

SB697

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WEST VIRGINIA LEGISLATURE

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REGULAR SESSION, 1999



## ENROLLED

SENATE BILL NO. 697

(By Senator CRAIGO, ET AL)



PASSED MARCH 9, 1999  
In Effect FROM Passage

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SENATE - WEST VIRGINIA

**ENROLLED**

**Senate Bill No. 697**

(BY SENATORS CRAIGO, ANDERSON, BAILEY, BOWMAN, CHAFIN,  
EDGELL, HELMICK, JACKSON, LOVE, PLYMALE, PREZIOSO,  
SHARPE, UNGER, WALKER, SPROUSE, BOLEY AND MINEAR)

[Passed March 9, 1999; in effect from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine-c, relating to the creation of a state tobacco growers' settlement board; setting forth legislative findings; defining terms; establishing the membership of and positions on the board; and duties and responsibilities of the state tobacco grower's settlement board.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine-c, to read as follows:

**ARTICLE 9C. STATE TOBACCO GROWERS' SETTLEMENT BOARD.**

**§16-9C-1. Findings and purpose.**

- 1 (a) Cigarette smoking presents serious public health
- 2 concerns as well as serious financial concerns for the state.

3 In response, the state pursued legal claims against leading  
4 tobacco product manufacturers to recover damages caused  
5 by the public health and financial consequences of ciga-  
6 rette smoking. On the twenty-third day of November, one  
7 thousand nine hundred ninety-eight, leading United States  
8 tobacco product manufacturers entered into a settlement  
9 agreement, entitled "master settlement agreement", with  
10 the state. The master settlement agreement obligates these  
11 manufacturers to pay substantial sums to the state in  
12 exchange for a release of past, present and future claims  
13 against them.

14 (b) The tobacco growers of the state are not a party or a  
15 beneficiary of the master settlement agreement.

16 (c) In view of the master settlement agreement, similar  
17 agreements between other states and tobacco product  
18 manufacturers, and the heightened public awareness and  
19 scrutiny of the dangers associated with cigarette smoking,  
20 the state has a significant interest in protecting tobacco  
21 growers from negative economic and financial conse-  
22 quences arising from changes in the cigarette industry,  
23 such as decreased consumption, demand and prices.

24 (d) On the twenty-first day of January, one thousand  
25 nine hundred ninety-nine, leading United States tobacco  
26 product manufacturers agreed to establish a national  
27 tobacco community trust, for the sole benefit of tobacco  
28 growers, payable over a twelve-year period, beginning in  
29 the year one thousand nine hundred ninety-nine. The  
30 tobacco growers in this state (and thirteen other states) are  
31 eligible to participate in the national tobacco community  
32 trust upon the creation of a state tobacco grower board,  
33 which will consummate a tobacco grower settlement with  
34 the tobacco product manufacturers.

#### §16-9C-2. Definitions.

1 (a) "Cigarette" means any product that contains nico-  
2 tine, is intended to be burned or heated under ordinary  
3 conditions of use, and consists of or contains: (1) Any roll  
4 of tobacco wrapped in paper or in any substance not  
5 containing tobacco; or (2) tobacco, in any form, that is  
6 functional in the product, which, because of its appear-

7   ance, the type of tobacco used in the filler, or its packaging  
8   and labeling, is likely to be offered to, or purchased by,  
9   consumers as a cigarette; or (3) any roll of tobacco  
10  wrapped in any substance containing tobacco which,  
11  because of its appearance, the type of tobacco used in the  
12  filler, or its packaging and labeling, is likely to be offered  
13  to, or purchased by, consumers as a cigarette as that term  
14  is described in this subsection. The term "cigarette"  
15  includes "roll-your-own" which means any tobacco which,  
16  because of its appearance, type, packaging, or labeling is  
17  suitable for use and likely to be offered to, or purchased  
18  by, consumers as tobacco for making cigarettes. For  
19  purposes of this definition of cigarette, 0.09 ounces of  
20  "roll-your-own" tobacco shall constitute one individual  
21  cigarette.

22   (b) "Master settlement agreement" means the settlement  
23  agreement (and related documents) entered into on the  
24  twenty-third day of November, one thousand nine hundred  
25  ninety-eight, by the state and leading United States  
26  tobacco product manufacturers.

27   (c) "National tobacco community trust" means the trust  
28  fund agreed to by leading United States tobacco product  
29  manufacturers, to be established and funded by them for  
30  the sole benefit of state tobacco growers.

31   (d) "Tobacco grower" means a person who has a direct  
32  financial interest in planting, cultivating and harvesting  
33  tobacco for sale. Tobacco grower includes a person who  
34  possesses a quota to market tobacco as administered by  
35  the United States Department of Agriculture.

36   (e) "Trust" means the national tobacco community trust  
37  as defined in subsection (c) of this section.

### **§16-9C-3. Creation of board.**

1    There is hereby created a board to be known as the  
2    "state tobacco growers' settlement board" consisting of  
3    three members: the governor, the attorney general and the  
4    commissioner of agriculture, or their designees. The  
5    governor or his or her designee shall serve as the chair, the  
6    commissioner of agriculture or his or her designee shall

7 serve as the vice chair, and the attorney general or his or  
8 her designee shall serve as the secretary.

**§16-9C-4. Duties and responsibilities of the state tobacco grower board.**

1 The duties and responsibilities of the board shall in-  
2 clude, but are not limited to:

3 (a) The consummation of a settlement with leading  
4 United States tobacco product manufacturers for the  
5 exclusive benefit of state tobacco growers;

6 (b) The execution of all necessary written agreements  
7 relative to the national tobacco community trust to ensure  
8 state tobacco growers' receipt of funds directly from the  
9 trust;

10 (c) Consultation with tobacco growers within the state in  
11 order to determine how funds allocated by the national  
12 tobacco community trust shall be distributed among state  
13 tobacco growers to compensate them for the adverse  
14 effects of decreased consumption, demand and price for  
15 cigarettes;

16 (d) The submission of a plan to the national tobacco  
17 community trust identifying state tobacco growers and the  
18 distribution of trust funds to state tobacco growers; and

19 (e) The certification of instructions annually to the  
20 national tobacco community trust regarding distribution  
21 of funds from the trust directly to the state tobacco  
22 growers during the twelve year payment period, beginning  
23 in the year one thousand nine hundred ninety-nine.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Rob Schorsma*

Chairman Senate Committee

*Joe L. Smith*

Chairman House Committee

Originating in the Senate.

In effect from passage.

*Harrell Holman*

Clerk of the Senate

*Benny W. Bond*  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
President of the Senate

*Tom L. Blanton*  
Speaker House of Delegates

The within *approved* this the *24th*  
Day of *March*, 1999

*Joe M. Aleem*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/99

Time 11:12 am