

HOUSE BILL 541

J1
HB 1618/16 – HGO

7lr2309
CF 7lr0594

By: **Delegates Hayes, Cullison, Anderton, Angel, Barron, Hill, Kelly, Kipke, McIntosh, Miele, Morales, Pena–Melnik, Platt, Reznik, and K. Young**

Introduced and read first time: January 30, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Restitution Fund – Establishment of Behavioral Health Treatment**
3 **Account and Funding for Substance Use Treatment Services**

4 FOR the purpose of requiring the Cigarette Restitution Fund to include a separate account
5 to be used for substance use treatment, with priority given to certain services and
6 housing, and for rate adjustments for certain agencies or programs; requiring the
7 account to contain certain payments; requiring certain distributions from the
8 account to be used to supplement and not supplant certain other funds; limiting
9 appropriations from the account in any fiscal year to a certain amount; requiring the
10 Governor to develop certain statements for each program, project, or activity
11 receiving funds from the account and to report the statements in a certain part of
12 the State budget submission; requiring the Governor to provide a certain report no
13 later than a certain date each year to the General Assembly on certain funds and on
14 certain outcomes and benefits; authorizing the Governor in certain fiscal years to
15 transfer by budget amendment certain funds for a certain purpose; repealing an
16 obsolete reference; making stylistic changes; and generally relating to the
17 establishment of a behavioral health treatment account in the Cigarette Restitution
18 Fund and funding for substance use treatment services.

19 BY repealing and reenacting, with amendments,
20 Article – State Finance and Procurement
21 Section 7–317
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2016 Supplement)

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

26 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-317.

2 (a) There is a Cigarette Restitution Fund.

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

5 (2) [There] **EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS**
6 **SECTION, THERE** shall be credited to the Fund all revenues consisting of funds received
7 by the State from any source resulting, directly or indirectly, from any judgment against or
8 settlement with tobacco product manufacturers, tobacco research associations, or any other
9 person in the tobacco industry relating to litigation, administrative proceedings, or any
10 other claims made or prosecuted by the State to recover damages for violations of State law.

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

13 (c) The Treasurer shall:

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

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

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

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

21 (i) expressly provided by statute;

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

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

25 (2) Disbursements from the Fund to programs funded by the State or with
26 federal funds administered by the State shall be used solely to supplement, and not to
27 supplant, funds otherwise available for the programs under federal or State law as provided
28 in this section.

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

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

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

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

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

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

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

12 4. smoking cessation programs;

13 5. enforcement of the laws regarding tobacco sales;

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

16 7.] primary health care in rural areas of the State and areas
17 targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco
18 products;

19 [8.] 7. prevention, treatment, and research concerning
20 cancer, heart disease, lung disease, tobacco product use, and tobacco control, including
21 operating costs and related capital projects;

22 [9.] 8. substance abuse treatment and prevention
23 programs; and

24 [10.] 9. any other public purpose.

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

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

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

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

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

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

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

13 **(H) (1) THE FUND SHALL INCLUDE A SEPARATE BEHAVIORAL HEALTH**
14 **TREATMENT ACCOUNT TO BE USED FOR:**

15 **(I) SUBSTANCE USE TREATMENT, WITH PRIORITY GIVEN TO:**

16 **1. RESIDENTIAL TREATMENT SERVICES;**

17 **2. RECOVERY SUPPORT HOUSING; AND**

18 **3. CRISIS RESPONSE SERVICES FOR INDIVIDUALS WITH**
19 **SUBSTANCE USE DISORDERS; AND**

20 **(II) RATE ADJUSTMENTS FOR COMMUNITY-BASED AGENCIES**
21 **OR PROGRAMS FUNDED BY THE BEHAVIORAL HEALTH ADMINISTRATION OR THE**
22 **MEDICAL CARE PROGRAMS ADMINISTRATION THAT SERVE INDIVIDUALS WITH**
23 **MENTAL DISORDERS, SUBSTANCE-RELATED DISORDERS, OR A COMBINATION OF**
24 **THESE DISORDERS.**

25 **(2) THE ACCOUNT SHALL CONTAIN PAYMENTS RECEIVED BY THE**
26 **STATE AS A RESULT OF LITIGATION BY PARTICIPATING MANUFACTURERS RELATED**
27 **TO THE STATE'S DILIGENT ENFORCEMENT OF TITLE 16, SUBTITLE 4 OF THE**
28 **BUSINESS REGULATION ARTICLE.**

29 **(3) DISTRIBUTIONS FROM THE ACCOUNT TO PROGRAMS FUNDED BY**
30 **THE STATE OR WITH FEDERAL FUNDS ADMINISTERED BY THE STATE SHALL BE USED**
31 **SOLELY TO SUPPLEMENT, AND NOT TO SUPPLANT, FUNDS OTHERWISE AVAILABLE**
32 **FOR THE PROGRAMS UNDER FEDERAL OR STATE LAW.**

1 **(4) NO MORE THAN \$10,000,000 MAY BE APPROPRIATED FROM THE**
2 **ACCOUNT IN ANY FISCAL YEAR.**

3 **[(h)] (I)** For each program, project or activity receiving funds appropriated
4 under **[subsection] SUBSECTIONS (g)(3) AND (H)** of this section, the Governor shall:

5 (1) develop appropriate statements of vision, mission, key goals, key
6 objectives, and key performance indicators and report these statements in a discrete part
7 of the State budget submission, which shall also provide data for key performance
8 indicators; and

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

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

13 (ii) the specific outcomes or public benefits resulting from that
14 expenditure.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor in fiscal year
16 2018 may transfer by budget amendment no less than \$2,500,000, and up to \$5,000,000,
17 from the Cigarette Restitution Fund to the Behavioral Health Administration in the
18 Department of Health and Mental Hygiene in order to increase the funding made available
19 in the fiscal year 2018 budget to support substance use treatment services, including
20 recovery housing, residential treatment, and crisis services. This funding may not supplant
21 existing State funding.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the Governor in fiscal year
23 2019 may transfer by budget amendment no less than \$2,500,000, and up to \$5,000,000,
24 from the Cigarette Restitution Fund to the Behavioral Health Administration in the
25 Department of Health and Mental Hygiene in order to increase the funding made available
26 in the fiscal year 2019 budget to support substance use treatment services, including
27 recovery housing, residential treatment, and crisis services. This funding may not supplant
28 existing State funding.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2017.