
By: **Delegates Doory, Jameson, Parrott, Vaughn, and Wood**

Introduced and read first time: January 30, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Product Manufacturers - Master Settlement Agreement - Escrow**
3 **Requirements**

4 FOR the purpose of specifying that the amounts tobacco product manufacturers are
5 required to place into escrow accounts are based on a certain factor; altering the
6 circumstances under which the funds in escrow accounts may be released;
7 making the provisions of this Act severable; providing for the termination of this
8 Act under certain circumstances; and generally relating to tobacco product
9 manufacturers and certain escrow accounts.

10 BY repealing and reenacting, without amendments,
11 Chapter 169 of the Acts of the General Assembly of 1999, as amended by
12 Chapter 141 of the Acts of the General Assembly of 2001
13 Section 1 2(j)

14 BY repealing and reenacting, with amendments,
15 Chapter 169 of the Acts of the General Assembly of 1999
16 Section 1 3(b)

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

19 **Chapter 169 of the Acts of 1999, as amended by Chapter 141 of the Acts of**
20 **2001**

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

23 2. (j) (1) "Tobacco product manufacturer" means an entity that, after the date of
24 enactment of this Act, directly and not exclusively through any affiliate:

25 (i) manufactures cigarettes anywhere that the manufacturer
26 intends them to be sold in the United States, including cigarettes intended to be sold
27 in the United States through an importer (except where such importer is an original
28 participating manufacturer (as that term is defined in the Master Settlement

1 Agreement) that will be responsible for the payments under the Master Settlement
 2 Agreement with respect to such cigarettes as a result of the provisions of subsection
 3 II(mm) of the Master Settlement Agreement and that pays the taxes specified in
 4 subsection II(z) of the Master Settlement Agreement, and provided that the
 5 manufacturer of the cigarettes does not market or advertise the cigarettes in the
 6 United States);

7 (ii) is the first purchaser anywhere for resale in the United States
 8 of cigarettes manufactured anywhere that the manufacturer does not intend to be
 9 sold in the United States; or

10 (iii) becomes a successor of an entity described in subparagraph (i)
 11 or (ii) of this paragraph or paragraph (2) of this subsection.

12 (2) The term "tobacco product manufacturer" shall not include an
 13 affiliate of a tobacco product manufacturer unless such affiliate itself falls within any
 14 provisions of subparagraph (i), (ii), or (iii) of paragraph (1) of this subsection.

15 Chapter 169 of the Acts of 1999

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

18 3. (b) (1) A tobacco product manufacturer that places funds into escrow in
 19 accordance with subsection (a)(2) of this section shall receive the interest or other
 20 appreciation on the funds as earned.

21 (2) The funds themselves shall be released from escrow only under the
 22 following circumstances:

23 (i) to pay a judgment or settlement on any released claim brought
 24 against such tobacco product manufacturer by the State or any releasing party
 25 located or residing in the State. Funds shall be released from escrow under this
 26 subparagraph:

27 1. in the order in which they were placed into escrow; and

28 2. only to the extent and at the time necessary to make
 29 payments required under such judgment or settlement; or

30 (ii) to the extent that a tobacco product manufacturer establishes
 31 that the amount it was required to place into escrow ON ACCOUNT OF UNITS SOLD IN
 32 THE STATE in a particular year was greater than [the State's allocable share of the
 33 total payments that such manufacturer would have been required to make in that
 34 year under the Master Settlement Agreement (as determined pursuant to section
 35 IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or
 36 offsets described in section IX(i)(3) of that Agreement other than the inflation
 37 adjustment)] THE MASTER SETTLEMENT AGREEMENT PAYMENTS, AS DETERMINED
 38 PURSUANT TO SECTION IX(I) OF THAT AGREEMENT, INCLUDING AFTER FINAL
 39 DETERMINATION OF ALL ADJUSTMENTS, THAT SUCH MANUFACTURER WOULD HAVE

1 BEEN REQUIRED TO MAKE ON ACCOUNT OF SUCH UNITS SOLD had it been a
2 participating manufacturer, the excess shall be released from escrow and revert back
3 to such tobacco manufacturer; or

4 (iii) to the extent funds are not released from escrow under
5 subparagraph (i) or (ii) of paragraph (2) of this subsection, funds shall be released
6 from escrow and revert to such tobacco product manufacturer 25 years after the date
7 on which they were placed into escrow.

8 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
9 Act or the application thereof to any person or circumstance is held invalid for any
10 reason in a court of competent jurisdiction, the invalidity does not affect other
11 provisions or any other application of this Act which can be given effect without the
12 invalid provision or application, and for this purpose the provisions of this Act are
13 declared severable. Furthermore, if any provision of this Act or the application thereof
14 to any person or circumstance places the State out of compliance with the Master
15 Settlement Agreement or adversely impacts the State's payments under the Master
16 Settlement Agreement, this Act shall be abrogated and of no further force and effect.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect June 1, 2004.