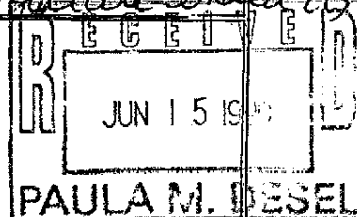


To: CGL, KC, HF, JS, MD, KE, CH, YC
 PD, CC, JM

Fr: KD 6/14 (The first of the real thing. Untraced,
 (OTM) Page 1 before legislature ended its session



1
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8
9 **A BILL**

10
11 TO AMEND TITLE 44, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO HEALTH, BY ADDING
13 CHAPTER 128, SO AS TO ESTABLISH THE SOUTH
14 CAROLINA YOUTH SMOKING PREVENTION
15 COMMISSION AND FUND, TO PROVIDE FOR ITS
16 MEMBERSHIP, DUTIES, THE DISTRIBUTION OF MONIES
17 RECEIVED BY THE COMMISSION, THE DEVELOPMENT
18 OF A STATE PLAN FOR YOUTH SMOKING PREVENTION,
19 AND THE TYPES OF QUALIFIED PROGRAMS ELIGIBLE
20 FOR GRANTS FROM THE FUND; AND TO AMEND
21 SECTION 1-30-110, RELATING TO VARIOUS ENTITIES
22 INCORPORATED INTO THE OFFICE OF THE GOVERNOR,
23 SO AS TO ADD THE YOUTH SMOKING PREVENTION
24 COMMISSION IN THAT OFFICE.

25
26 Be it enacted by the General Assembly of the State of South
27 Carolina:

28
29 SECTION 1. Title 44 of the 1976 Code is amended by adding:

30
31 "CHAPTER 128

32
33 South Carolina Youth Smoking Prevention Commission

34
35 Section 44-128-10. As used in this chapter, unless the context
36 clearly indicates otherwise:

37 (1) 'Commission' means the Youth Smoking Prevention
38 Commission established pursuant to Section 44-128-20 to develop
39 a State Plan for youth smoking prevention and to award grants
40 from the fund for the purpose of reducing the consumption of
41 cigarettes by minors.

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1 (2) 'Fund' means the Youth Smoking Prevention Fund
2 established pursuant to Section 44-128-50.

3 (3) 'Grantee' means a public entity or private nonprofit entity
4 approved by the commission to receive monies from the fund for
5 Qualified Youth Smoking Prevention Programs.

6 (4) 'Master Settlement Agreement' means the settlement
7 agreement and related documents between the State and leading
8 United States tobacco product manufacturers dated November 23,
9 1998.

10 (5) 'Qualified Youth Smoking Prevention Program' means a
11 program that meets the criteria set forth in the State Plan for Youth
12 Smoking Prevention.

13 (6) 'State Plan' means the State Plan for Youth Smoking
14 Prevention adopted pursuant to Section 44-128-60.

15

16 Section 44-128-20. (A) There is established in the Office of the
17 Governor the South Carolina Youth Smoking Prevention
18 Commission. The commission is vested with all of the politic and
19 corporate powers as provided in this chapter. The commission
20 shall adopt a State Plan for Youth Smoking Prevention and shall
21 award grants from the fund. The commission has only the powers
22 enumerated in Section 44-128-30.

23 (B) Notwithstanding the provisions of Section 8-13-770, the
24 membership of the commission is as follows:

25 (1) two members appointed by the Speaker of the House of
26 Representatives from the membership of the House of
27 Representatives;

28 (2) two members appointed by the President Pro Tempore of
29 the Senate from the membership of the Senate; and

30 (3) thirteen members appointed by the Governor subject to
31 confirmation by the General Assembly, as follows:

32 (a) three designated representatives of public health
33 agencies;

34 (b) three health professionals;

35 (c) two youths between the ages of twelve and eighteen;

36 and

37 (d) five citizens of the State with knowledge, competence,
38 experience, or interest in youth smoking prevention, or other
39 relevant background including, but not limited to, youth education,
40 public health, social science, and business expertise.

41 (C) Members serve for a term of two years and until their
42 successors are appointed and qualify. A vacancy on the
43 commission must be filled in the same manner as the original

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1 appointment for the remainder of the unexpired term. All
2 members listed in subsection (B) are voting members. All
3 members must be residents of the State.
4 (D) The Governor shall convene the commission's first meeting
5 by March 15, 2000, and its members of the commission shall elect
6 a chairman and vice chairman. A majority of members of the
7 commission serving at any one time constitute a quorum for the
8 transaction of business.
9 (E) Members of the commission serve without pay but are
10 allowed the usual mileage, per diem, and subsistence as provided
11 by law for members of state boards, committees, and commissions.
12 (F) Members of the commission and its employees of the
13 foundation are subject to the provisions of the Ethics, Government
14 Accountability and Campaign Reform Act, Chapter 13 of Title 8 of
15 the 1976 Code and the Lobbyist Reform Act, Chapter 17 of Title 2
16 of the 1976 Code.
17
18 Section 44-128-30. The commission is granted all powers
19 necessary or appropriate to carry out and effectuate its corporate
20 purposes including, without limitation, the following:
21 (1) adopt and use an official seal;
22 (2) have succession until dissolved by the General Assembly,
23 in which event title to the properties of the commission, both real
24 and personal, insofar as consistent with existing contractual
25 obligations and subject to all other legally enforceable claims or
26 demands by or against the commission, must pass to and become
27 vested in the State;
28 (3) maintain its office in Columbia;
29 (4) accept, hold, and administer any monies appropriated or
30 distributed to the commission and other money, securities, or other
31 property appropriated, given, or bequeathed to the commission,
32 absolutely or in trust, for the purposes for which the commission is
33 created;
34 (5) distribute the monies in the fund to entities in accordance
35 with the State Plan;
36 (6) make and execute contracts and all other instruments and
37 agreements necessary or convenient for the exercise of its powers
38 and functions;
39 (7) appoint and prescribe the duties of officers, agents,
40 employees, advisors, and consultants as are necessary to carry out
41 its functions, and to fix and pay compensation to them for their
42 services as the commission determines;

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1 (8) make bylaws for the management and regulations of its
2 affairs;
3 (9) receive and accept aid, grants, contributions, and
4 cooperation of any kind from any source for the purposes of this
5 chapter subject to the conditions, acceptable to the commission,
6 upon which the aid, grants, contributions, and cooperation may be
7 made;
8 (10) invest its funds as provided in this chapter or permitted by
9 applicable law; and
10 (11) do any lawful act necessary or appropriate to carry out the
11 powers granted or reasonably implied, including use of any lawful
12 act necessary or appropriate to recover payments wrongfully made
13 from the fund.
14

15 Section 44-128-40. The commission is authorized to employ a
16 director who serves at the pleasure of the commission. The
17 director administers, manages, and directs the affairs and business
18 of the commission in accordance with the provisions of this
19 chapter, subject to the commission's control. The commission
20 may employ technical experts and other officers, agents, and
21 employees, permanent and temporary, as it may require, and shall
22 determine their qualifications, duties, and compensation. The
23 commission may delegate to one or more of its agents or
24 employees the administrative duties as it considers proper. The
25 actual expenses incurred in the performance of these duties shall
26 be paid from the fund.
27

28 Section 44-128-50. (A) The commission shall create and
29 administer a fund to be known as the South Carolina Youth
30 Smoking Prevention Fund. The fund shall consist of monies
31 received by the State under the Master Settlement Agreement for
32 the purpose of the prevention of youth smoking and all other
33 monies, including appropriations, gifts, grants, or other funds,
34 designated for the fund. All interest derived from the deposit and
35 investment of monies in the fund must be credited to the fund.
36 (B) All monies in the fund are subject to annual appropriations
37 by the General Assembly for the purposes described in this chapter
38 and are available for the award of grants for qualified Youth
39 Smoking Prevention programs and the administrative costs of the
40 commission.
41 (C) Monies from the fund must not be used to engage in
42 political activity or lobbying including, but not limited to, support

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1 of or opposition to candidates, ballot questions, referenda, or
2 similar activities.

3
4 Section 44-128-60. (A) On or before June 30, 2000, the
5 commission shall propose a State Plan for Youth Smoking
6 Prevention. On or before June thirtieth of each subsequent year
7 the commission may propose amendments to the plan. The
8 commission shall submit its proposed State Plan or any proposed
9 amendments to it to the Governor, the General Assembly, the
10 Department of Health and Human Services, the Department of
11 Health and Environmental Control, and the Attorney General. The
12 Governor, the General Assembly, the named departments, and the
13 Attorney General may submit comments to the commission on the
14 proposed State Plan on or before September 30, 2000, and may
15 submit comments to the commission on its proposed amendments
16 to the State Plan on or before September thirtieth of each
17 subsequent year. On or before January 30, 2001, the commission
18 shall adopt a final State Plan and shall make the plan public. On or
19 before January thirtieth of each subsequent year, the commission
20 shall adopt any amendments to the State Plan and shall make the
21 amended State Plan public.

22 (B) The State Plan shall set out the criteria by which grant
23 proposals are considered by the commission. The plan shall also
24 describe the types of youth smoking prevention programs that shall
25 be eligible for consideration for grants from the fund. The eligible
26 programs shall include, but are not limited to:

27 (1) media campaigns directed to youth to prevent underage
28 consumption of cigarettes;

29 (2) school-based education programs to prevent youth
30 smoking;

31 (3) community-based youth programs involving youth
32 smoking prevention through general youth development; and

33 (4) enforcement and administration of the state law related
34 to the prevention of cigarette sales to minors, related retailer
35 education, and compliance efforts.

36 (C) The State Plan shall provide that no less than fifty percent
37 of the dollar value of the grants awarded in each year is dedicated
38 to programs described in subsections (B)(2) and (B)(3).

39 (D) The State Plan further shall provide for a grant for an
40 annual statewide school-based survey to measure cigarette use and
41 behaviors towards cigarette use by individuals in grades 6-12.

42 This survey shall:

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1 (1) involve a statistically valid sample of the individuals in
2 each grade from sixth through twelfth;
3 (2) not include any individual who is eighteen years of age
4 or older; and
5 (3) be made available to the public, along with the resulting
6 date, excluding respondent identities and respondent-identifiable
7 date, before September first of each year.
8 (E) The State Plan shall provide that no more than five percent
9 of the fund shall be expended on the administrative costs of the
10 commission.
11 (F) The development and adoption of the State Plan is not
12 subject to the notice and comment provisions of the State
13 Administrative Procedures Act as provided in Chapter 23, Title 1
14 of the 1976 Code.
15
16 Section 44-128-70. (A) The commission shall meet at least four
17 times a year to review applications for grants for youth smoking
18 prevention programs. A grant may not be awarded without the
19 approval of the vote of a majority of the commission. To the
20 extent practicable and consistent with the criteria for qualified
21 applicants set forth in the State Plan, the commission shall make
22 awards equal to the total amount of funds appropriated in each
23 fiscal year for Qualified Youth Smoking Prevention Programs less
24 the administrative costs of the commission.
25 (B) An applicant for a grant for a Qualified Youth Smoking
26 Prevention Program must file an application with the commission
27 no later than November first of the year preceding the fiscal year
28 for which the grant is requested.
29 (C) An applicant that requests funding to initiate, continue, or
30 expand a youth smoking prevention program shall demonstrate, by
31 means of application, letters of recommendation, and other means
32 as the commission may designate, that the proposed youth
33 smoking prevention program for which it seeks funds meets the
34 criteria set forth in the State Plan. Previous grant recipients shall
35 include recent evaluations of their programs with their
36 applications. The commission may not award a grant unless it
37 makes a specific finding, as to each applicant, that the program
38 proposed to be funded meets the criteria set forth in the State Plan.
39 (D) In addition to evaluating the funding request pursuant to the
40 criteria set out in the State Plan, the commission shall consider:
41 (1) in the case of applications to fund media campaigns
42 directed to youth to prevent underage consumption of cigarettes,
43 whether the campaign provides for sound management and

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1 periodic evaluation of the campaign's relevance to the intended
2 audience, including audience awareness of the campaign and
3 recollection of the main message.
4 (2) in the case of applications to fund school-based education
5 programs to prevent youth smoking, whether there is credible
6 evidence that the program is effective in reducing youth smoking.
7 (3) in the case of applications to fund community-based youth
8 programs involving youth smoking prevention through general
9 youth development, whether the program:
10 (a) has a comprehensive strategy with a clear mission and
11 goals;
12 (b) has committed, caring, and professional leadership;
13 (c) offers a diverse array of youth-centered activities in
14 youth-accessible facilities;
15 (d) is culturally sensitive, inclusive, and diverse;
16 (e) involves youth in the planning, delivery, and
17 evaluation of services that affect them; and
18 (f) offers a positive focus including all youth.
19 (4) In the case of applications to fund enforcement and
20 administration of state law related to the prevention of cigarette
21 sales to minors, related retailer education and compliance efforts,
22 whether those activities and efforts can reasonably be expected to
23 reduce the extent to which tobacco products are available to
24 individuals under the age of eighteen.
25 (E) State and local government departments and agencies are
26 eligible for grants provided pursuant to this chapter.
27
28 Section 44-128-80. On or before March first each year, the
29 commission shall announce the award of grants for the next fiscal
30 year. Any funds appropriated for Qualified Youth Smoking
31 Prevention Programs not expended in any fiscal year shall be
32 retained in the fund and available for Qualified Youth Smoking
33 Prevention Programs in the following year.
34
35 Section 44-128-90. (A) The accounts and records of the
36 commission showing the receipt and disbursement of funds from
37 whatever source derived must be in the form as the Comptroller
38 General prescribes.
39 (B) The accounts of the commission must be audited annually
40 by the Comptroller General or his designee. Copies of the annual
41 audit must be distributed to the Governor and to the chairmen of
42 the House Ways and Means Committee and the Senate Finance
43 Committee, pursuant to Section 44-128-100(C).

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1
2 Section 44-128-100. (A) As a condition for the receipt of
3 funds under this chapter, a grantee shall agree to file a report with
4 the commission, on or before September thirtieth after the end of
5 the fiscal year for which the grant was awarded, as to the
6 following:

7 (1) amount received as a grant and the expenditures made
8 with the proceeds of the grant;

9 (2) a description of the program offered and the number of
10 youths who participated in the program; and

11 (3) specific elements of the program meeting the criteria set
12 forth in the State Plan.

13 (B) A grantee failing to timely file the report required under
14 this section shall be subject to the jurisdiction of the Attorney
15 General for repayment of the full amounts of the grant expended.

16 (C) The commission shall review and evaluate the reports of
17 grantees required under this section and file a written report with
18 the Governor and the chairmen of the House Ways and Means
19 Committee and the Senate Finance Committee on or before
20 February first of each year on the status of the fund and the
21 activities of the fund for the fiscal year most recently ended. The
22 report shall include a copy of the annual audit, the name of each
23 grantee, and the amount of each grant made, the criteria used to
24 award each grant, and whether the program implemented by each
25 grantee met the criteria. The report shall be publicly available
26 immediately upon its filing.

27
28 Section 44-128-110. (A) The exercise of the powers granted
29 by this chapter must be in all respects for the benefit of the
30 inhabitants of the State and for the promotion of their safety,
31 health, welfare, knowledge, convenience, and prosperity.

32 (B) The commission is performing an essential governmental
33 function in the exercise of the powers conferred upon it by this
34 chapter, and the property of the commission and its income and
35 operations are exempt from taxation or assessments upon property
36 acquired or used by the foundation under the provisions of this
37 chapter."

38
39 SECTION 2. Section 1-30-110 of the 1976 Code, as added by Act
40 181 of 1993, is amended to read:

41
42 "Section 1-30-110. Effective July 1, 1993, the following
43 agencies, boards, and commissions, including all of the allied,

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1 advisory, affiliated, or related entities as well as the employees,
2 funds, property, and all contractual rights and obligations
3 associated with any such agency, except for those subdivisions
4 specifically included under another department, are hereby
5 transferred to and incorporated in and shall be administered as part
6 of the office of the Governor:

7 (1) Continuum of Care for Emotionally Disturbed Children
8 provided for at Section 20-7-5610, et seq.;

9 (2) Guardian Ad Litem Program, formerly provided for at
10 Section 20-7-121, et seq.;

11 (3) State Office of Victim's Assistance, formerly provided for
12 at Section 16-3-1110, et seq.;

13 (4) Department of Veterans Affairs, formerly provided for at
14 Section 25-11-10, et seq.;

15 (5) Commission on Women, formerly provided for at Section
16 1-15-10, et seq.;

17 (6) Commission on Aging, formerly provided for at Section
18 43-21-10, et seq.;

19 (7) Foster Care Review Board, formerly provided for at
20 Section 20-7-2376, et seq.; and

21 (8) Youth Smoking Prevention Commission, provided for at
22 Section 44-128-20."

23

24 SECTION 3. This act takes effect upon approval by the Governor.

25 ---XX---

26

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