

SENATE BILL 708

C8

3lr1663
CF HB 948

By: **Senators Madaleno, Forehand, Garagiola, and Rosapepe**

Introduced and read first time: February 1, 2013

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Tobacco-Related Disease Products Research, Development, and**
3 **Commercialization Program**

4 FOR the purpose of establishing the Tobacco-Related Disease Products Research,
5 Development, and Commercialization Program; specifying the purpose of the
6 Program; establishing the Tobacco-Related Disease Products Research,
7 Development, and Commercialization Fund as a special, nonlapsing fund;
8 specifying the purpose of the Fund; requiring the Maryland Biotechnology
9 Center in the Department of Business and Economic Development to administer
10 the Fund; requiring the State Treasurer to hold the Fund and the Comptroller
11 to account for the Fund; specifying the contents of the Fund; specifying the
12 purpose for which the Fund may be used; providing for the investment of money
13 in and expenditures from the Fund; establishing certain criteria and certain
14 award amounts for grants awarded under the Program; requiring certain
15 recipients of Program funds to pay a certain royalty; authorizing the
16 Department to adopt certain regulations; exempting the Fund from a certain
17 provision of law requiring interest on State money in special funds to accrue to
18 the General Fund of the State; requiring the Governor to make a certain
19 appropriation, beginning in a certain fiscal year, from the Cigarette Restitution
20 Fund each year under certain circumstances; defining certain terms; providing
21 for the termination of this Act; and generally relating to the
22 Tobacco-Related Disease Products Research, Development, and
23 Commercialization Program.

24 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Economic Development
2 Section 5–1401 through 5–1406 to be under the new subtitle “Subtitle 14.
3 Tobacco–Related Disease Products Research, Development, and
4 Commercialization Program”
5 Annotated Code of Maryland
6 (2008 Volume and 2012 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – State Finance and Procurement
9 Section 6–226(a)(2)(ii)69. and 70. and 7–317(g)
10 Annotated Code of Maryland
11 (2009 Replacement Volume and 2012 Supplement)

12 BY adding to
13 Article – State Finance and Procurement
14 Section 6–226(a)(2)(ii)71.
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 Preamble

18 WHEREAS, The United States Surgeon General has determined that cigarette
19 smoking causes lung cancer, heart disease, and other serious diseases and that there
20 are hundreds of tobacco–related deaths in the United States each year; and

21 WHEREAS, Because cigarette smoking presents serious public health concerns,
22 leading United States tobacco product manufacturers entered into a settlement
23 agreement on November 23, 1998, entitled the “Master Settlement Agreement” with
24 the State of Maryland; and

25 WHEREAS, The Master Settlement Agreement obligates these manufacturers
26 to pay substantial sums to the State of Maryland, in return for a release of past,
27 present, and certain future claims against them as described in the Agreement; and

28 WHEREAS, The Master Settlement Agreement has resulted in approximately
29 \$1.5 billion in payments to the State of Maryland from leading United States tobacco
30 product manufacturers; and

31 WHEREAS, The State of Maryland received approximately \$150 million in
32 fiscal year 2012 through the Master Settlement Agreement and annual payments are
33 anticipated for at least the next 15 years; and

34 WHEREAS, The Biotechnology Industry Organization reports that 16 states
35 have used funds from the Master Settlement Agreement to support the biotechnology
36 industry in those states; and

1 WHEREAS, Although the biotechnology industry is a pillar of job creation in
2 the State, to date Maryland has not used any funds from the Master Settlement
3 Agreement to support its biotechnology industry; and

4 WHEREAS, Small biotechnology companies have access to only approximately
5 3% of the \$27 billion in yearly grant funding for research and development provided
6 through the National Institutes of Health; now, therefore,

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

9 **Article – Economic Development**

10 **SUBTITLE 14. TOBACCO-RELATED DISEASE PRODUCTS RESEARCH,**
11 **DEVELOPMENT, AND COMMERCIALIZATION PROGRAM.**

12 **5-1401.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) “FUND” MEANS THE TOBACCO-RELATED DISEASE PRODUCTS
16 RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION FUND ESTABLISHED
17 UNDER § 5-1403 OF THIS SUBTITLE.

18 (C) “PROGRAM” MEANS THE TOBACCO-RELATED DISEASE PRODUCTS
19 RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION PROGRAM
20 ESTABLISHED UNDER § 5-1402 OF THIS SUBTITLE.

21 **5-1402.**

22 (A) THERE IS A TOBACCO-RELATED DISEASE PRODUCTS RESEARCH,
23 DEVELOPMENT, AND COMMERCIALIZATION PROGRAM IN THE DEPARTMENT.

24 (B) THE PURPOSE OF THE PROGRAM IS TO PROMOTE THE RESEARCH,
25 DEVELOPMENT, AND COMMERCIALIZATION OF INNOVATIVE PRODUCTS AND
26 TECHNOLOGIES THAT ADDRESS TOBACCO-RELATED DISEASES.

27 **5-1403.**

28 (A) THERE IS A TOBACCO-RELATED DISEASE PRODUCTS RESEARCH,
29 DEVELOPMENT, AND COMMERCIALIZATION FUND IN THE DEPARTMENT.

30 (B) THE PURPOSE OF THE FUND IS TO PROVIDE GRANT MONEY TO
31 SUPPORT THE PURPOSES OF THE PROGRAM.

1 (C) THE MARYLAND BIOTECHNOLOGY CENTER IN THE DEPARTMENT
2 SHALL ADMINISTER THE FUND.

3 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
4 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

5 (2) THE STATE TREASURER SHALL HOLD THE FUND
6 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

7 (E) THE FUND CONSISTS OF:

8 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND,
9 INCLUDING MONEY APPROPRIATED FROM THE CIGARETTE RESTITUTION FUND
10 ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND PROCUREMENT
11 ARTICLE;

12 (2) ROYALTIES RECEIVED UNDER § 5-1405 OF THIS SUBTITLE;

13 (3) INVESTMENT EARNINGS OF THE FUND; AND

14 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
15 THE BENEFIT OF THE FUND.

16 (F) THE FUND SHALL BE USED TO COVER THE COSTS OF THE
17 PROGRAM, INCLUDING ANY GRANTS THAT ARE AWARDED TO ELIGIBLE
18 RECIPIENTS.

19 (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE
20 FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

21 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID
22 INTO THE FUND.

23 (H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN
24 ACCORDANCE WITH THE STATE BUDGET.

25 5-1404.

26 (A) IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND
27 MENTAL HYGIENE, THE MARYLAND BIOTECHNOLOGY CENTER IN THE
28 DEPARTMENT SHALL AWARD GRANTS TO APPLICANTS FOR RESEARCH,
29 DEVELOPMENT, AND COMMERCIALIZATION OF INNOVATIVE PRODUCTS AND

1 TECHNOLOGIES THAT ADDRESS TOBACCO-RELATED DISEASES, INCLUDING
2 THERAPEUTICS, DIAGNOSTICS, AND MEDICAL DEVICES.

3 (B) THE DEPARTMENT SHALL AWARD GRANTS TO APPLICANTS ON A
4 COMPETITIVE BASIS, WITH PRIORITY GIVEN TO THE FOLLOWING CRITERIA:

5 (1) THE TECHNICAL AND SCIENTIFIC MERIT OF THE APPLICANT'S
6 PROPOSAL AND ITS POTENTIAL ABILITY TO ADDRESS THE UNMET MEDICAL
7 NEEDS OF THE CITIZENS OF MARYLAND, INCLUDING THE NEEDS OF SMOKERS,
8 FORMER SMOKERS, AND NONSMOKERS EXPOSED TO SECONDHAND SMOKE;

9 (2) THE DEGREE OF THE ASSOCIATION BETWEEN CIGARETTE
10 SMOKING AND THE DISEASE BEING ADDRESSED BY THE APPLICANT'S
11 PROPOSAL;

12 (3) THE AMOUNT OF TIME THE PROPOSAL IS LIKELY TO TAKE TO
13 RESULT IN A LATE-STAGE CLINICAL TRIAL OR A MARKETED PRODUCT, WITH
14 PRIORITY GIVEN TO:

15 (I) IN THE CASE OF THERAPEUTICS, PROPOSALS
16 REASONABLY LIKELY TO RESULT IN A LATE-STAGE CLINICAL TRIAL WITHIN 3
17 YEARS FROM THE END OF THE PROJECT PERIOD; OR

18 (II) IN THE CASE OF DEVICES AND DIAGNOSTICS,
19 PROPOSALS REASONABLY LIKELY TO RESULT IN A MARKETED PRODUCT WITHIN
20 3 YEARS OF THE END OF THE PROJECT PERIOD;

21 (4) THE APPLICANT'S TRACK RECORD IN BRINGING PRODUCTS TO
22 MARKET;

23 (5) THE APPLICANT'S TRACK RECORD IN LEVERAGING OTHER
24 FUNDING SOURCES, INCLUDING PRIVATE CAPITAL; AND

25 (6) THE POTENTIAL FOR THE CREATION OF NEW JOBS IN THE
26 STATE THAT CAN BE SUSTAINED WITHOUT CONTINUED STATE FUNDING,
27 INCLUDING MANUFACTURING JOBS.

28 (C) AN APPLICANT MAY NOT RECEIVE MORE THAN ONE GRANT AWARD
29 PER FISCAL YEAR.

30 (D) GRANT AWARDS SHALL BE IN THE FOLLOWING AMOUNTS:

31 (1) \$200,000 FOR A SINGLE COMPANY; OR

1 **(2) \$300,000 FOR A COMPANY COLLABORATING WITH A**
2 **NONPROFIT MEDICAL RESEARCH INSTITUTE OR CARE FACILITY IN THE STATE.**

3 **5-1405.**

4 **(A) (1) PROGRAM RECIPIENTS WHO DEVELOP OR IMPROVE A**
5 **PRODUCT OR SERVICE WITH MONEY FROM THE FUND, WHICH RESULTS IN A**
6 **MARKETED PRODUCT OR SERVICE, SHALL PAY THE STATE A ROYALTY OF 3% OF**
7 **NET SALES OF THE PRODUCT OR SERVICE.**

8 **(2) THE TOTAL AMOUNT OF A ROYALTY PAID BY A PROGRAM**
9 **RECIPIENT UNDER THIS SECTION MAY NOT BE MORE THAN 300% OF THE**
10 **AMOUNT OF THE GRANT RECEIVED UNDER THE PROGRAM.**

11 **(B) ROYALTIES RECEIVED UNDER THIS SECTION SHALL BE DEPOSITED**
12 **IN THE FUND AND USED TO PROVIDE FUTURE AWARDS UNDER THE PROGRAM.**

13 **5-1406.**

14 **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE**
15 **PROVISIONS OF THIS SECTION.**

16 **Article – State Finance and Procurement**

17 **6-226.**

18 (a) (2) (ii) The provisions of subparagraph (i) of this paragraph do not
19 apply to the following funds:

20 69. the Maryland Legal Services Corporation Fund; [and]

21 70. Mortgage Loan Servicing Practices Settlement Fund;

22 **AND**

23 **71. TOBACCO-RELATED DISEASE PRODUCTS**
24 **RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION FUND.**

25 **7-317.**

26 (g) (1) Amounts may only be expended from the Fund through
27 appropriations in the State budget bill as provided in this subsection.

28 (2) The Governor shall include in the annual budget bill
29 appropriations from the Fund equivalent to the lesser of \$100,000,000 or 90% of the

1 funds estimated to be available to the Fund in the fiscal year for which the
2 appropriations are made.

3 (3) For each fiscal year for which appropriations are made, at least
4 50% of the appropriations shall be made for those purposes enumerated in subsection
5 (f)(1)(i), (ii), and (iii) 1 through 9 of this section subject to the requirement of subsection
6 (e)(2) of this section.

7 (4) (I) For each fiscal year for which appropriations are made, at
8 least 30% of the appropriations shall be made for the purposes of the Maryland
9 Medical Assistance Program.

10 (II) FROM THE APPROPRIATIONS MADE UNDER
11 SUBPARAGRAPH (I) OF THIS PARAGRAPH, ~~\$3,000,000~~ BEGINNING IN FISCAL
12 YEAR 2015, \$1,000,000 SHALL BE APPROPRIATED TO THE TOBACCO-RELATED
13 DISEASE PRODUCTS RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION
14 FUND ESTABLISHED UNDER § 5-1403 OF THE ECONOMIC DEVELOPMENT
15 ARTICLE.

16 (5) For each fiscal year for which appropriations are made, 0.15% of
17 the Fund shall be appropriated for the purposes of enforcement of Title 16, Subtitle 5
18 of the Business Regulation Article.

19 (6) Any additional appropriations, not subject to paragraph (3),
20 paragraph (4), or paragraph (5) of this subsection, may be made for any lawful
21 purpose.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2013. It shall remain effective for a period of 5 years and, at the end of June 30,
24 2018, with no further action required by the General Assembly, this Act shall be
25 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.