) We need to locate a Democratic lead co-sponsor for the second degree amendment—which will be either BROWNBACK or COCHRAN. Can the J&J, Merck, Novartis, Pfizer and the

other New Jersey companies coordinate and contact Senator MENENDEZ's office and ask him to take the lead?

(2) We are trying to get Senator DORGAN to back down—calling the White House and Senator REID. Our understanding is that at least Senator MCCAIN has said he will offer regardless, so even if DORGAN withdraws, he may still go forward.

We believe we have 39 'yes' votes for a safety second degree amendment and 25 members in the 'undecided' column. KENNEDY—who whipped this for us last time—is not here.

We are scheduling a call for later this morning to follow up on our targets from yesterday's whip call. Please make sure your staff is fully engaged in this process. This is real. We only had six companies participate in the last call.

My friends, that is a little insight as to how the special interests in Washington work. I would like to have a vote on this amendment, I say to my friend from Nevada, with a full appreciation of the difficulties he has in getting this legislation through—a very important piece of legislation.

I thank my friend from Nevada for his indulgence and allowing me to read that e-mail.

Mr. REID. Madam President, that is kind of an insight—I don't know who is on first, but that is pretty interesting.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

## UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 132, the nomination of William Sessions to be Chair of the U.S. Sentencing Commission.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Madam President, we have not had an opportunity to get that cleared on this side. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Robert Groves to be Director of the Census.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Madam President, I make the same observation with regard to this nominee. We have not yet

been able to clear it on this side. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

#### ORDER OF BUSINESS

Mr. REID. Madam President, for the information of Senators, there will be no more votes today. I indicated earlier that we would be out by 6 today. A number of things are going on. We will work on a number of issues over the weekend, including the tobacco issue and other issues. We will vote on Monday at 5:30 on the cloture motions that were filed earlier this afternoon.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. DODD. Madam President, I listened carefully to the conversation between the majority leader and our colleague from Arizona. As the manager of this bill on smoking, I for one have been a strong advocate for the reimportation proposal. Others have also expressed an interest in this. Most of my colleagues have expressed views, and a majority have expressed support for the idea. This is not about denying a vote on reimportation. We would all like that opportunity.

However, this bill on smoking and children is about as fragile a proposal as I have seen here in a long time. There are strong voices that wish to kill this legislation, and they effectively have. The FDA has jurisdiction over almost every product—except tobacco—including pet food. We waited 10 years trying to get to this bill. If you lose one or two votes on this—if we lose this again, we are back to the last decade.

There will be any number of attractive ideas proposed to this legislation, many of which I have either supported or would like to, but we will run the risk of breaking up the necessary 60 votes to deal with children and smoking. So no matter how appealing some amendments may be, understand what you may be doing, and that is destroying the ability to deal with the 3,000 to 4,000 kids who start smoking every day and the 400,000 people who die every year from tobacco. I want to vote on reimportation as well and a lot of other issues. If every time we bring up a bill of this significance and somebody offers a very appealing proposal—understand that the danger is that you fracture that relationship. That has denied us the opportunity to pass this for a decade, despite the fact that both bodies have voted overwhelmingly but not in the same Congress.

We are on the brink of getting this done. What better thing could we accomplish on the eve of the health care debate than to start saving lives of children? I have 76,000 kids in Connecticut who will die because they are smokers if we do nothing. There are 6

million children today who are going to die prematurely because of smoking if we do nothing. As much as I want to deal with reimportation of drugs, if we do that and it is adopted and we lose the coalition on smoking, what have we achieved? The bill dies. You lose both reimportation as well as the smoking proposal.

I appreciate the majority leader taking the position he did. I know where he stands on the issue. Senator REID has been a strong advocate of reimportation. That is not the issue here. It is whether at long last, a decade later, our colleague from Massachusetts, Senator KENNEDY, and Senator DeWine, a former colleague from Ohio, Henry Waxman from California, Tom Davis of Virginia, who on a bipartisan basis have tried year in and year out to get this done—we can finally achieve it. So I know the game. But this is not a game, this is life and death for people. For 10 long years, we have not been able to pass legislation involving kids and smoking. We can get it done in the next few days. If people insist upon nongermane amendments based on a short-term appeal that denies us that opportunity, we will have done great damage to our country.

I appreciate the position the majority leader has taken. My colleagues know, because I went through the process last week in committee, there were any number of appealing amendments. I thank the members of the committee who wanted to vote for some of those amendments. I see Senator MERKLEY here, a member of our committee. He and I would have liked to have supported additional amendments, fines and such, for kids. We knew that if we did that, we might break that fragile coalition that would get us to the goal line of passing the bill.

I thank the majority leader for standing up on an issue he cares deeply about, the reimportation of drugs. He understands, as does the Presiding Officer, as do all of us here who have loved ones who have been smokers and have been affected by tobacco and the damage it does to our citizenry. It is the only disease I know that is self-inflicted. There are more deaths each year as a result of smoking and tobacco products than alcohol, drugs, suicide, automobile accidents, and AIDS combined. It is the greatest killer in America. We have a chance to make a difference. The day will come for reimportation. We ought to get to that. If you do it on this bill, you lose both reimportation and the smoking bill.

I thank the majority leader and yield the floor.

Mrs. BOXER. Madam President, I urge my colleagues to join me in support of the Family Smoking Prevention and Tobacco Control Act, a comprehensive effort to address the threat of tobacco products to public health.

This bill will finally give the Food and Drug Administration the legal authority it needs to prevent the sale of

tobacco products to minors, make tobacco products less toxic and addictive for those who continue to use them, and prevent the tobacco industry from misleading the public about the dangers of smoking.

As the leading preventable cause of death in the United States, tobacco use kills over 400,000 Americans a year. More deaths in the U.S. are caused by tobacco use than from illegal drug use, alcohol use, motor vehicle accidents, suicides, and murders combined. This legislation takes crucial steps to save the lives of as many as 80,000 Americans every year.

Sadly, our failure to address this issue is having the greatest effect on our Nation's children. Ninety percent of all new smokers are children. In just 1 day, about 3,500 children will try their first cigarette and 1,000 more will become daily smokers. In just 1 year, kids in my home State of California will purchase 78.3 million packs of cigarettes.

Even though studies have shown children are twice as sensitive to tobacco advertising as adults and that one-third of children experiment with smoking due to advertising, marketing for tobacco products is virtually unregulated. Each year, the tobacco industry spends \$13.4 billion nationwide on advertising. Granting the FDA the authority to regulate tobacco advertising will reduce targeting of kids and crack down on false claims.

Additionally, this bill will grant the FDA the authority to regulate smokeless tobacco—particularly those products that have been designed to appeal to children, such as tobacco candy. Claims by the tobacco industry that these products are safe alternatives to smoking are dangerous and wrong. In fact, the Surgeon General has determined the use of smokeless tobacco can lead to oral cancer, gum disease, heart attacks, heart disease, cancer of the esophagus, and cancer of the stomach.

This legislation will ensure that tobacco companies can no longer market addictive carcinogenic candies targeted at children without review by the Food and Drug Administration and careful regulation to safeguard the public health.

Cigarettes contain 69 known carcinogens and hundreds of other ingredients that contribute to the risk of heart disease, lung disease, and other serious illnesses. Yet tobacco products are currently exempt from basic consumer protections like ingredient disclosure, product testing and marketing restrictions to children. Tobacco products are the only products on the market that kill a third of their customers if they are used as directed. In spite of the risks, in spite of the costs, tobacco products are the most unregulated consumer products available today.

This bill will ensure that the tobacco industry is finally required to tell us what is in the products they sell.