HOUSE BILL 751

Unofficial Copy 1999 Regular Session
J1 (9lr0371)

ENROLLED BILL
-- Appropriations/Budget and Taxation --

Introduced by Delegates Rosenberg, Taylor, Busch, Dewberry, Doory, Guns, Howard, Kopp, Menes, Montague, Rawlings, and Vallario

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of ____________ at ____________________ o’clock, _____M.

_____________________________________________
Speaker.

CHAPTER_______

1 AN ACT concerning

2 Cigarette Restitution Fund

3 FOR the purpose of establishing a Cigarette Restitution Fund; providing for the distribution of certain revenues to the Fund; providing for expenditures from the Fund by appropriation; requiring the Legislative Policy Committee to make certain determinations; requiring the Legislative Policy Committee to submit certain budget recommendations to the Governor; prohibiting the Fund from being expended in violation of certain restrictions or limitations; requiring the Fund to be expended for certain purposes; requiring that priority be given to certain purposes; providing that disbursements from the Fund to certain programs be used in a certain manner; authorizing certain funds to be expended for any legal purpose; requiring the Governor to prepare a certain plan; requiring the Governor to submit a certain plan to the General Assembly by a certain date; requiring the Governor to include certain information in the annual State budget submission; requiring the Governor to report certain information; providing that this Act applies to certain funds estimated in a
WHEREAS, The State of Maryland has agreed to the settlement of litigation against tobacco manufacturers; and

WHEREAS, The basis of the tobacco settlement is injury to State finances caused by smoking-related illnesses of Maryland citizens; and

WHEREAS, The federal government may seek recoupment of a portion of the tobacco settlement revenues if those revenues are not used for certain purposes; and

WHEREAS, African American publications contain approximately 12% more cigarette advertising than other widespread publications and the density of tobacco billboard advertising is consistently highest in African American communities; and

WHEREAS, The General Assembly finds it is necessary to establish a process to account for and allocate the tobacco settlement funds in a manner that meets critical needs and retains State control of the funds; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - State Finance and Procurement

7-317.

(A) THERE IS A CIGARETTE RESTITUTION FUND.

(B) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO THE PROVISIONS OF § 7-302 OF THIS SUBTITLE.

(2) THERE SHALL BE CREDITED TO THE FUND ALL REVENUES CONSISTING OF FUNDS RECEIVED BY THE STATE FROM ANY SOURCE AS A RESULT, DIRECTLY OR INDIRECTLY, FROM ANY JUDGMENT AGAINST OR SETTLEMENT WITH TOBACCO PRODUCT MANUFACTURERS, TOBACCO RESEARCH ASSOCIATIONS, OR ANY OTHER PERSON IN THE TOBACCO INDUSTRY RELATING TO LITIGATION, ADMINISTRATIVE PROCEEDINGS, OR ANY OTHER CLAIMS MADE OR PROSECUTED BY THE STATE TO RECOVER DAMAGES FOR VIOLATIONS OF STATE LAW.

(C) THE TREASURER SHALL:
(1) INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER
STATE FUNDS; AND
(2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

EXPENDITURES FROM THE FUND SHALL BE MADE BY AN APPROPRIATION
IN THE ANNUAL STATE BUDGET.

(E) (1) THE FUND SHALL BE EXPENDED SUBJECT TO ANY RESTRICTIONS ON
ITS USE OR OTHER LIMITATIONS ON ITS ALLOCATION THAT ARE:
(I) EXPRESSLY PROVIDED BY STATUTE;
(II) REQUIRED AS A CONDITION OF THE ACCEPTANCE OF FUNDS;
OR
(III) DETERMINED TO BE NECESSARY TO AVOID RECOUPMENT BY
THE FEDERAL GOVERNMENT OF MONEY PAID TO THE FUND.

(E) (2) DISBURSEMENTS FROM THE FUND TO PROGRAMS FUNDED BY THE
STATE OR WITH FEDERAL FUNDS ADMINISTERED BY THE STATE SHALL BE USED
SOLELY TO SUPPLEMENT, AND NOT TO SUPPLANT, FUNDS OTHERWISE AVAILABLE
FOR SUCH THE PROGRAMS UNDER FEDERAL OR STATE LAW AS PROVIDED IN THIS
SECTION.

(F) (1) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE LEGISLATIVE POLICY
COMMITTEE SHALL:

(I) ASSESS AND DETERMINE THE RESPECTIVE NEEDS OF THE
RESIDENTS OF THE STATE AND DEVELOP RECOMMENDATIONS FOR THE
ALLOCATION AND DISBURSEMENT OF FUNDS IN ACCORDANCE WITH THOSE NEEDS
SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION; AND

(II) SUBJECT TO SUBSECTION (E)(1) OF THIS SECTION AND
NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PREPARE AND SUBMIT TO THE
GOVERNOR A BUDGET RECOMMENDATION FOR THE NEXT FISCAL YEAR THAT
INCLUDES THE ESTIMATED AVAILABLE FUNDS AND PROPOSED EXPENDITURES
FROM THE CIGARETTE RESTITUTION FUND SHALL BE MADE FOR THE FOLLOWING
PURPOSES:

1. (I) REDUCTION OF THE USE OF TOBACCO PRODUCTS BY
MINORS;

2. (II) IMPLEMENTATION OF THE SOUTHERN MARYLAND
REGIONAL STRATEGY-ACTION PLAN FOR AGRICULTURE ADOPTED BY THE
TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND WITH AN EMPHASIS ON
ALTERNATIVE CROP USES FOR AGRICULTURAL LAND NOW USED FOR GROWING
TOBACCO;
(III) Public and school education campaigns to decrease tobacco use with initial emphasis on areas targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco products;

(IV) Smoking cessation programs;

(V) Enforcement of the laws regarding tobacco sales;

(VI) The purposes of the Maryland Health Care Foundation under Title 20, Subtitle 5 of the Health - General Article;

(VII) Primary health care in rural areas of the state and areas targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco products;

(VIII) Prevention, treatment, and research concerning cancer, heart disease, lung disease, tobacco product use, and tobacco control, including operating costs and related capital projects; and

(IX) Drug substance abuse treatment and prevention programs; and

(X) Programs that enhance public classroom instruction based on proven research on the best educational and developmental practices;

(XI) Programs with demonstrated success in improving outcomes for children and youth as defined by the Maryland Partnership for Children and Youth through its results-based delivery system model; and

(XII) Any other public purpose.

(2) The provisions of this subsection may not be construed to affect the Governor's powers with respect to a request for an appropriation in the annual budget bill.

(3) In making budget recommendations and allocating the appropriations to be made from the cigarette restitution fund, the Legislative Policy Committee and the Governor shall appropriate include in the annual budget bill at least 50% of the funds on those purposes enumerated in paragraph (1) (II) (I) through 7 (XI) of this subsection.

(4) Funds available in excess of those appropriated included in the annual budget bill by the Governor for the purposes in
PARAGRAPH (1) (II) THROUGH (XI) OF THIS SUBSECTION MAY BE SPENT ON ANY OTHER PURPOSE PERMITTED BY LAW.

(G) (1) AMOUNTS MAY ONLY BE EXPENDED FROM THE FUND THROUGH APPROPRIATIONS IN THE STATE BUDGET BILL AS PROVIDED IN THIS SUBSECTION.

(2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL APPROPRIATIONS FROM THE FUND EQUIVALENT TO THE LESSEE OF $100,000,000 OR 90% OF THE FUNDS ESTIMATED TO BE AVAILABLE TO THE FUND IN THE FISCAL YEAR FOR WHICH THE APPROPRIATIONS ARE MADE.

(3) FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE MADE, AT LEAST 50% OF THE APPROPRIATIONS SHALL BE MADE FOR THOSE PURPOSES ENUMERATED IN SUBSECTION (F)(1)(I) THROUGH (IX) OF THIS SECTION SUBJECT TO THE REQUIREMENT OF SUBSECTION (E)(2) OF THIS SECTION.

(4) ANY ADDITIONAL APPROPRIATIONS, NOT SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, MAY BE MADE FOR ANY LAWFUL PURPOSE.

(G) (H) FOR EACH PROGRAM, PROJECT OR ACTIVITY SUPPORTED UNDER SUBSECTION (F)(1) RECEIVING FUNDS APPROPRIATED UNDER SUBSECTION (G)(3) OF THIS SECTION, THE GOVERNOR SHALL:

(1) DEVELOP APPROPRIATE STATEMENTS OF VISION, MISSION, KEY GOALS, KEY OBJECTIVES, AND KEY PERFORMANCE INDICATORS AND REPORT THESE STATEMENTS IN A DISCRETE PART OF THE STATE BUDGET SUBMISSION, WHICH SHALL ALSO PROVIDE DATA FOR KEY PERFORMANCE INDICATORS; AND

(2) REPORT ANNUALLY, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 1 ON:

(I) TOTAL FUNDS EXPENDED, BY PROGRAM AND SUBDIVISION, IN THE PRIOR FISCAL YEAR FROM THE ACCOUNT FUND ESTABLISHED UNDER THIS SECTION; AND

(II) THE SPECIFIC OUTCOMES OR PUBLIC BENEFITS RESULTING FROM THAT EXPENDITURE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall prepare a statewide plan for accessing funds available under the Public Education Fund and the Tobacco Enforcement Fund established under the Master Tobacco Settlement Agreement. This plan shall be submitted to the General Assembly no later than January 1, 2000.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any funds estimated in the fiscal 2000 State Budget (Chapter (H.B. 120) of the Acts of the General Assembly of 1999) and appropriated to the Dedicated Purpose Fund.
AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1999.