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HOUSE BILL NO. 2432

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 32.1-355, 32.1-356, 32.1-359, 32.1-360, and 32.1-361 of the Code of Virginia, relating to the Virginia Tobacco Settlement Fund.

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-355, 32.1-356, 32.1-359, 32.1-360, and 32.1-361 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-355. Virginia Tobacco Settlement Foundation created; purposes.

The Virginia Tobacco Settlement Foundation is hereby created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is hereby vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation is established for the purposes of determining the appropriate recipients of moneys in the Virginia Tobacco Settlement Fund and causing distribution of such moneys ~~for the purposes provided in this chapter, including using such moneys in the Virginia Tobacco Settlement Fund to assist in~~ *for health care purposes or for* financing efforts to restrict the use of tobacco products by minors through such means as educational and awareness programs on the health effects of tobacco use on minors and enforcement of laws restricting the distribution of tobacco products to minors. The Foundation shall have only those powers enumerated in § 32.1-356.

§ 32.1-356. Powers of the Foundation.

The Foundation is hereby granted all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. To have an official seal and to alter the same at pleasure;
2. To maintain an office at such place or places within this Commonwealth as it may designate;
3. To accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;

4. To determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in the Fund, ~~on such terms and in such amounts as determined by the Board~~, to entities whose goal is to ~~discourage, eliminate or prevent~~ *promote the safety, health, welfare, knowledge, convenience, and prosperity of the citizens of the Commonwealth, including, but not limited to, discouraging, eliminating or preventing* the use of tobacco products by minors ~~in the Commonwealth, on such terms and in such amounts as determined by the Board~~;

5. To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. To appoint and prescribe the duties of such officers, agents, employees, advisors, and consultants as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine;

7. To adopt and from time to time amend and repeal bylaws, not inconsistent with this chapter, to carry into effect the powers and purposes of the Foundation;

8. To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this chapter subject to such conditions, acceptable to the Foundation, upon which such aid, grants, contributions and cooperation may be made;

9. To do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

§ 32.1-359. Duties of the Board.

The Board shall perform the following duties:

1. Establish specific criteria and procedures governing decisions by the Foundation to cause the moneys in the Fund to be distributed to entities *for health care purposes or* for use in the discouragement, elimination or prevention of the use of tobacco products by minors;

2. Establish requirements that every recipient of money distributed from the Fund, *which shall be distributed for health care purposes or for the purpose of restricting minors' use of tobacco products*, establish and maintain policies that restrict the use of tobacco products by minors, as provided in

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59 § 32.1-361;

60 3. Evaluate the proposals for the use of the assets of the Fund, *which shall be distributed for health*
61 *care purposes or for efforts to restrict the use of tobacco products by minors*, in accordance with the
62 criteria established by the Board and the provisions of this chapter; and

63 4. Evaluate the implementation and results of all efforts receiving support from the Foundation.

64 § 32.1-360. Virginia Tobacco Settlement Fund.

65 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
66 Tobacco Settlement Fund. The Fund shall be established on the books of the Comptroller. Ten percent
67 of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be
68 paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain
69 in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the
70 end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the
71 Fund shall be used solely for the purposes described in this chapter. Expenditures and disbursements
72 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
73 authorization signed by the chairman of the Board or his designee.

74 Moneys in the Fund shall be used for *health care purposes or for the purposes purpose* of
75 discouraging, eliminating or preventing the use of tobacco products by minors, including but not limited
76 to, educational and awareness programs on the health effects of tobacco use on minors and laws
77 restricting the distribution of tobacco products to minors.

78 § 32.1-361. Use of moneys distributed.

79 Any recipient of any moneys distributed from the Fund pursuant to this chapter for *health care*
80 *purposes or for the purpose* of restricting the use of tobacco products by minors shall be required, as a
81 condition precedent to the release of such moneys to such entity, to establish and maintain policies
82 restricting or preventing tobacco use by minors. The Foundation shall (i) establish criteria for
83 determining whether an entity's policies support the restriction of tobacco use by minors and (ii) monitor
84 the distribution of such moneys to ensure that the recipients of such funds are in compliance with the
85 provisions of this section.