



General Assembly

February Session, 2000

**Raised Bill No. 528**

LCO No. 1778

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

***An Act Concerning The Regulation Of Certain Cigarette Manufacturers.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) As used in this act:

2 (1) "Adjusted for inflation" means increased in accordance with the  
3 formula for inflation adjustment set forth in Exhibit C to the Master  
4 Settlement Agreement;

5 (2) "Affiliate" means a person who directly or indirectly owns or  
6 controls, is owned or controlled by, or is under common ownership or  
7 control with, another person. The terms "owns", "is owned" and  
8 "ownership" means ownership of an equity interest, or the equivalent  
9 thereof, of not less than ten per cent. The term "person" means an  
10 individual, partnership, committee, association, corporation or any  
11 other organization or group of persons;

12 (3) "Allocable share" means allocable share as that term is defined in  
13 the Master Settlement Agreement;

14 (4) "Cigarette" means any product that contains nicotine, is intended

15 to be burned or heated under ordinary conditions of use, and consists  
16 of or contains (A) any roll of tobacco wrapped in paper or in any  
17 substance not containing tobacco; or (B) tobacco, in any form, that is  
18 functional in the product, which, because of its appearance, the type of  
19 tobacco used in the filler, or its packaging and labeling, is likely to be  
20 offered to, or purchased by, consumers as a cigarette; and (C) any roll  
21 of tobacco wrapped in any substance containing tobacco which,  
22 because of its appearance, the type of tobacco used in the filler, or its  
23 packaging and labeling, is likely to be offered to, or purchased by,  
24 consumers as a cigarette described in subparagraph (A) of this  
25 subdivision. The term "cigarette" includes roll-your-own tobacco  
26 which, because of its appearance, type, packaging, or labeling is  
27 suitable for use and likely to be offered to, or purchased by, consumers  
28 as tobacco for making cigarettes. For purposes of this definition, 0.09  
29 ounces of roll-your-own tobacco shall constitute one individual  
30 cigarette;

31 (5) "Master Settlement Agreement" means the settlement agreement  
32 executed November 23, 1998, by the state of Connecticut and several  
33 tobacco product manufacturers, entitled "State of Connecticut v. Philip  
34 Morris, et al.";

35 (6) "Qualified escrow fund" means an escrow arrangement with a  
36 federally or state-chartered financial institution having no affiliation  
37 with any tobacco product manufacturer and having assets of at least  
38 one billion dollars where such arrangement requires that such financial  
39 institution hold the escrowed funds' principal for the benefit of  
40 releasing parties and prohibits the tobacco product manufacturer  
41 placing the funds into escrow from using, accessing or directing the  
42 use of the funds' principal except as consistent with the provisions of  
43 this act;

44 (7) "Released claims" means released claims as that term is defined  
45 in the Master Settlement Agreement;

46 (8) "Releasing parties" means releasing parties as that term is

47 defined in the Master Settlement Agreement;

48 (9) "Tobacco product manufacturer" means an entity, or its  
49 successor, that after the effective date of this act, directly and not  
50 exclusively through an affiliate (A) manufactures cigarettes which such  
51 manufacturer intends to be sold in the United States, including  
52 cigarettes intended to be sold in the United States through an importer  
53 except where (i) such importer is an original participating  
54 manufacturer as that term is defined in the Master Settlement  
55 Agreement that will be responsible for the payments under the Master  
56 Settlement Agreement with respect to such cigarettes as a result of the  
57 provisions of subsections II (mm) of the Master Settlement Agreement  
58 and that pays the taxes specified in subsection II (z) of the Master  
59 Settlement Agreement, and (ii) the manufacturer of such imported  
60 cigarettes does not market or advertise such cigarettes in the United  
61 States; or (B) is the first purchaser of cigarettes for resale in the United  
62 States and the manufacturer of such resold cigarettes does not intend  
63 such cigarettes to be sold in the United States. An affiliate of a tobacco  
64 product manufacturer shall be considered a tobacco product  
65 manufacturer under this definition only if the affiliate itself meets the  
66 criteria in subparagraph (A) or subparagraph (B) of this subdivision.

67 (10) "Units sold" means the number of individual cigarettes sold in  
68 this state by a tobacco product manufacturer whether directly or  
69 through a distributor or dealer during any calendar year, as measured  
70 by excise taxes collected by this state on packs bearing the excise tax  
71 stamp of the state. The Department of Revenue Services shall adopt  
72 such regulations, in accordance with the provisions of chapter 54 of the  
73 general statutes, as are necessary to ascertain the amount of state excise  
74 tax paid on the cigarettes of such tobacco product manufacturer for  
75 each year.

76 Sec. 2. (NEW) (a) Any tobacco product manufacturer selling  
77 cigarettes to consumers within this state whether directly or through a  
78 distributor or dealer after the effective date of this act shall (1) become

79 a participating manufacturer, as the term is defined in section ii (jj) of  
80 the Master Settlement Agreement, and generally perform the financial  
81 obligations required of a participating manufacturer under the Master  
82 Settlement Agreement; or (2) place into a qualified escrow fund not  
83 later than April fifteenth of each year following a year in which the  
84 tobacco product manufacturer sold cigarettes in this state, the  
85 following amounts: For calendar year 2000, \$.0104712 per unit sold  
86 after the effective date of this act; for calendar years 2001 and 2002,  
87 \$.0136125 per unit sold during said calendar years; for calendar years  
88 2003 through 2006, \$.0167539 per unit sold during said calendar years;  
89 for calendar year 2007 and each year thereafter, \$.0188482 per unit sold  
90 during such calendar years.

91 (b) A tobacco product manufacturer that places funds into escrow  
92 pursuant to subsection (a) of this section shall receive the interest  
93 earned, or other appreciation gained, on such funds. Such funds shall  
94 be released from escrow only (1) to pay a judgment or settlement on  
95 any released claim brought against such tobacco product manufacturer  
96 by the state or any releasing party located or residing in the state.  
97 Funds shall be released from escrow under this subdivision in the  
98 order in which the funds were placed into escrow and only to the  
99 extent and at such time as is necessary to make payments required  
100 under such judgment or settlement; (2) to the extent that a tobacco  
101 product manufacturer establishes that the amount it was required to  
102 place into escrow in a particular year was greater than the state's  
103 allocable share of the total payments that such manufacturer would  
104 have been required to make in that year under the Master Settlement  
105 Agreement as determined pursuant to section IX(i)(2) of that Master  
106 Settlement Agreement, and before any of the adjustments or offsets  
107 described in section IX(i)(3) of that agreement other than the inflation  
108 adjustment had it been a participating manufacturer, the excess shall  
109 be released from escrow to such tobacco product manufacturer; or (3)  
110 to the extent not released from escrow under subdivisions (1) or (2) of  
111 this subsection, funds shall be released from escrow to such tobacco  
112 product manufacturer twenty-five years after the date on which such

113 funds were placed into escrow.

114 (c) Each tobacco product manufacturer that places funds into  
115 escrow pursuant to subsection (a) of this section shall annually certify  
116 to the Attorney General that it is in compliance with this section.

117 (d) Any tobacco product manufacturer who violates the provisions  
118 of subsection (a) of this section may be assessed a civil penalty by the  
119 court not to exceed five per cent of the amount improperly withheld  
120 from escrow for each day of such violation, provided the civil penalty  
121 shall not exceed one hundred per cent of the amount improperly  
122 withheld from escrow. The Attorney General may bring a civil action  
123 on behalf of the state in superior court to have such assessment  
124 imposed by the court and to issue such injunctive relief as the court  
125 deems equitable.

126 (e) Any tobacco product manufacturer who knowingly violates the  
127 provisions of subsection (a) of this section may be assessed a civil  
128 penalty by the court not to exceed fifteen per cent of the amount  
129 improperly withheld from escrow for each day of such violation  
130 provided such civil penalty shall not exceed three hundred per cent of  
131 the amount improperly withheld from escrow. In the case of a second  
132 knowing violation, the court shall prohibit such tobacco product  
133 manufacturer from selling cigarettes, whether directly or through a  
134 distributor or dealer, in this state for a period not to exceed two years.  
135 The Attorney General may bring a civil action on behalf of the state in  
136 superior court to have such assessment imposed by the court and to  
137 issue such injunctive relief as the court deems equitable. For purposes  
138 of this subsection, each failure to place funds in escrow each calendar  
139 year shall constitute a separate violation.

***Statement of Purpose:***

To require cigarette manufacturers who were not part of the multi-state settlement to pay into an escrow account a certain percentage of their sales in this state in order to ensure adequate funds to address future health problems.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*