
By: **Senator Green**
Introduced and read first time: February 5, 1999
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Tobacco Cigarette Restitution Fund**

3 FOR the purpose of establishing a ~~Tobacco~~ Cigarette Restitution Fund; ~~establishing~~
4 ~~certain qualities of the Fund; requiring that certain funds be credited to the~~
5 ~~Fund; requiring the Treasurer to perform certain responsibilities regarding~~
6 ~~Fund holdings and earnings; requiring that expenditures from the Fund be~~
7 ~~made by appropriation; providing certain restrictions on the expenditure and~~
8 ~~use of Fund holdings; providing for the construction of a certain part of this Act~~
9 providing for the distribution of certain revenues to the Fund; providing for
10 expenditures from the Fund by appropriation; prohibiting the Fund from being
11 expended in violation of certain restrictions or limitations; requiring the Fund to
12 be expended for certain purposes; requiring that priority be given to certain
13 purposes; providing that disbursements from the Fund to certain programs be
14 used in a certain manner; authorizing certain funds to be expended for any legal
15 purpose; requiring the Governor to prepare a certain plan; requiring the
16 Governor to submit a certain plan to the General Assembly by a certain date;
17 requiring the Governor to include certain information in the annual State
18 budget submission; requiring the Governor to report certain information;
19 providing that this Act applies to certain funds estimated in a certain State
20 budget; and generally relating to the ~~Tobacco~~ Cigarette Restitution Fund.

21 BY adding to
22 Article - State Finance and Procurement
23 Section 7-317
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1998 Supplement)

1

Preamble

2 WHEREAS, The State of Maryland has agreed to the settlement of litigation
3 against tobacco manufacturers; and

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

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

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

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

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

16

Article - State Finance and Procurement

17 7-317.

18 (A) ~~THERE IS A TOBACCO~~ CIGARETTE RESTITUTION FUND.

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

21 (2) THERE SHALL BE CREDITED TO THE FUND ALL REVENUES
22 CONSISTING OF FUNDS RECEIVED BY THE STATE FROM ANY SOURCE RESULTING,
23 DIRECTLY OR INDIRECTLY, FROM ANY JUDGMENT AGAINST OR SETTLEMENT WITH
24 TOBACCO PRODUCT MANUFACTURERS, TOBACCO RESEARCH ASSOCIATIONS, OR ANY
25 OTHER PERSON IN THE TOBACCO INDUSTRY RELATING TO LITIGATION,
26 ADMINISTRATIVE PROCEEDINGS, OR ANY OTHER CLAIMS MADE OR PROSECUTED BY
27 THE STATE TO RECOVER DAMAGES FOR VIOLATIONS OF STATE LAW ~~SHALL BE~~
28 ~~CREDITED TO THE FUND.~~

29 (C) THE TREASURER SHALL:

30 (1) INVEST AND REINVEST FUND ~~HOLDINGS~~ IN THE SAME MANNER AS
31 OTHER STATE FUNDS; AND

32 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

33 (D) EXPENDITURES FROM THE FUND SHALL BE MADE BY AN APPROPRIATION
34 IN THE ANNUAL STATE BUDGET.

1 (E) (1) THE FUND SHALL BE EXPENDED SUBJECT TO ANY RESTRICTIONS ON
2 ITS USE OR OTHER LIMITATIONS ON ITS ALLOCATION THAT ARE:

3 (I) EXPRESSLY PROVIDED BY STATUTE;

4 (II) REQUIRED AS A CONDITION OF THE ACCEPTANCE OF FUNDS;
5 OR

6 (III) DETERMINED TO BE NECESSARY TO AVOID RECOUPMENT BY
7 THE FEDERAL GOVERNMENT OF MONEY PAID TO THE FUND.

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

13 (F) (1) EXPENDITURES FROM THE CIGARETTE RESTITUTION FUND SHALL
14 BE MADE FOR THE FOLLOWING PURPOSES:

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

16 (II) IMPLEMENTATION OF THE SOUTHERN MARYLAND REGIONAL
17 STRATEGY-ACTION PLAN FOR AGRICULTURE ADOPTED BY THE TRI-COUNTY
18 COUNCIL FOR SOUTHERN MARYLAND WITH AN EMPHASIS ON ALTERNATIVE CROP
19 USES FOR AGRICULTURAL LAND NOW USED FOR GROWING TOBACCO;

20 (III) PUBLIC AND SCHOOL EDUCATION CAMPAIGNS TO DECREASE
21 TOBACCO USE WITH INITIAL EMPHASIS ON AREAS TARGETED BY TOBACCO
22 MANUFACTURERS IN MARKETING AND PROMOTING CIGARETTE AND TOBACCO
23 PRODUCTS;

24 (IV) SMOKING CESSATION PROGRAMS;

25 (V) ENFORCEMENT OF THE LAWS REGARDING TOBACCO SALES;

26 (VI) THE PURPOSES OF THE MARYLAND HEALTH CARE
27 FOUNDATION UNDER TITLE 20, SUBTITLE 5 OF THE HEALTH - GENERAL ARTICLE;

28 (VII) PRIMARY HEALTH CARE IN RURAL AREAS OF THE STATE AND
29 AREAS TARGETED BY TOBACCO MANUFACTURERS IN MARKETING AND PROMOTING
30 CIGARETTE AND TOBACCO PRODUCTS;

31 (VIII) PREVENTION, TREATMENT, AND RESEARCH CONCERNING
32 CANCER, HEART DISEASE, LUNG DISEASE, TOBACCO PRODUCT USE, AND TOBACCO
33 CONTROL, INCLUDING OPERATING COSTS AND RELATED CAPITAL PROJECTS;

34 (IX) SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS;
35 AND

36 (X) ANY OTHER PUBLIC PURPOSE.

1 (2) THE PROVISIONS OF THIS SUBSECTION MAY NOT BE CONSTRUED TO
2 AFFECT THE GOVERNOR'S POWERS WITH RESPECT TO A REQUEST FOR AN
3 APPROPRIATION IN THE ANNUAL BUDGET BILL.

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

6 (2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
7 APPROPRIATIONS FROM THE FUND EQUIVALENT TO THE LESSER OF \$100,000,000 OR
8 90% OF THE FUNDS ESTIMATED TO BE AVAILABLE TO THE FUND IN THE FISCAL YEAR
9 FOR WHICH THE APPROPRIATIONS ARE MADE.

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

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

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

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

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

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

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

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

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

1 SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect July 1, 1999.