

On page 25 of the Committee reported bill, beginning on line 7, delete  
 "identifying such property."  
 "(4)"  
 and insert in lieu thereof:  
 "identifying such property;  
 "(4) To real property described in the Guam Excess Lands Act (P.L. 103-339, 108 Stat. 3116) which shall be disposed of in accordance with such Act; or  
 "(5)"

THE PRODUCT LIABILITY REFORM  
 ACT OF 1997, BIOMATERIALS AC-  
 CESS ASSURANCE ACT OF 1997

LAUTENBERG (AND OTHERS)  
 AMENDMENT NO. 375

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. LAUTENBERG (for himself, Mr. HARKIN, Mr. DURBIN, and Mr. WYDEN) submitted an amendment intended to be proposed by them to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

On page 9, line 14, strike "; or" and insert a semicolon.

On page 9, line 16, strike the period and insert "; or".

On page 9, between lines 16 and 17, insert the following:

(iii) any tobacco product or component of a tobacco product.

On page 11, between lines 14 and 15, insert the following:

(16) TOBACCO PRODUCT.—  
 (A) IN GENERAL.—The term "tobacco product" means—

(i) cigarettes;  
 (ii) little cigars;  
 (iii) cigars as defined in section 5702 of the Internal Revenue Code of 1986;

(iv) pipe tobacco;  
 (v) loose rolling tobacco and papers used to contain loose rolling tobacco;  
 (vi) products referred to as spit tobacco;  
 and

(vii) any other form of tobacco intended for human consumption.

(B) CIGARETTE DEFINED.—For purposes of this paragraph, the term "cigarette" means—

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco that is to be burned;

(ii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by consumers as a cigarette described in clause (i);

(iii) little cigars that are any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco that is a cigarette within the meaning of clause (i)), with respect to which 1,000 units have a weight of not to exceed 3 pounds; and

(iv) loose rolling tobacco and papers or tubes used to contain that tobacco.

Mr. LAUTENBERG. Mr. President, I rise to discuss an amendment I am submitting today to the product liability bill to protect the Nation's public health from the dangers of tobacco. I am joined in this effort by my colleagues Senator DURBIN, Senator HARKIN and Senator WYDEN.

Without this amendment, the product liability bill provides the tobacco

industry with a backdoor escape hatch from the settlement negotiations in which they are currently engaged. Without this amendment, the tobacco industry will not have to make concessions to the public health community that could save millions of American lives.

Mr. President, 36 States have now gone to court to recover the millions of dollars in Medicaid and other health care costs that were a direct result of the tobacco industry's deceitful and deadly practices. Thousands of Americans who have been grievously injured by tobacco products, and the loved ones of those who have been killed by tobacco, are seeking compensation from the tobacco industry for their lethal and addictive products. Currently, a bipartisan group of State attorneys' general are involved in sensitive negotiations with the tobacco industry concerning compensation for the illness and death caused by its products. Whether one supports the concept of a settlement or not, the fact that the tobacco industry has come to the table is an amazing development.

They have come to the table because they realize that this President and enough of us in Congress will not allow them to continue seducing and poisoning our children without an appropriate response. They also know that they will be subject to increasing civil liability in the court system. I applaud the attorneys' general for bringing such strong cases against them, that they realized it was time to sit down and possibly release our Nation's children from their stranglehold.

Mr. President, right now, one of the major sticking points in the talks between the attorneys' general and the Big Tobacco is the issue of restrictions on product liability suits that will be brought against the tobacco industry in the future. The industry has asked for a cap on punitive damages, and it wants to eliminate joint and several liability in tobacco cases. The attorneys' general are currently trying to work this issue out with the tobacco companies.

Mr. President, 17 of these attorneys' general have signed on in support of our effort to remove tobacco from the scope of the product liability bill. I ask unanimous consent that letters signed by the attorneys' general endorsing this effort be printed in the RECORD. As time goes on, I expect additional pledges of support from more attorneys' general.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,

June 12, 1997.

DEAR MEMBERS OF THE U.S. SENATE: We, the undersigned state Attorneys General, ask you to support the Lautenberg Tobacco Amendment to S. 648, the Product Liability Bill. While we do not in this letter take a position on the overall product liability bill, we support the exclusion of the tobacco industry litigation and tobacco from the scope of the bill.

Frankly, we are asking you not to let the tobacco industry off the hook. If the product liability bill passes without the changes contained in the Lautenberg amendment, the bill could affect the negotiations we are involved in today.

Senator Lautenberg's amendment excludes "tobacco products" from the scope of product liability litigation affected by S. 648. This is the right thing to do. Without the amendment, the tobacco industry will gain substantial protection without conceding anything to the state governments and public health advocates who are now at the negotiating table.

Therefore, we strongly urge you to support the Lautenberg Amendment. We are trying to make historic breakthroughs in these settlement negotiations. It would be a tragedy to take a step backwards.

Sincerely,

TOM MILLER,  
 Iowa Attorney General.

WINSTON BRYANT,  
 Arkansas Attorney General.

BOB BUTTERWORTH,  
 Florida Attorney General.

JEFFREY MODISSETT,  
 Indiana Attorney General.

J. JOSEPH CURRAN,  
 Maryland Attorney General.

SCOTT HARSHBARGER,  
 Massachusetts Attorney General.

FRANK KELLEY,  
 Michigan Attorney General.

JOE MAZUREK,  
 Montana Attorney General.

HUBERT H. HUMPHREY III,  
 Minnesota Attorney General.

PETER VERNIERO,  
 New Jersey Attorney General.

TOM UDALL,  
 New Mexico Attorney General.

W.A. DREW EDMONDSON,  
 Oklahoma Attorney General.

D. MICHAEL FISHER,  
 Pennsylvania Attorney General.

JAN GRAHAM,  
 Utah Attorney General.

JAMES DOYLE,  
 Wisconsin Attorney General.

DON SIEGELMAN,  
 Alabama Attorney General.

ATTORNEY GENERAL OF MISSOURI,  
 Jefferson City, MO, June 9, 1997.

Sen. FRANK LAUTENBERG,  
 Washington, DC.  
 Re S. 648

DEAR SENATOR LAUTENBERG: I applaud your efforts to ensure that the tobacco industry is exempted from the coverage of S. 648, the Products Liability Bill. As Missouri's chief law enforcement officer, I have filed suit against a number of manufacturers of cigarettes and other tobacco products. I have been active in the negotiations between the Attorneys General of the suing states and the tobacco industry. The sweeping protections afforded manufacturers in S. 648 must not be extended to the tobacco industry during the pendency of these historic

lawsuits and negotiations. Good luck with your amendment and thank you for your efforts.

Sincerely,

JEREMIAH W. (JAY) NIXON,  
Attorney General.

Mr. LAUTENBERG. Mr. President, if the product liability bill passes in its current form, the tobacco industry will get what it wants, and the American public will receive nothing in return. As reported out of the Commerce Committee, the product liability bill will cap punitive damages and eliminate joint and several liability in tobacco liability cases. This would be another sweetheart deal for big tobacco, and it would undercut the state attorneys' general. This is unacceptable. And what will America lose if we don't pass my amendment? Mr. President, I say perhaps millions of lives.

The tobacco industry is on the verge of agreeing to stop marketing to American children, to stop lying and hiding the truth from the American public, to commit to actual target numbers for reduction of teen smoking, to subject themselves to appropriate regulation by the Food and Drug Administration and to back real reforms that will put teeth into laws that prohibit the sale of cigarettes to kids. Do we in Congress want to throw that away forever? Do we want to give big tobacco the green light to continue seducing and addicting our children? I certainly hope not.

Mr. President, that is why it is critical that we pass my amendment, which would exempt tobacco products from the restrictions on liability covered by the product liability bill. Regardless of how any Senator feels about the overall goals of the product liability bill, exempting tobacco is the right thing to do. We should not sell out our Nation's public health to the tobacco lobby. Congress should not provide the tobacco industry with a back door deal through the product liability bill. To prevent this from happening, we must attach my amendment.

Mr. President, some of my colleagues might ask: "Why should we give tobacco litigation a carve-out from the restrictions of this bill?" The answer is simple and rather straightforward: The tobacco industry is unlike any other American industry. No other industry in this country kills over 400,000 Americans each year. No other industry has conspired to deviously addict children to its product. No other industry has submitted such highly questionable testimony to Congress and the courts. Is this Congress prepared to undercut unprecedented public health programs and give the tobacco industry the sweetheart deal they have been dreaming of? Is Congress going to bail out the industry once again? The American people won't tolerate it.

Mr. President, this Senator will do everything I can to prevent that from happening. I ask my colleagues to join me in support of this effort to remove tobacco litigation from the restrictions of the product liability legislation. It

is the right thing to do for the public health, for our State's highest law enforcement officials, and most important, for our kids.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in executive session to markup S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 12, 1997, at 2 p.m. to hold a markup/business meeting.

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

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, June 12, at 4 p.m. for a business meeting.

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

#### ADDITIONAL STATEMENTS

##### REAR ADM. AUDREY F. MANLEY

• Mr. FRIST. Mr. President, I rise today to recognize and honor the Deputy Surgeon General and Acting Surgeon General of the U.S. Public Health Service [USPHS], Rear Adm. Audrey F. Manley, as she retires upon completion of more than 20 years of faithful service to our Nation on July 1, 1997.

Upon her retirement Rear Admiral Manley will be leaving both the positions of Deputy Surgeon General, which she has held since February 1994, and Acting Surgeon General, which she has held concurrently since January 1995. She has served in each of these capacities with dedication and distinction as a principal Federal health advisor to the Nation on public health matters; advisor to the Assistant Secretary for Health on policy matters pertaining to the USPHS; and leader for approximately 6,200 active duty members of the Commissioned Corps of the USPHS.

Rear Admiral Manley, a native of Jackson, MS, graduated from Spelman College in Atlanta, GA. She received her medical education at Meharry Medical College in Nashville, TN, and was awarded a master of public health degree from Johns Hopkins University School of Hygiene and Public Health. Her training includes an internship at St. Mary Mercy Hospital in Gary, IN, a residency at Cook County Children's Hospital in Chicago, IL, and various fellowship, research, and teaching experiences. She has also held positions

on the faculties of several medical schools.

Rear Admiral Manley became a member of the Commissioned Corps in 1976. Included among her many assignments are Director of Genetic Services, Bureau of Maternal and Child Health, Deputy Associate Administrator for Planning, Evaluation, and Legislation, and Associate Administrator for Clinical Affairs, Health Resources and Services Administration [HRSA]. In 1987, she was appointed Director of the National Health Service Corps, a HRSA component that furnishes primary health care providers to medically underserved communities throughout the country. In 1989, Rear Admiral Manley became the Principal Deputy Assistant Secretary for Health, working with the Assistant Secretary in providing leadership and support across the full spectrum of PHS policy and operational issues. She assisted in directing the eight agencies of the USPHS with a combined budget of \$22 billion and 45,000 employees. She was designated Acting Assistant Secretary for Health from January 1993 to July 1993. In July 1993, prior to assuming her current responsibilities, Rear Admiral Manley was named Deputy Assistant Secretary for Intergovernmental Affairs, where she was responsible for 10 PHS Regional Offices and the Office of Emergency Preparedness. In this role she was the principal PHS officer responsible for coordinating the USPHS response to Hurricanes Andrew and Inikki, and Typhoon Omar; the Mississippi flood of 1993; the Los Angeles civil unrest (1991) and the Northridge earthquake of 1994.

Rear Admiral Manley's awards as a member of the Commissioned Corps include the PHS Meritorious Service Medal, the PHS Commendation Medal, the PHS Unit Commendation Award, the Surgeon General's Exemplary Service Medal, the PHS Distinguished Service Medal, and the Hildrus Poindexter Award. She has also received numerous honors and awards from a wide variety of outside organizations.

Mr. President, Rear Admiral Manley has truly been a great credit to the Commissioned Corps and the Public Health Service throughout her career. I know that my colleagues are personally aware of her dedicated service to her country, especially during the 2-years plus in which she provided critical leadership as the Nation's Acting Surgeon General. It gives me great pleasure to recognize Rear Adm. Audrey F. Manley and, along with my colleagues, to wish her a fond farewell as she concludes a distinguished career in the Commissioned Corps of the U.S. Public Health Service and assumes duties as the next president of Spelman College.●

#### EMPLOYMENT NON-DISCRIMINATION ACT

• Mrs. MURRAY. Mr. President, I am very pleased to join with my colleagues