

# SENATE BILL 594

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CF 7lr2065

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

Introduced and read first time: February 2, 2007

Assigned to: Finance and Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Biomedical Product Development Fund**

3 FOR the purpose of establishing the Maryland Biomedical Product Development  
4 Fund; providing for the purpose of the Fund; specifying that the Fund is a  
5 special, nonlapsing fund; specifying that the State Treasurer shall hold the  
6 Fund separately and that the Comptroller shall account for the Fund; specifying  
7 that certain proceeds shall be invested and reinvested in a certain manner;  
8 specifying that certain earnings shall be paid into the Fund; providing for the  
9 composition of the Fund; requiring the Maryland Technology Development  
10 Corporation to administer the Fund; providing that money in the Fund may  
11 only be used for certain purposes; requiring the Corporation, in consultation  
12 with the Department of Health and Mental Hygiene, to evaluate applications  
13 for grants from the Fund based on certain criteria; requiring the Corporation to  
14 award grants from the Fund in a certain manner; requiring the Corporation to  
15 issue a certain report to the Governor and the General Assembly on or before a  
16 certain date each year; altering the distribution of tobacco tax revenues;  
17 providing for the distribution of certain tobacco tax revenues to the Fund for  
18 certain purposes; altering the tobacco tax rate imposed on cigarettes; defining  
19 certain terms; providing for the application of this Act; and generally relating to  
20 funding of grants to address smoking related diseases.

21 BY adding to

22 Article 83A – Department of Business and Economic Development  
23 Section 5–2C–01 through 5–2C–04 to be under the new subtitle “Subtitle 2C.  
24 Maryland Biomedical Product Development Fund”  
25 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,  
Article – Tax – General  
Section 2–1601 and 2–1602  
Annotated Code of Maryland  
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 2–1603 and 12–105  
Annotated Code of Maryland  
(2004 Replacement Volume and 2006 Supplement)

BY adding to  
Article – Tax – General  
Section 2–1604  
Annotated Code of Maryland  
(2004 Replacement Volume and 2006 Supplement)

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

**Article 83A – Department of Business and Economic Development**

**SUBTITLE 2C. MARYLAND BIOMEDICAL PRODUCT DEVELOPMENT FUND.**

**5–2C–01.**

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

(B) “CORPORATION” MEANS THE MARYLAND TECHNOLOGY  
DEVELOPMENT CORPORATION.

(C) “FUND” MEANS THE MARYLAND BIOMEDICAL PRODUCT  
DEVELOPMENT FUND.

(D) “QUALIFIED APPLICANT” MEANS A FOR-PROFIT BUSINESS ENTITY  
THAT ENGAGES IN RESEARCH AND DEVELOPMENT OF BIOMEDICAL

1 TREATMENTS OR DEVICES AND THAT HAS A MAJORITY OF ITS EMPLOYEES  
2 WORKING IN THE STATE.

3 (E) (1) “SMOKING–RELATED DISEASE” MEANS A DISEASE THAT HAS A  
4 SIGNIFICANTLY INCREASED PREVALENCE AMONG CIGARETTE SMOKERS.

5 (2) “SMOKING–RELATED DISEASE” INCLUDES:

6 (I) LUNG CANCER;

7 (II) CHRONIC OBSTRUCTIVE PULMONARY DISEASE; AND

8 (III) CARDIOVASCULAR DISEASE.

9 **5–2C–02.**

10 (A) THERE IS A MARYLAND BIOMEDICAL PRODUCT DEVELOPMENT  
11 FUND.

12 (B) THE PURPOSE OF THE FUND IS TO SUPPORT THE RESEARCH AND  
13 DEVELOPMENT OF INNOVATIVE TREATMENTS, THERAPIES, DIAGNOSTICS, AND  
14 MEDICAL DEVICES THAT ADDRESS A SMOKING RELATED DISEASE.

15 (C) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
16 TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (D) THE STATE TREASURER SHALL HOLD THE FUND AND THE  
18 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

19 (E) THE PROCEEDS OF THE FUND SHALL BE INVESTED AND  
20 REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

21 (F) ANY INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

22 (G) THE FUND CONSISTS OF:

23 (1) THE TOBACCO TAX REVENUES DISTRIBUTED TO THE FUND  
24 UNDER § 2–1604 OF THE TAX – GENERAL ARTICLE; AND

1           (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED  
2 FOR THE BENEFIT OF THE FUND.

3           (H) THE CORPORATION, IN CONSULTATION WITH THE DEPARTMENT OF  
4 HEALTH AND MENTAL HYGIENE, SHALL ADMINISTER THE FUND.

5           (I) MONEY IN THE FUND MAY ONLY BE EXPENDED TO:

6                 (1) AWARD GRANTS FOR RESEARCH AND DEVELOPMENT OF  
7 INNOVATIVE TREATMENTS, THERAPIES, OR DIAGNOSTICS THAT ADDRESS ONE  
8 OR MORE SMOKING-RELATED DISEASES, AS PROVIDED IN § 5-2C-03 OF THIS  
9 SUBTITLE; AND

10                (2) PAY THE COSTS NECESSARY TO ADMINISTER THE FUND.

11 **5-2C-03.**

12           (A) THE CORPORATION, IN CONSULTATION WITH THE DEPARTMENT OF  
13 HEALTH AND MENTAL HYGIENE, SHALL EVALUATE APPLICATIONS FOR GRANTS  
14 FROM THE FUND AND AWARD GRANTS FROM THE FUND TO QUALIFIED  
15 APPLICANTS.

16           (B) THE CORPORATION SHALL EVALUATE APPLICATIONS FOR GRANTS  
17 FROM THE FUND BASED ON THE FOLLOWING CRITERIA:

18                 (1) THE SCIENTIFIC AND TECHNICAL MERIT OF THE PROPOSED  
19 PROJECT;

20                 (2) THE EXTENT TO WHICH THE PROPOSED PROJECT WOULD  
21 ADDRESS AN UNMET MEDICAL NEED FOR A SMOKING-RELATED DISEASE;

22                 (3) THE INNOVATION AND NOVELTY OF THE PROPOSED PROJECT;  
23 AND

24                 (4) THE ANTICIPATED ECONOMIC IMPACT FOR THE STATE.

25           (C) (1) A GRANT AWARDED FROM THE FUND SHALL BE BETWEEN  
26 \$150,000 AND \$1,500,000.

1           (2) IF A GRANT AWARDED IS GREATER THAN \$250,000, THEN THE  
2 CORPORATION SHALL PAY THE GRANT IN PHASES BASED ON ACHIEVEMENT OF  
3 NEGOTIATED TECHNICAL AND SCIENTIFIC MILESTONES.

4           (3) THE DURATION OF A FUNDED PROJECT SHALL BE BETWEEN 6  
5 MONTHS AND 3 YEARS.

6           (4) A QUALIFIED APPLICANT OR ITS COMMONLY OWNED OR  
7 CONTROLLED AFFILIATES MAY NOT RECEIVE MORE THAN \$1,000,000 IN A YEAR  
8 OR \$3,000,000 OVER 5 YEARS FROM THE FUND.

9           (D) A GRANT AWARDED UNDER THIS SUBTITLE SHALL BE CONTINGENT  
10 ON ENTRANCE INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE  
11 GRANTEE AND THE CORPORATION THAT:

12           (1) ESTABLISHES THE SCOPE OF THE STATE'S OWNERSHIP OR  
13 OTHER FINANCIAL INTEREST IN THE COMMERCIALIZATION AND OTHER  
14 BENEFITS OF THE RESULTS, PRODUCTS, INVENTIONS, AND DISCOVERIES OF  
15 FUNDED PROJECTS; AND

16           (2) TO THE EXTENT CONSISTENT WITH FEDERAL AND STATE LAW,  
17 REFLECTS THE INTELLECTUAL PROPERTY POLICIES OF THE GRANTEE.

18 **5-2C-04.**

19           (A) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE CORPORATION  
20 SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF  
21 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE  
22 AWARDED GRANTS FROM THE FUND.

23           (B) THE REPORT SHALL IDENTIFY:

24           (1) EACH GRANTEE THAT RECEIVED FUNDING FROM THE FUND;

25           (2) THE AMOUNT OF FUNDING AWARDED TO EACH GRANTEE; AND

26           (3) A DESCRIPTION OF THE FUNDED PROJECT PERFORMED BY  
27 THE GRANTEE.

**Article – Tax – General**

2–1601.

From the tobacco tax revenue, the Comptroller shall distribute the amount necessary to pay refunds relating to the tobacco tax to a refund account.

2–1602.

After making the distribution required under § 2–1601 of this subtitle, from the remaining tobacco tax revenue the Comptroller shall distribute the amount necessary to administer the tobacco tax laws to an administrative cost account.

2–1603.

After making the distributions required under §§ 2–1601 and 2–1602 of this subtitle, the Comptroller shall distribute [the remaining tobacco tax revenue] **\$275,000,000** to the General Fund of the State.

**2–1604.**

**AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1601 THROUGH 2–1603 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING TOBACCO TAX REVENUE TO THE MARYLAND BIOMEDICAL PRODUCT DEVELOPMENT FUND FOR THE PURPOSES SPECIFIED IN ARTICLE 83A, TITLE 5, SUBTITLE 2C OF THE CODE.**

12–105.

(a) The tobacco tax rate for cigarettes is:

(1) [50] **58** cents for each package of 10 or fewer cigarettes;

(2) [\$1.00] **\$1.15** for each package of at least 11 and not more than 20 cigarettes;

(3) [5.0] **6.0** cents for each cigarette in a package of more than 20 cigarettes; and

(4) [5.0] **6.0** cents for each cigarette in a package of free sample cigarettes.

1           (b)     The tobacco tax rate for other tobacco products is 15% of the wholesale  
2     price of the tobacco products.

3           SECTION 2. AND BE IT FURTHER ENACTED, That all cigarettes used,  
4     possessed, or held in the State on or after July 1, 2007, by any person for sale or use in  
5     the State, shall be subject to the full tobacco tax of \$1.15 on cigarettes imposed by this  
6     Act. This requirement includes: (1) cigarettes in vending machines or other  
7     mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in  
8     packages that already bear stamps issued by the Comptroller under the State Tobacco  
9     Tax Act but for an amount less than the full tax imposed of 58 cents for each 10  
10    cigarettes or fractional part thereof; all cigarettes held for sale by any person in the  
11    State on or after July 1, 2007, that bear a stamp issued by the Comptroller of a value  
12    less than \$1.15 for each pack of 20 cigarettes must be stamped with the additional  
13    stamps necessary to make the aggregate tax value equal to \$1.15, the Comptroller  
14    may provide an alternative method of collecting the additional tax. The revenue  
15    attributable to this requirement shall be remitted to the Comptroller by September 30,  
16    2007. Except as provided above, on or after July 1, 2007, no Maryland stamp shall be  
17    used except the stamp issued by the Comptroller to evidence the tobacco tax on  
18    cigarettes of \$1.15 imposed by this Act.

19           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20    July 1, 2007.