

House Bill 2452

“An Act to Curtail Tobacco Addiction and Related Health Care Costs”

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17H the following section:-- Section 17J. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission a smoking and tobacco use cessation treatment benefit. Smoking and tobacco use cessation treatment and information benefits shall include but not be limited to nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying in person or telephonic counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician.

SECTION 2. Chapter 118H of the General Laws is hereby amended by inserting the following section:

Section 7. Any policy of insurance for accident or sickness, or agreement for medical or health services, which shall be delivered or issued or renewed or certified in this Commonwealth through the Commonwealth Care Health Insurance Program described in Chapter 118H of the General Laws, shall provide as a benefit to all individual subscribers and members within the Commonwealth, for expenses of tobacco use cessation treatment as hereinafter set forth. Smoking and tobacco use cessation treatment and information benefits shall include but not be limited to nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying in person or telephonic counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician.

SECTION 3. Section 7B of Chapter 64C of the General Laws is hereby amended by adding the following paragraphs:

(m) In addition to the excise imposed by paragraph (b), an excise shall be imposed on all cigars weighing more than 3 pounds per 1,000 units held in the commonwealth at the rate of 105 per cent of the wholesale price of such product. In addition to the excise imposed by paragraph (b), an excise shall be imposed on all smoking tobacco held in the commonwealth at the rate of 105 per cent of the wholesale price of such product.

(n) Notwithstanding the provisions of section 28 and the provisions of this section, a portion of the cigar and smoking tobacco excise revenue paid under this section shall be credited to the Tobacco Use Reduction and Prevention Fund, established pursuant to section 2XX of chapter 29. The amount credited to the Tobacco Use Reduction and Prevention Fund shall be all sums received pursuant paragraph (m) of section 7B of chapter 64C, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith.

SECTION 4. Section 7C of Chapter 64C of the General Laws is hereby amended by adding the following paragraph:

(d) In addition to the excise imposed by section (a) of chapter 64C, an excise shall be imposed equal to forty-five percent of the price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold, imported or acquired. Notwithstanding the provisions of section 28 and the provisions of this section, a portion of the smokeless tobacco excise revenue paid under this section shall be credited to the Tobacco Use Reduction and Prevention Fund, established pursuant to section 2XX of chapter 29. The amount credited to the Tobacco Use Reduction and Prevention Fund shall be all sums received pursuant paragraph (d) of section 7C of chapter 64C, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith.

SECTION 5. Section 6 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 11, the figure ~~“€100½”~~ and inserting in place thereof the following figure:- 163

SECTION 6. Said Section 6 of said chapter 64C of the General Laws, as so appearing, is hereby further amended by inserting at the end thereof the following paragraph:- Notwithstanding the provisions of section 28 and the provisions of this section, a portion of the cigarette excise revenue paid under this section shall be credited to the Tobacco Use Reduction and Prevention Fund, established pursuant to section 2XX of chapter 29. The amount credited to the Tobacco Use Reduction and Prevention Fund in fiscal year 2012 shall be the monthly excess in cigarette excise payments received in fiscal year 2012 over cigarette excise payments received in the same months in fiscal year 2011. The amount credited to the Tobacco Use Reduction and Prevention Fund for any fiscal year thereafter shall be the monthly excess in cigarette excise payments received in such fiscal year over cigarette excise payments received in the same months in fiscal year 2011

SECTION 7. Section 28 of said chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the words ~~“€sections 6 and 7A”~~ and inserting in place thereof the following words:- sections 6, 7A, 7B and 7C

SECTION 8. Chapter 29 of the General Laws is hereby amended by adding the following section:-

Section 2XX. (a) There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Tobacco Use Reduction and Prevention Fund. There shall be credited to the said Fund all sums received pursuant to the excise imposed on tobacco products by sections 6, 7A, 7B and 7C of chapter 64C, together with any penalties, forfeitures, interest, costs of suits and fines in connection therewith, less all amounts refunded or abated in connection therewith. There shall additionally be credited to the said Fund all sums received, in any year after 2008, pursuant to the Master Settlement Agreements or Consent Decrees concerning tobacco product manufacturers, together with any penalties, forfeitures, interests, costs of suits, fines and all other proceeds in connection therewith, less all amounts refunded or abated in connection therewith. On an annual basis, not less than three percent of all amounts credited to the fund shall be held in trust and used solely for the purposes of preventing and reducing tobacco use and shall be available for expenditure by the Commissioner of the Department of Public Health. These funds shall not be used to replace existing funding allocated

to state tobacco prevention efforts but solely to increase the total amount of expenditures to prevent and reduce tobacco use and its harms.

(b) The funds directed to the Department of Public Health pursuant to paragraph (a) shall be allocated by the Commissioner consistent with tobacco reduction and prevention programmatic recommendations of the Centers for Disease Control and Prevention and as determined by the Commissioner, in consultation with the oversight committee created pursuant to paragraph (c), to engage youth in educating their communities and exposing tobacco industry tactics; to monitor the retail environment for compliance with local and state laws and to document tobacco industry advertising and pricing strategies; to promote smoking cessation resources including those offered through MassHealth's smoking cessation benefit; to provide training and technical assistance to healthcare providers to ensure that smokers have opportunities to receive brief interventions and medicines and are referred to behavioral counseling; to enforce the Commonwealth's smoke-free workplace law; to ensure children and other vulnerable people are not exposed to secondhand smoke; and to conduct interventions to reduce smoking among high risk populations including veterans, pregnant/parenting women, people with disabilities, people with mental illness, people in recovery from addiction and low-income smokers.

(c) Within 90 days after this section goes into effect, an oversight committee of nine members shall be established to assist the Commissioner in developing, implementing, and maintaining a strategic plan for allocating the funds directed to the Department, pursuant to paragraph (a), in monitoring and evaluating the use of the funds and all other state expenditures to prevent and reduce tobacco use and its harms, and in assessing the efficacy of all such expenditures to prevent and reduce tobacco use and its harms. Three members of the oversight committee shall be appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House of Representatives. The members of the oversight committee shall be persons with experience and expertise regarding public health, tobacco reduction and prevention policies and programs, public education and counter-marketing, and program oversight and evaluation. No member of the oversight committee shall, during the member's tenure on the committee and for three years before joining the committee, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products or serve as a director, employee, or consultant of any organization that receives grants or contributions from any such business or that provides legal, lobbying, public relations, marketing, or advertising services to any such business. Each member of the oversight committee shall also agree not to enter into any such financial or business relationships with the tobacco industry for a period of two years after that member's tenure on the oversight committee ends. The oversight committee shall annually provide a publicly available report on tobacco use and its related harms, including but not limited to those appropriated pursuant to paragraph (a), the effectiveness of such funding allocations, and related surveillance and evaluation findings to the governor and the legislature.

(d) The Department of Public Health shall have the authority to promulgate reasonable rules to implement this section.