

HOUSE BILL 596

Unofficial Copy  
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1999 Regular Session  
9r1241  
CF 9r1728

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By: **Delegates Hurson, Pitkin, Hubbard, Montague, Morhaim, Moe, Sher,  
Petzold, Frush, Grosfeld, Mandel, Valderrama, Marriott, Hixson,  
Bronrott, Dypski, Healey, Nathan-Pulliam, and Boutin**

Introduced and read first time: February 11, 1999

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Tobacco Control Foundation**

3 FOR the purpose of establishing a Maryland Tobacco Control Foundation;  
4 establishing a Board of Trustees of the Foundation; providing for the  
5 membership of the Board; specifying the purposes, powers, and duties of the  
6 Foundation; requiring the Foundation to deposit or invest money in a certain  
7 manner; exempting the Foundation from certain provisions of law; defining a  
8 certain term; and generally relating to the establishment of the Maryland  
9 Tobacco Control Foundation.

10 BY adding to

11 Article - Health - General  
12 Section 20-701 through 20-710, inclusive, to be under the new subtitle "Subtitle  
13 7. Maryland Tobacco Control Foundation"  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1998 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - State Government  
18 Section 15-601(c)  
19 Annotated Code of Maryland  
20 (1995 Replacement Volume and 1998 Supplement)

21 **Preamble**

22 WHEREAS, Smoking and smokeless tobacco use kills more than 7,000  
23 Marylanders each year and is the State's leading preventable cause of death and  
24 chronic disease; and

25 WHEREAS, The available evidence indicates that a comprehensive statewide  
26 tobacco control program is critical to alleviating the death and suffering caused from  
27 smoking and smokeless tobacco use; and

1 WHEREAS, The recent financial settlement with tobacco product  
2 manufacturers provides an opportunity to create and fund an independent nonprofit  
3 foundation that can develop and implement a statewide tobacco use prevention  
4 program; and

5 WHEREAS, The Centers for Disease Control and Prevention reports that a very  
6 effective tobacco prevention and control program can be implemented in Maryland by  
7 utilizing one-third of the expected settlement funds; and

8 WHEREAS, The Foundation can alleviate the underlying problems that caused  
9 the State lawsuit and oversee one of the most historic health initiatives in the history  
10 of Maryland; now, therefore,

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

13 **Article - Health - General**

14 **SUBTITLE 7. MARYLAND TOBACCO CONTROL FOUNDATION.**

15 20-701.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (B) "FOUNDATION" MEANS THE MARYLAND TOBACCO CONTROL FOUNDATION.  
19 20-702.

20 THERE IS A NONPROFIT MARYLAND TOBACCO CONTROL FOUNDATION  
21 ESTABLISHED TO DEVELOP AND IMPLEMENT A STATEWIDE TOBACCO CONTROL  
22 PROGRAM TO PREVENT THE DEATH AND SUFFERING CAUSED FROM SMOKING AND  
23 SMOKELESS TOBACCO USE IN MARYLAND AND TO RECEIVE MONEYS THAT CAN BE  
24 USED TO RESEARCH SUCCESSFUL PRACTICES DEVELOPED IN OTHER STATE  
25 PROGRAMS AND PROVIDE PROGRAMMING, COUNTERMARKETING, AND GRANTS TO  
26 PUBLIC HEALTH ORGANIZATIONS DEDICATED TO PREVENTING AND ELIMINATING  
27 THE EFFECTS OF TOBACCO.

28 20-703.

29 THE PURPOSE OF THE MARYLAND TOBACCO CONTROL FOUNDATION IS  
30 DECLARED TO BE OF GENERAL BENEFIT TO THE CITIZENS AND CHARITABLE IN  
31 NATURE. THE FOUNDATION SHALL BE A BODY CORPORATE AND SHALL HAVE  
32 PERPETUAL EXISTENCE, SUBJECT TO MODIFICATION OR TERMINATION BY THE  
33 GENERAL ASSEMBLY IF NECESSARY TO EFFECTUATE THE PURPOSE OF THE  
34 FOUNDATION OR WHEN AND IF THE SUBSTANTIAL PURPOSE OF THE FOUNDATION  
35 CEASES.

1 20-704.

2 (A) THE POWERS AND DUTIES OF THE MARYLAND TOBACCO CONTROL  
3 FOUNDATION SHALL REST IN AND BE EXERCISED BY A BOARD OF TRUSTEES.

4 (B) THE BOARD OF TRUSTEES SHALL CONSIST OF 13 MEMBERS:

5 (1) TWO INDIVIDUALS APPOINTED BY THE GOVERNOR;

6 (2) TWO MEMBERS OF THE SENATE OF MARYLAND APPOINTED BY THE  
7 PRESIDENT;

8 (3) TWO MEMBERS OF THE HOUSE OF DELEGATES OF MARYLAND  
9 APPOINTED BY THE SPEAKER;

10 (4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

11 (5) THE STATE SUPERINTENDENT OF SCHOOLS;

12 (6) ONE REPRESENTATIVE OF THE AMERICAN CANCER SOCIETY;

13 (7) ONE REPRESENTATIVE OF THE AMERICAN HEART ASSOCIATION;

14 (8) ONE REPRESENTATIVE OF THE AMERICAN LUNG ASSOCIATION;

15 (9) ONE REPRESENTATIVE OF THE STATE MEDICAL AND CHIRURGICAL  
16 FACULTY; AND

17 (10) ONE REPRESENTATIVE OF THE SMOKE FREE MARYLAND COALITION.

18 (C) EXCEPT FOR THE EX OFFICIO MEMBERS OR THEIR DESIGNEES:

19 (1) THE TERM OF A MEMBER IS 4 YEARS.

20 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
21 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 1999.

22 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
23 SUCCESSOR IS APPOINTED AND QUALIFIES.

24 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
25 FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
26 QUALIFIES.

27 (5) A MEMBER MAY SERVE NO MORE THAN TWO TERMS.

28 20-705.

29 (A) THE BOARD OF TRUSTEES SHALL ELECT ONE OF THEIR MEMBERS TO  
30 SERVE AS CHAIRMAN.

1 (B) THE BOARD SHALL MEET AT PLACES AND DATES TO BE DETERMINED BY  
2 THE BOARD, BUT NOT LESS THAN TWO TIMES A YEAR.

3 (C) TEN TRUSTEES SHALL CONSTITUTE A QUORUM.

4 (D) A TRUSTEE:

5 (1) MAY NOT RECEIVE COMPENSATION; BUT

6 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
7 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

8 (E) THE STATE AGENCIES REPRESENTED ON THE FOUNDATION SHALL  
9 PROVIDE SUPPLIES AND OFFICE SPACE AND SHALL BE REIMBURSED FOR THESE  
10 EXPENSES FROM MONEYS OF THE FOUNDATION.

11 (F) (1) THE BOARD OF TRUSTEES SHALL APPOINT AN EXECUTIVE DIRECTOR  
12 WHO SHALL BE THE CHIEF ADMINISTRATIVE OFFICER OF THE FOUNDATION AND  
13 WHO SHALL SERVE AT THE PLEASURE OF THE BOARD OF TRUSTEES.

14 (2) THE BOARD OF TRUSTEES SHALL DETERMINE THE COMPENSATION  
15 FOR THE EXECUTIVE DIRECTOR.

16 (3) UNDER THE DIRECTION OF THE BOARD OF TRUSTEES, THE  
17 EXECUTIVE DIRECTOR SHALL PERFORM ANY DUTY OR FUNCTION THAT THE BOARD  
18 OF TRUSTEES REQUIRES.

19 (4) THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE BOARD OF  
20 TRUSTEES, MAY EMPLOY ANY ADDITIONAL STAFF.

21 (G) THE FOUNDATION IS SUBJECT TO THE PROVISIONS OF § 15-601(C) OF THE  
22 STATE GOVERNMENT ARTICLE.

23 (H) THE FOUNDATION SHALL PREPARE CAPITAL AND OPERATING BUDGETS.

24 (I) FOR INFORMATION ONLY, THE FOUNDATION SHALL SUBMIT THE  
25 BUDGETS TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE  
26 APPROPRIATIONS COMMITTEE.

27 20-706.

28 (A) THE FOUNDATION SHALL:

29 (1) BE FUNDED BY REVENUES CONSISTING OF ONE-THIRD OF THE  
30 FUNDS RECEIVED BY THE STATE FROM ANY SOURCE AS A DIRECT OR INDIRECT  
31 RESULT OF ANY JUDGMENT AGAINST OR SETTLEMENT WITH TOBACCO PRODUCT  
32 MANUFACTURERS, TOBACCO RESEARCH ASSOCIATIONS, OR ANY OTHER PERSON IN  
33 THE TOBACCO INDUSTRY RELATING TO LITIGATION, ADMINISTRATIVE  
34 PROCEEDINGS, OR ANY OTHER CLAIM MADE OR PROSECUTED BY THE STATE TO  
35 RECOVER DAMAGES FOR VIOLATION OF STATE LAWS;

1           (2)     SOLICIT AND ACCEPT ANY GIFT, GRANT, LEGACY, OR ENDOWMENT  
2 OF MONEY, INCLUDING IN-KIND SERVICES, FROM THE FEDERAL GOVERNMENT,  
3 STATE GOVERNMENT, LOCAL GOVERNMENT, OR ANY PRIVATE SOURCE IN  
4 FURTHERANCE OF THE FOUNDATION;

5           (3)     DEVELOP A COMPREHENSIVE STATEWIDE TOBACCO CONTROL  
6 PROGRAM;

7           (4)     STUDY THE SUCCESSFUL PRACTICES DEVELOPED IN OTHER STATE  
8 PROGRAMS AND THE RESEARCH FROM THE CENTER FOR DISEASE CONTROL TO  
9 DEVELOP A COMPREHENSIVE STATEWIDE TOBACCO CONTROL PROGRAM;

10          (5)     PROVIDE GRANTS TO PROGRAMS THAT:

11                   (I)     PROMOTE PUBLIC AWARENESS OF THE NEED TO PREVENT AND  
12 ELIMINATE THE EFFECTS OF TOBACCO IN THIS STATE;

13                   (II)    EXPAND ACCESS TO PREVENTION SERVICES TO MARYLANDERS;

14                   (III)   PUBLISH OR PRODUCE EDUCATIONAL MATERIALS ON THE  
15 IMPLEMENTATION OF A STATEWIDE TOBACCO PREVENTION AND CONTROL  
16 PROGRAM; OR

17                   (IV)    PROVIDE PROGRAMMING AND COUNTERMARKETING  
18 DEDICATED TO ELIMINATING THE EFFECTS OF TOBACCO USE; AND

19          (6)     DEVELOP PROGRAMS FOR SPONSORSHIP BY CORPORATE AND  
20 BUSINESS ORGANIZATIONS OR PRIVATE INDIVIDUALS;

21          (7)     DEVELOP CRITERIA FOR AWARDING GRANTS TO PUBLIC HEALTH  
22 ORGANIZATIONS DEDICATED TO PREVENTING AND ELIMINATING THE EFFECTS OF  
23 TOBACCO IN THE STATE;

24          (8)     DEVELOP CRITERIA FOR PRIORITIZING PROGRAMS TO BE  
25 SUPPORTED;

26          (9)     DEVELOP CRITERIA FOR EVALUATING THE EFFECTIVENESS OF  
27 PROGRAMS RECEIVING GRANTS;

28          (10)    MAKE, EXECUTE, AND ENTER INTO ANY CONTRACT OR OTHER LEGAL  
29 INSTRUMENT;

30          (11)    RECEIVE APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET OR  
31 REVENUES FROM THE TOBACCO PRODUCTS SETTLEMENTS;

32          (12)    LEASE AND MAINTAIN AN OFFICE AT A PLACE WITHIN THE STATE  
33 THAT THE FOUNDATION DESIGNATES;

34          (13)    ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE  
35 CONDUCT OF ITS BUSINESS;

1 (14) TAKE ANY OTHER ACTION NECESSARY TO CARRY OUT THE  
2 PURPOSES OF THE FOUNDATION; AND

3 (15) REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF  
4 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON ITS ACTIVITIES  
5 DURING THE PRECEDING YEAR, INCLUDING AN EVALUATION OF THE  
6 EFFECTIVENESS OF FUNDED PROGRAMS, TOGETHER WITH ANY RECOMMENDATIONS  
7 OR REQUESTS DEEMED APPROPRIATE TO FURTHER THE PURPOSES OF THE  
8 FOUNDATION.

9 (B) THE FOUNDATION MAY SUE AND BE SUED, BUT ONLY TO ENFORCE  
10 CONTRACTUAL OR SIMILAR AGREEMENTS WITH THE FOUNDATION.

11 20-707.

12 (A) IN DEVELOPING THE CRITERIA FOR AWARDING GRANTS TO PUBLIC  
13 HEALTH ORGANIZATIONS DEDICATED TO PREVENTING AND ELIMINATING THE  
14 EFFECTS OF TOBACCO IN THE STATE, THE FOUNDATION MAY CONSIDER ACTIVITIES  
15 THAT:

16 (1) PROVIDE PREVENTIVE SERVICES TO MARYLANDERS;

17 (2) PROVIDE ASSISTANCE TO COMMUNITY PROGRAMMING FOR  
18 IMPROVING TOBACCO USE PREVENTION;

19 (3) PUBLISH OR PRODUCE EDUCATIONAL MATERIALS ON THE  
20 IMPLEMENTATION OF A STATEWIDE TOBACCO PREVENTION AND CONTROL  
21 PROGRAM;

22 (4) PROVIDE EDUCATIONAL SCHOLARSHIPS OR TRAINING; OR

23 (5) FOSTER THE CREATION OF ADDITIONAL PUBLIC HEALTH  
24 ORGANIZATIONS TO MEET THE NEEDS OF IMPLEMENTING A STATEWIDE TOBACCO  
25 PREVENTION AND CONTROL PROGRAM.

26 (B) THE FOUNDATION MAY NOT CONSIDER ACTIVITIES THAT ADVOCATE A  
27 POLITICAL CANDIDATE OR POLITICAL SOLUTION.

28 20-708.

29 TO THE EXTENT FEASIBLE, THE FOUNDATION SHALL CONSIDER  
30 GEOGRAPHICAL BALANCE IN PROVIDING GRANTS AND DEVELOPING PROGRAMS.

31 20-709.

32 (A) (1) ALL MONEY RECEIVED BY THE FOUNDATION SHALL BE DEPOSITED,  
33 AS DIRECTED BY THE BOARD OF TRUSTEES, IN ANY STATE OR NATIONAL BANK OR  
34 FEDERALLY OR STATE INSURED SAVINGS AND LOAN ASSOCIATION LOCATED IN THE  
35 STATE HAVING A TOTAL PAID-IN CAPITAL OF AT LEAST \$1,000,000.

1 (2) THE TRUST DEPARTMENT OF ANY STATE OR NATIONAL BANK OR  
2 SAVINGS AND LOAN ASSOCIATION MAY BE DESIGNATED AS A DEPOSITORY TO  
3 RECEIVE ANY SECURITIES ACQUIRED OR OWNED BY THE FOUNDATION.

4 (3) THE RESTRICTION WITH RESPECT TO PAID-IN CAPITAL MAY BE  
5 WAIVED FOR ANY QUALIFYING BANK OR SAVINGS AND LOAN ASSOCIATION THAT  
6 AGREES TO PLEDGE SECURITIES OF THE STATE OR OF THE UNITED STATES TO  
7 PROTECT THE FUNDS AND SECURITIES OF THE FOUNDATION IN AMOUNTS AND  
8 UNDER ARRANGEMENTS ACCEPTABLE TO THE FOUNDATION.

9 (B) AFTER BEING DEPOSITED IN ACCORDANCE WITH SUBSECTION (A) OF THIS  
10 SECTION, ANY MONEY OF THE FOUNDATION, IN THE DISCRETION OF THE BOARD OF  
11 TRUSTEES AND UNLESS OTHERWISE PROVIDED IN ANY AGREEMENT OR COVENANT  
12 BETWEEN THE FOUNDATION AND THE HOLDERS OF ANY OF ITS OBLIGATIONS  
13 LIMITING OR RESTRICTING CLASSES OF INVESTMENTS, MAY BE INVESTED IN BONDS  
14 OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY,  
15 THE UNITED STATES, THE STATE, OR THE POLITICAL SUBDIVISIONS OR UNITS OF  
16 THE STATE.

17 (C) THE FOUNDATION SHALL PROVIDE FOR A SYSTEM OF FINANCIAL  
18 ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

19 (D) THE BOOKS, RECORDS, AND ACCOUNTS OF THE FOUNDATION ARE  
20 SUBJECT TO AUDIT BY THE STATE.

21 20-710.

22 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN  
23 EXERCISING ITS POWERS, THE FOUNDATION:

24 (1) IS EXEMPT FROM THE PROVISIONS OF THE STATE FINANCE AND  
25 PROCUREMENT ARTICLE, THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL  
26 AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT  
27 SYSTEM, THE PROVISIONS OF DIVISION II AND TITLE 37 OF THE STATE PERSONNEL  
28 AND PENSIONS ARTICLE, AND THE PROVISIONS OF ARTICLE 78A OF THE CODE; AND

29 (2) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING  
30 THE CONSENT OF ANY DEPARTMENT, BOARD, OR AGENCY OF THE STATE.

31 (B) THE FOUNDATION IS SUBJECT TO THE PROVISIONS OF THE STATE  
32 FINANCE AND PROCUREMENT ARTICLE TO THE EXTENT OF STATE APPROPRIATIONS,  
33 IF ANY.

34 **Article - State Government**

35 15-601.

36 (c) An individual who is a public official only as a member of a board[ or],  
37 who is a member of the Board of Trustees of the Maryland Health Care Foundation  
38 established under § 2-501 of the Health - General Article, OR WHO IS A MEMBER OF

1 THE BOARD OF TRUSTEES OF THE MARYLAND TOBACCO CONTROL FOUNDATION  
2 ESTABLISHED UNDER § 2-701 OF THE HEALTH - GENERAL ARTICLE and who receives  
3 annual compensation that is less than 25% of the lowest annual compensation at  
4 State grade level 16 shall file the statement required by subsection (a) of this section  
5 in accordance with § 15-609 of this subtitle.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 1999.