Smokeless manufacturer	Smokeless brands	Share of U.S. market (in percent)	Moist snuff tax increase under S. 1415 [2]	Other smokeless tax increase under S. 1415 [2]
National Tobacco (USA)	Beech-Nut, Big Red, Havana Blossom, Trophy	9.2	0.58	0.27
Swisher (USA)	Mail Pouch, Silver Creek, and 33 other brands of chewing tobacco and moist & dry snuff.	6.8	0.58	0.27
Brown & Williamson (US subsidiary of BAT Industries UK)	Unknown	Less than 1	0.58	0.27
R.C. Owen (USA)	Unknown	Less than 1	0.58	0.27

[1] S. 1415 purports to impose a $1.10 per pack cigarette tax by the year 2003. Subsection 402(f), page 186, exempts cigarettes produced by the Liggett Group as long as their cigarette production does not exceed 3% of the total U.S. production.

[2] Subsection 402(d)(3)(A) provides that a 1.2 ounce package of moist snuff is taxed at 75% of the level of a pack of cigarettes, and a 3 ounce package of other smokeless tobacco products is taxed at 35% of the level of a pack of cigarettes. Further, subsection 402(d)(3)(B) provides the smokeless tobacco products by smaller manufacturers (under 150 million units) are taxed at only 70% of the rate applied to other smokeless tobacco products.

CURRENT LAW TAX RATES: Cigarette = 24 cents per packj; Snuff = 2.7 cents per 1.2 ounce can; Other smokeless tobacco = 2.25 cents per 3 ounce package.

Mr. NICKLES. I yield the floor.

Mr. FORD. Mr. President, 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. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I ask unanimous consent that I might speak for about 10 minutes, probably less, as in morning business.

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

PATIENTS' BILL OF RIGHTS

Mr. ROCKEFELLER. Mr. President, I have come to the Senate floor to talk about, as others have, something of fundamental importance to the people that I represent in my State of West Virginia, and that is equal treatment for all Americans with respect to health care. I am not just talking about Congressmen, and I am not just talking about coal miners or CEOs or custodians, I am talking about all Americans and all the time.

I want to talk about what I think is an urgent need here in Congress to pass legislation on the quality of health care, and that this legislation should apply to every single American. When enough of us recognize these needs, I am convinced we are going to enact legislation, and it is going to be called patient protection. It may have some other name. It may be modified, it may be expanded, who knows? But the need for it is undeniable, and it has to happen. Every single day that passes without the enactment of some kind of patient protection legislation is another day that millions of Americans, thousands of people I represent in West Virginia, are subject to the denial of needed treatments by insurance companies who are looking out for their bottom lines.

Every single day that we as a Congress fail to act on the Patients' Bill of Rights Act, if we want to call it that, is another day that Americans are left vulnerable to health care decisions made by people who are not doctors—in fact, doctors complain about this all the time—but who are, in fact, business professionals. Every day that we do not act, Americans are refused the specialty treatment they need and deserve. I am going to give two examples of this which I think are scary, and which are very real. Make no mistake, if we do not respond and if we do not respond forcefully, more Americans are going to lose confidence in our health care system.

It is interesting to me, having observed health care now for quite a number of years, that it used to be it was only patients, or only consumers of health care who were worried about the cost of health care, the quality of health care, the problems of health care, the paperwork of health care. Now, the people who really are coming on board in this angst are physicians themselves and nurses and people who work in hospitals who have to deal with the realities of what the health care system has become in this country.

West Virginia is no exception. West Virginia may have some more problems than some other States, but we are no exception with regard to the need for patient protection. I constantly run into West Virginians when I am at home who complain to me—not at my invitation, but at theirs—about being denied the treatment they felt they were promised, or that they knew they were promised from plans, health care plans where they thought their premiums entitled them to something called quality health care and fair treatment.

One complaint I hear all too often is being denied specialty care. That is a very big deal. General practitioners can take care of a lot of problems, but sometimes you come to a point where you have to have more. Under most managed care plans, a patient's primary care physician may in fact refer, as the gatekeeper or whatever, a patient to a specialist, if the primary care physician determines that specialty care is necessary. That makes a lot of sense to me. Primary care physicians are in a very good position to do that. That is a professional decision involving going to another professional. However, things may change if the specialist is not on the list often called the plan's network.

Let me explain. Suddenly, someone then comes from the administrative office, or from some other division, and may take over. Suddenly, the patient who, along with the primary care physician, is anxious for that patient to see a specialist because of some health problem, finds out that the executives, not the physician, but the executives in charge of the managed care plan, people who are not doctors, not medical providers, reserve the right to refuse payment for the specialist recommended by his or her original doctor. In fact, this is a frequent occurrence for people who have insurance companies that push their employees to steer patients to only the physicians listed within their plan.

That is not the way it is meant to work. Insurance companies do not always make the best medical choices because they are not trained in that business. They are trained in a different business. Too often motivated by their bottom line, which is understandable, and not often enough motivated by the patient's health care needs, many specialty referrals are refused. Now, I go to my examples and I hope my colleagues will listen.

I think of a little 6-year-old boy from West Virginia who became seriously ill. Concerned, his mother rushed him to the doctor's office, his doctor's office, in fact, where he was quickly diagnosed with diabetes. His primary care physician referred him to an out-of-plan pediatric endocrinologist; a specialist in childhood diseases, that is. That was the referral, to a specialist in childhood diseases. The specialist placed this young child on insulin to control his condition. But when the child's primary care doctor referred him back to the specialist for a follow-up visit—which makes a lot of sense—the referral was denied, stating, ''* * * service available with in-plan endocrinologist.''

That doesn't sound so bad, does it? In other words, go to the in-house, in-plan endocrinologist. So while it sounds like the child could get the care that was needed from the in-plan physician, the reality is that he could not get that health care for a very subtle but basic reason. The in-plan specialist was an adult endocrinologist, not a child endocrinologist, specializing in adult diabetes. But diabetes is not the same in children and adults, and there are different specialties for adults and for children in that field. The treatment is different. There is serious risks of developing future health problems when the childhood diabetes is not dealt with properly by a proper physician. The insurance company in this case was gambling, in effect risking this child's future health for the few dollars they saved by saying: Oh, you have to go to an in-plan doctor.

As bad as that case is—and I wish it were the only one, but it is not—I was recently told the story of a 14-day-old baby girl. Mr. President, 14 days old, this precious little child's health was already jeopardized by her health plan. What do I mean by that? This poor

child was brought to her doctor 14 days after birth because of a urinary tract infection. Treatment of a urinary tract infection at that age requires an evaluation for urinary tract abnormalities. But the referral from the pediatrician to an out-of-plan specialist was denied, again saying services are available in-plan, an in-plan urologist. OK, if she could get the right treatment in-plan, that is what HMOs are for; right?

But she could not. She could not get the help because the urologist the plan would have had her see was, once again, an adult urologist. Am I picking here? Am I just being petty? No. The problem lies in discovering and treating urinary tract abnormalities which is vital to preventing serious and permanent kidney damage, and the appropriate specialist for such a situation is a pediatric urologist.

I have working in my office, thanks to the Robert Wood Johnson Foundation, a pediatric cardiologist. A pediatric cardiologist is different from an adult cardiologist. In other words, an adult and child are different and they require different specialists with different skills. It is a basic and important fact. Simply to say you have a urologist in-house is not to say that if that urologist deals with adult urology problems, that it is sufficient for a 14-day-old baby girl.

This decision by the HMO was based on having an adult urologist, which urologist did not have speciality training in pediatric disorders and, therefore, was not capable of caring sufficiently for an infant. Why? Because keeping her within the plan's network of doctors costs less.

I understand business, and business is important, but this business of quality of health care treatment is very serious and very scary, and that is what we have to focus on when we are thinking about what we are going to do. These are our children, the most helpless and vulnerable of all of American citizens. They have no way of defending themselves. They depend on their parents, they depend on their communities to take care of them, and these people, in turn, depend on us in Congress to ensure that they are not taken advantage of, that games are not played with their health and the health of their children.

The time has come for us to pass a bill which guarantees certain commonsense protections for every single patient in America, young or old, rich or poor. This legislation—which we have the opportunity to pass, an obligation, I think, to enact this year, the Patients' Bill of Rights Act of 1998—will do exactly that.

I am interested in good health care for our people, Mr. President. I don't think it is a game, and I don't think it has anything to do with politics. I think it is a very, very serious consideration.

I thank the Presiding Officer and yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Kentucky.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Montana, Mr. BAUCUS, be added as a cosponsor of the Ford amendment pending before the Senate.

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

Mr. FORD. I thank the Chair.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now resume consideration of the tobacco legislation, S. 1415, for debate only until the hour of 3 p.m. today.

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

Mr. LUGAR. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the following members of my staff be given the privilege of the floor for the duration of the debate on the current bill: Hunter Bates, Robin Bowen, David Hovermale, and Kyle Simmons.

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

Mr. MCCONNELL. Mr. President, we have been on the tobacco bill now for four weeks. What is abundantly clear to this Senator is that the best favor we can do for the American people and, in particular, for Kentuckians who are tobacco producers is to defeat this bill. President Clinton and the majority of the Democrats have been pushing this bill for some time, going back to the 1996 campaign. A typical American family today already pays 38.2 percent of its total income in taxes at all levels of government. This tobacco tax bill before us will increase taxes by more than $600 billion, some argue even up to $800 billion over the life of the bill, and 60 percent of that tax will fall on working people who make less than $30,000 a year.

Let me repeat: 60 percent of the taxes that we are raising will fall on Americans making $30,000 per year. Mr. President, more than anything else, what the tobacco bill is about is tax and spend.

The original cause is a noble cause around which I guess virtually all of the Senate is unified, and that is the question of confronting the problem of teenagers and smoking. We know, of course, that only 2 percent of smokers are teenagers. We wish they would not engage in this habit, and we ought to do everything we can to deter that behavior. But this bill, this $600 billion or $700 billion or $800 billion bill, this tax increase targeted at people in America making $30,000 or less is about big government and big spending and big taxes.

A good starting place would be to defeat this bill, which is not in the best interest of the American people and certainly not in the best interest of the people of Kentucky for whom this is a particularly sensitive issue. The biggest beneficiaries of the bill before us, in addition to the Government and literally legions of new agencies, are a number of lawyers who are going to make a substantial amount of money even with the Gorton amendment yesterday.

So a good starting place in discussing this issue is what ought to be done with the overall bill, and it has been the view of this Senator from Kentucky that the appropriate fate for this bill is defeat, the sooner the better.

Should the bill not be defeated, it creates a catastrophe for the Commonwealth of Kentucky. We have over 60,000 farm families who derive some or all of their income from the annual growing of a legal crop.

They are engaged in an honorable activity. They are raising their families, educating their children, obeying the law. And here comes the Federal Government with an effort to destroy this legal industry. And make no mistake about it, this bill is designed to bring the tobacco industry to its knees. And that goal and design is pretty clear, with the amendments that have been passed so far, including providing no immunity from lawsuits whatsoever for the tobacco companies, which, as we all know, was part of the original settlement agreed to last summer—no immunity is going to be provided in this bill for any kind of lawsuit of any sort.

We doubled the so-called look-back provision—clearly, in this Senator's view, an unconstitutional attempt to make the company responsible for anyone who chooses to use its product. I do not know any reputable lawyer, Mr. President, either in or out of the Senate, who thinks that provision is constitutional. And, of course, there are advertising restrictions in this bill. Nobody that I know thinks those can be imposed by the Government either.

The industry pulled out of this a long time ago—several months ago—when they saw what form it was taking. So make no mistake about it, Mr. President, this bill before the Senate, in its current form, is designed to destroy the tobacco industry.

Now, the victims of that are the 60,000 farm families in Kentucky who raise this legal crop every year. And in the wake of this effort to destroy this industry, it has produced a significant debate in our State about what to do.