

HOUSE BILL 1095

J1

8lr1345
CF SB 513

By: **Delegates Rosenberg, Anderson, Barkley, Barnes, Benson, Bobo, Bronrott, Frush, Gaines, Gilchrist, Hubbard, Hucker, Lee, Manno, McIntosh, Montgomery, Nathan-Pulliam, Niemann, Reznik, Ross, Taylor, F. Turner, Valderrama, Vaughn, and Waldstreicher**

Introduced and read first time: February 7, 2008

Assigned to: Health and Government Operations and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Restitution Fund – Tobacco Prevention – Funding**

3 FOR the purpose of altering the amount the Governor is required to include in the
4 annual budget for certain fiscal years for certain activities aimed at reducing
5 tobacco use; requiring that certain tobacco tax revenues be distributed to the
6 Cigarette Restitution Fund for certain purposes; requiring certain revenues to
7 be appropriated for certain activities aimed at reducing tobacco use; altering the
8 tobacco tax rate for certain tobacco products; and generally relating to the
9 Cigarette Restitution Fund and funding for tobacco prevention.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 13–1015
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 7–317
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2007 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 2–1602.1
23 Annotated Code of Maryland
24 (2004 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Tax – General
 3 Section 2–1603
 4 Annotated Code of Maryland
 5 (2004 Replacement Volume and 2007 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Tax – General
 8 Section 12–105(b)
 9 Annotated Code of Maryland
 10 (2004 Replacement Volume and 2007 Supplement)
 11 (As enacted by Chapter 6 of the Acts of the General Assembly of the 2007
 12 Special Session)

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

15 **Article – Health – General**

16 13–1015.

17 (a) For fiscal year 2007 and each fiscal year thereafter **UNTIL FISCAL YEAR**
 18 **2012**, the Governor shall include at least \$21,000,000 in the annual budget in
 19 appropriations for activities aimed at reducing tobacco use in Maryland as
 20 recommended by the Centers for Disease Control and Prevention, including:

21 (1) Media campaigns aimed at reducing smoking initiation and
 22 encouraging smokers to quit smoking;

23 (2) Media campaigns educating the public about the dangers of
 24 secondhand smoke exposure;

25 (3) Enforcement of existing laws banning the sale or distribution of
 26 tobacco products to minors;

27 (4) Promotion and implementation of smoking cessation programs;
 28 and

29 (5) Implementation of school–based tobacco education programs.

30 (b) For fiscal year [2006] **2012 AND EACH FISCAL YEAR THEREAFTER**, the
 31 Governor shall include [at least \$10,000,000] in the annual budget [in] appropriations
 32 for the purposes described in subsection (a) of this section **IN AN AMOUNT THAT**
 33 **MEETS OR EXCEEDS THE APPROPRIATION RECOMMENDED BY THE CENTERS**
 34 **FOR DISEASE CONTROL AND PREVENTION FOR COMPREHENSIVE TOBACCO**
 35 **CONTROL PROGRAMS IN THE STATE.**

1 **Article – State Finance and Procurement**

2 7–317.

3 (a) There is a Cigarette Restitution Fund.

4 (b) (1) The Fund is a continuing, nonlapsing fund that is not subject to §
5 7–302 of this subtitle.

6 (2) There shall be credited to the Fund all revenues consisting of funds
7 received by the State from any source resulting, directly or indirectly, from any
8 judgment against or settlement with tobacco product manufacturers, tobacco research
9 associations, or any other person in the tobacco industry relating to litigation,
10 administrative proceedings, or any other claims made or prosecuted by the State to
11 recover damages for violations of State law.

12 (3) There shall be credited to the Fund all moneys collected under §
13 24–508 of the Health – General Article or § 5–608 of the Labor and Employment
14 Article.

15 (4) **THERE SHALL BE CREDITED TO THE FUND ALL MONEYS**
16 **DISTRIBUTED TO THE FUND UNDER § 2–1602.1 OF THE TAX – GENERAL**
17 **ARTICLE.**

18 (c) The Treasurer shall:

19 (1) invest and reinvest the Fund in the same manner as other State
20 funds; and

21 (2) credit any investment earnings to the Fund.

22 (d) Expenditures from the Fund shall be made by an appropriation in the
23 annual State budget.

24 (e) (1) The Fund shall be expended subject to any restrictions on its use or
25 other limitations on its allocation that are:

26 (i) expressly provided by statute;

27 (ii) required as a condition of the acceptance of funds; or

28 (iii) determined to be necessary to avoid recoupment by the
29 federal government of money paid to the Fund.

30 (2) Disbursements from the Fund to programs funded by the State or
31 with federal funds administered by the State shall be used solely to supplement, and

1 not to supplant, funds otherwise available for the programs under federal or State law
2 as provided in this section.

3 (f) (1) The Cigarette Restitution Fund shall be used to fund:

4 (i) the Tobacco Use Prevention and Cessation Program
5 established under Title 13, Subtitle 10 of the Health – General Article;

6 (ii) the Cancer Prevention, Education, Screening, and
7 Treatment Program established under Title 13, Subtitle 11 of the Health – General
8 Article; and

9 (iii) other programs that serve the following purposes:

10 1. reduction of the use of tobacco products by minors;

11 2. implementation of the Southern Maryland Regional
12 Strategy–Action Plan for Agriculture adopted by the Tri–County Council for Southern
13 Maryland with an emphasis on alternative crop uses for agricultural land now used for
14 growing tobacco;

15 3. public and school education campaigns to decrease
16 tobacco use with initial emphasis on areas targeted by tobacco manufacturers in
17 marketing and promoting cigarette and tobacco products;

18 4. smoking cessation programs;

19 5. enforcement of the laws regarding tobacco sales;

20 6. the purposes of the Maryland Health Care
21 Foundation under Title 20, Subtitle 5 of the Health – General Article;

22 7. primary health care in rural areas of the State and
23 areas targeted by tobacco manufacturers in marketing and promoting cigarette and
24 tobacco products;

25 8. prevention, treatment, and research concerning
26 cancer, heart disease, lung disease, tobacco product use, and tobacco control, including
27 operating costs and related capital projects;

28 9. substance abuse treatment and prevention programs;
29 and

30 10. any other public purpose.

31 (2) The provisions of this subsection may not be construed to affect the
32 Governor’s powers with respect to a request for an appropriation in the annual budget
33 bill.

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

3 (2) The Governor shall include in the annual budget bill
4 appropriations from the Fund equivalent to the lesser of \$100,000,000 or 90% of the
5 funds estimated to be available to the Fund in the fiscal year for which the
6 appropriations are made.

7 (3) For each fiscal year for which appropriations are made, at least
8 50% of the appropriations shall be made for those purposes enumerated in subsection
9 (f)(1)(i), (ii), and (iii)1 through 9 of this section subject to the requirement of subsection
10 (e)(2) of this section.

11 (4) For each fiscal year for which appropriations are made, at least
12 30% of the appropriations shall be made for the purposes of the Maryland Medical
13 Assistance Program.

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

17 **(6) FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE**
18 **MADE, THE FOLLOWING REVENUES SHALL BE APPROPRIATED FOR ACTIVITIES**
19 **AIMED AT REDUCING TOBACCO USE IN THE STATE AS RECOMMENDED BY THE**
20 **CENTERS FOR DISEASE CONTROL AND PREVENTION AS PROVIDED FOR IN §**
21 **13-1015 OF THE HEALTH – GENERAL ARTICLE:**

22 **(I) ANY REVENUE REALIZED BY THE FUND FROM**
23 **STRATEGIC CONTRIBUTION PAYMENTS RESULTING FROM THE STATE’S LEGAL**
24 **CONTRIBUTIONS TO THE MASTER SETTLEMENT AGREEMENT; AND**

25 **(II) TOBACCO TAX REVENUE COLLECTED FROM OTHER**
26 **TOBACCO PRODUCTS DISTRIBUTED TO THE FUND UNDER § 2-1602.1 OF THE**
27 **TAX – GENERAL ARTICLE.**

28 ~~[(6)]~~ **(7)** Any additional appropriations, not subject to [paragraph (3),
29 paragraph (4), or paragraph (5)] **PARAGRAPHS (3) THROUGH (6)** of this subsection,
30 may be made for any lawful purpose.

31 (h) For each program, project or activity receiving funds appropriated under
32 subsection (g)(3) of this section, the Governor shall:

33 (1) develop appropriate statements of vision, mission, key goals, key
34 objectives, and key performance indicators and report these statements in a discrete

1 part of the State budget submission, which shall also provide data for key performance
2 indicators; and

3 (2) report annually, subject to § 2-1246 of the State Government
4 Article, to the General Assembly no later than October 1 on:

5 (i) total funds expended, by program and subdivision, in the
6 prior fiscal year from the Fund established under this section; and

7 (ii) the specific outcomes or public benefits resulting from that
8 expenditure.

9 **Article - Tax - General**

10 **2-1602.1.**

11 **AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-1601 AND**
12 **2-1602 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE**
13 **TOBACCO TAX REVENUE RECEIVED UNDER § 12-105(B) OF THIS ARTICLE TO**
14 **THE CIGARETTE RESTITUTION FUND FOR THE PURPOSES SPECIFIED UNDER §**
15 **13-1015 OF THE HEALTH - GENERAL ARTICLE.**

16 2-1603.

17 After making the distributions required under §§ 2-1601 [and 2-1602]
18 **THROUGH 2-1602.1** of this subtitle, the Comptroller shall distribute the remaining
19 tobacco tax revenue to the General Fund of the State.

20 12-105.

21 (b) The tobacco tax rate for other tobacco products is [15%] **25%** of the
22 wholesale price of the tobacco products.

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **July 1, 2008.**