

042782324

HOUSE BILL NO. 1225

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding a section numbered 4.1-103.02, relating to the Virginia Alcoholic Beverage Control Board; Youth Smoking Penalty Act and Fund.

 Patron—Hogan

 Referred to Committee on General Laws

Whereas, tobacco product manufacturers that are signatories to the Master Settlement Agreement have agreed not to target minors in the advertising or marketing of tobacco products. Nevertheless, cigarette smoking by minors continues to be a serious health problem in the Commonwealth of Virginia; and

Whereas, according to the 2001 National Household Survey on Drug Abuse, 13 percent of minors age 12 to 17 reported smoking cigarettes in the month prior to the administration of the survey. This study and prior research demonstrates that cigarette brand use varies by age and that some brands are used more often by minors than by adults; and

Whereas, other studies show that tobacco product manufacturers who are signatories to the Master Settlement Agreement are continuing to promote cigarettes to minors, including a study published in the August 2001 issue of the New England Journal of Medicine that found an increase in the amount of money spent by tobacco product manufactures to advertise three brands popular with young people in youth-oriented magazines since the signing of the Master Settlement Agreement; and

Whereas, tobacco product manufacturers who are signatories to the Master Settlement Agreement have agreed not to oppose the passage of certain legislative proposals designed to reduce access to cigarettes by minors, including enhancement of enforcement efforts to identify and prosecute violations of laws prohibiting retail sales to minors and enforcement of access restrictions through penalties on minors for possession or use. Although the Master Settlement Agreement contains an exception for opposing excise taxes, income taxes or user fees, tobacco product manufacturers who signed the Master Settlement Agreement are nevertheless prohibited from opposing penalties assessed for targeting minors in their advertising, marketing and sales; and

Whereas, additional funds are needed to enforce laws designed to prevent youth access to tobacco products. Federal Trade Commission figures show that tobacco companies spend more than \$20 marketing tobacco products for every \$1 the states spend to reduce tobacco use; and

Whereas, the purpose of this Act is to enhance enforcement of laws prohibiting the sale of cigarettes to minors by providing a disincentive to a tobacco product manufacturer for selling or marketing its cigarettes to minors. The penalties assessed by this section are designed to target the brand owners who are responsible for underage sales; now, therefore

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-103.02 as follows:

§ 4.1-103.02. Youth Smoking Penalty Fund.

A. There is hereby established in the state treasury a special nonreverting fund to be known as the Youth Smoking Penalty Fund, hereinafter referred to as "the Fund." The Fund shall be administered by the Board. All moneys collected pursuant to the assessment made by the Board as provided by subsection B shall be paid into the state treasury and credited to the Fund. The Fund shall also consist of any moneys appropriated thereto by the General Assembly and any grants or other moneys received by the Board for the purposes set forth in this section. All moneys in the Fund shall be used to develop and implement programs that enhance enforcement efforts to identify and prosecute violations of laws prohibiting retail sales to minors and to enforce access restrictions on minors for possession or use of tobacco. Any moneys deposited to or remaining in such Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chairman of the Board or his designee.

B. The Board shall annually assess each tobacco manufacturer a penalty of \$1 for every estimated pack of cigarettes manufactured by such tobacco product manufacturer and sold to a minor in the Commonwealth. In determining manufacturer's sales to minors, the Board shall use statistically reliable survey data to derive the brand preference percentage for each tobacco product manufacturer. Such data may include data compiled by or for or reported by or for the Department of Substance Abuse and Mental Health Services Administration.

INTRODUCED

HB1225

59 C. As uses in this section:

60 "Brand preference percentage" means the cigarette brand preference for minors, as determined by
61 statistically reliable survey data from the Commonwealth of Virginia, or absent such data, similar
62 national figures. The brand preference percentage shall be represented as a percentage of minor
63 cigarette smokers reporting cigarette brands used most often.

64 "Manufacturers' sales to minors" means the estimated number of cigarette packs manufactured by a
65 tobacco product manufacturer and sold to a minor in the Commonwealth. This figure shall be
66 determined by multiplying the total sales to minors in Virginia by the brand preference percentage for
67 each tobacco manufacturer.

68 "Minor" means an individual under the age of 18.

69 "Tobacco product manufacturer" means the same as that term is defined in § 3.1-336.1.

70 "Total sales to minors in Virginia" means the estimated number of cigarette packs sold to minors in
71 the Commonwealth for the year in question as determined by the statistically reliable survey data.

72 D. Moneys in the Fund shall not be diverted or expended for any purpose not authorized by this
73 section.