

As Passed by the House

**127th General Assembly
Regular Session
2007-2008**

Sub. H. B. No. 544

Representative Hottinger

Cosponsors: Representatives Hagan, R., Yates, McGregor, J.

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A B I L L

To amend sections 102.02, 183.021, 183.30, 183.33, 1
and 2151.87; to enact sections 3701.84 and 2
3701.841; to repeal sections 183.03, 183.04, 3
183.05, 183.06, 183.061, 183.07, 183.08, 183.09, 4
and 183.10 of the Revised Code; to repeal Section 5
3 of Am. S.B. 192 of the 127th General Assembly, 6
to repeal Section 4 of S.B. 209 of the 127th 7
General Assembly, and to repeal Section 205.10 of 8
Sub. S.B. 321 of the 126th General Assembly to 9
abolish the Tobacco Use Prevention and Control 10
Foundation and transfer certain powers of the 11
Foundation to the Department of Health, to make an 12
appropriation, and to declare an emergency. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 102.02, 183.021, 183.30, 183.33, and 14
2151.87 be amended and sections 3701.84 and 3701.841 of the 15
Revised Code be enacted to read as follows: 16

Sec. 102.02. (A) Except as otherwise provided in division (H) 17
of this section, all of the following shall file with the 18
appropriate ethics commission the disclosure statement described 19

in this division on a form prescribed by the appropriate 20
commission: every person who is elected to or is a candidate for a 21
state, county, or city office and every person who is appointed to 22
fill a vacancy for an unexpired term in such an elective office; 23
all members of the state board of education; the director, 24
assistant directors, deputy directors, division chiefs, or persons 25
of equivalent rank of any administrative department of the state; 26
the president or other chief administrative officer of every state 27
institution of higher education as defined in section 3345.011 of 28
the Revised Code; the executive director and the members of the 29
capitol square review and advisory board appointed or employed 30
pursuant to section 105.41 of the Revised Code; the chief 31
executive officer and the members of the board of each state 32
retirement system; each employee of a state retirement board who 33
is a state retirement system investment officer licensed pursuant 34
to section 1707.163 of the Revised Code; the members of the Ohio 35
retirement study council appointed pursuant to division (C) of 36
section 171.01 of the Revised Code; employees of the Ohio 37
retirement study council, other than employees who perform purely 38
administrative or clerical functions; the administrator of 39
workers' compensation and each member of the bureau of workers' 40
compensation board of directors; the bureau of workers' 41
compensation director of investments; the chief investment officer 42
of the bureau of workers' compensation; the director appointed by 43
the workers' compensation council; all members of the board of 44
commissioners on grievances and discipline of the supreme court 45
and the ethics commission created under section 102.05 of the 46
Revised Code; every business manager, treasurer, or superintendent 47
of a city, local, exempted village, joint vocational, or 48
cooperative education school district or an educational service 49
center; every person who is elected to or is a candidate for the 50
office of member of a board of education of a city, local, 51
exempted village, joint vocational, or cooperative education 52

school district or of a governing board of an educational service 53
center that has a total student count of twelve thousand or more 54
as most recently determined by the department of education 55
pursuant to section 3317.03 of the Revised Code; every person who 56
is appointed to the board of education of a municipal school 57
district pursuant to division (B) or (F) of section 3311.71 of the 58
Revised Code; all members of the board of directors of a sanitary 59
district that is established under Chapter 6115. of the Revised 60
Code and organized wholly for the purpose of providing a water 61
supply for domestic, municipal, and public use, and that includes 62
two municipal corporations in two counties; every public official 63
or employee who is paid a salary or wage in accordance with 64
schedule C of section 124.15 or schedule E-2 of section 124.152 of 65
the Revised Code; ~~members of the board of trustees and the~~ 66
~~executive director of the tobacco use prevention and control~~ 67
~~foundation;~~ members of the board of trustees and the executive 68
director of the southern Ohio agricultural and community 69
development foundation; and every other public official or 70
employee who is designated by the appropriate ethics commission 71
pursuant to division (B) of this section. 72

The disclosure statement shall include all of the following: 73

(1) The name of the person filing the statement and each 74
member of the person's immediate family and all names under which 75
the person or members of the person's immediate family do 76
business; 77

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 78
and except as otherwise provided in section 102.022 of the Revised 79
Code, identification of every source of income, other than income 80
from a legislative agent identified in division (A)(2)(b) of this 81
section, received during the preceding calendar year, in the 82
person's own name or by any other person for the person's use or 83
benefit, by the person filing the statement, and a brief 84

description of the nature of the services for which the income was 85
received. If the person filing the statement is a member of the 86
general assembly, the statement shall identify the amount of every 87
source of income received in accordance with the following ranges 88
of amounts: zero or more, but less than one thousand dollars; one 89
thousand dollars or more, but less than ten thousand dollars; ten 90
thousand dollars or more, but less than twenty-five thousand 91
dollars; twenty-five thousand dollars or more, but less than fifty 92
thousand dollars; fifty thousand dollars or more, but less than 93
one hundred thousand dollars; and one hundred thousand dollars or 94
more. Division (A)(2)(a) of this section shall not be construed to 95
require a person filing the statement who derives income from a 96
business or profession to disclose the individual items of income 97
that constitute the gross income of that business or profession, 98
except for those individual items of income that are attributable 99
to the person's or, if the income is shared with the person, the 100
partner's, solicitation of services or goods or performance, 101
arrangement, or facilitation of services or provision of goods on 102
behalf of the business or profession of clients, including 103
corporate clients, who are legislative agents. A person who files 104
the statement under this section shall disclose the identity of 105
and the amount of income received from a person who the public 106
official or employee knows or has reason to know is doing or 107
seeking to do business of any kind with the public official's or 108
employee's agency. 109

(b) If the person filing the statement is a member of the 110
general assembly, the statement shall identify every source of 111
income and the amount of that income that was received from a 112
legislative agent during the preceding calendar year, in the 113
person's own name or by any other person for the person's use or 114
benefit, by the person filing the statement, and a brief 115
description of the nature of the services for which the income was 116
received. Division (A)(2)(b) of this section requires the 117

disclosure of clients of attorneys or persons licensed under 118
section 4732.12 of the Revised Code, or patients of persons 119
certified under section 4731.14 of the Revised Code, if those 120
clients or patients are legislative agents. Division (A)(2)(b) of 121
this section requires a person filing the statement who derives 122
income from a business or profession to disclose those individual 123
items of income that constitute the gross income of that business 124
or profession that are received from legislative agents. 125

(c) Except as otherwise provided in division (A)(2)(c) of 126
this section, division (A)(2)(a) of this section applies to 127
attorneys, physicians, and other persons who engage in the 128
practice of a profession and who, pursuant to a section of the 129
Revised Code, the common law of this state, a code of ethics 130
applicable to the profession, or otherwise, generally are required 131
not to reveal, disclose, or use confidences of clients, patients, 132
or other recipients of professional services except under 133
specified circumstances or generally are required to maintain 134
those types of confidences as privileged communications except 135
under specified circumstances. Division (A)(2)(a) of this section 136
does not require an attorney, physician, or other professional 137
subject to a confidentiality requirement as described in division 138
(A)(2)(c) of this section to disclose the name, other identity, or 139
address of a client, patient, or other recipient of professional 140
services if the disclosure would threaten the client, patient, or 141
other recipient of professional services, would reveal details of 142
the subject matter for which legal, medical, or professional 143
advice or other services were sought, or would reveal an otherwise 144
privileged communication involving the client, patient, or other 145
recipient of professional services. Division (A)(2)(a) of this 146
section does not require an attorney, physician, or other 147
professional subject to a confidentiality requirement as described 148
in division (A)(2)(c) of this section to disclose in the brief 149
description of the nature of services required by division 150

(A)(2)(a) of this section any information pertaining to specific 151
professional services rendered for a client, patient, or other 152
recipient of professional services that would reveal details of 153
the subject matter for which legal, medical, or professional 154
advice was sought or would reveal an otherwise privileged 155
communication involving the client, patient, or other recipient of 156
professional services. 157

(3) The name of every corporation on file with the secretary 158
of state that is incorporated in this state or holds a certificate 159
of compliance authorizing it to do business in this state, trust, 160
business trust, partnership, or association that transacts 161
business in this state in which the person filing the statement or 162
any other person for the person's use and benefit had during the 163
preceding calendar year an investment of over one thousand dollars 164
at fair market value as of the thirty-first day of December of the 165
preceding calendar year, or the date of disposition, whichever is 166
earlier, or in which the person holds any office or has a 167
fiduciary relationship, and a description of the nature of the 168
investment, office, or relationship. Division (A)(3) of this 169
section does not require disclosure of the name of any bank, 170
savings and loan association, credit union, or building and loan 171
association with which the person filing the statement has a 172
deposit or a withdrawable share account. 173

(4) All fee simple and leasehold interests to which the 174
person filing the statement holds legal title to or a beneficial 175
interest in real property located within the state, excluding the 176
person's residence and property used primarily for personal 177
recreation; 178

(5) The names of all persons residing or transacting business 179
in the state to whom the person filing the statement owes, in the 180
person's own name or in the name of any other person, more than 181
one thousand dollars. Division (A)(5) of this section shall not be 182

construed to require the disclosure of debts owed by the person 183
resulting from the ordinary conduct of a business or profession or 184
debts on the person's residence or real property used primarily 185
for personal recreation, except that the superintendent of 186
financial institutions shall disclose the names of all 187
state-chartered savings and loan associations and of all service 188
corporations subject to regulation under division (E)(2) of 189
section 1151.34 of the Revised Code to whom the superintendent in 190
the superintendent's own name or in the name of any other person 191
owes any money, and that the superintendent and any deputy 192
superintendent of banks shall disclose the names of all 193
state-chartered banks and all bank subsidiary corporations subject 194
to regulation under section 1109.44 of the Revised Code to whom 195
the superintendent or deputy superintendent owes any money. 196

(6) The names of all persons residing or transacting business 197
in the state, other than a depository excluded under division 198
(A)(3) of this section, who owe more than one thousand dollars to 199
the person filing the statement, either in the person's own name 200
or to any person for the person's use or benefit. Division (A)(6) 201
of this section shall not be construed to require the disclosure 202
of clients of attorneys or persons licensed under section 4732.12 203
or 4732.15 of the Revised Code, or patients of persons certified 204
under section 4731.14 of the Revised Code, nor the disclosure of 205
debts owed to the person resulting from the ordinary conduct of a 206
business or profession. 207

(7) Except as otherwise provided in section 102.022 of the 208
Revised Code, the source of each gift of over seventy-five 209
dollars, or of each gift of over twenty-five dollars received by a 210
member of the general assembly from a legislative agent, received 211
by the person in the person's own name or by any other person for 212
the person's use or benefit during the preceding calendar year, 213
except gifts received by will or by virtue of section 2105.06 of 214

the Revised Code, or received from spouses, parents, grandparents, 215
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 216
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 217
fathers-in-law, mothers-in-law, or any person to whom the person 218
filing the statement stands in loco parentis, or received by way 219
of distribution from any inter vivos or testamentary trust 220
established by a spouse or by an ancestor; 221

(8) Except as otherwise provided in section 102.022 of the 222
Revised Code, identification of the source and amount of every 223
payment of expenses incurred for travel to destinations inside or 224
outside this state that is received by the person in the person's 225
own name or by any other person for the person's use or benefit 226
and that is incurred in connection with the person's official 227
duties, except for expenses for travel to meetings or conventions 228
of a national or state organization to which any state agency, 229
including, but not limited to, any legislative agency or state 230
institution of higher education as defined in section 3345.011 of 231
the Revised Code, pays membership dues, or any political 232
subdivision or any office or agency of a political subdivision 233
pays membership dues; 234

(9) Except as otherwise provided in section 102.022 of the 235
Revised Code, identification of the source of payment of expenses 236
for meals and other food and beverages, other than for meals and 237
other food and beverages provided at a meeting at which the person 238
participated in a panel, seminar, or speaking engagement or at a 239
meeting or convention of a national or state organization to which 240
any state agency, including, but not limited to, any legislative 241
agency or state institution of higher education as defined in 242
section 3345.011 of the Revised Code, pays membership dues, or any 243
political subdivision or any office or agency of a political 244
subdivision pays membership dues, that are incurred in connection 245
with the person's official duties and that exceed one hundred 246

dollars aggregated per calendar year; 247

(10) If the disclosure statement is filed by a public 248
official or employee described in division (B)(2) of section 249
101.73 of the Revised Code or division (B)(2) of section 121.63 of 250
the Revised Code who receives a statement from a legislative 251
agent, executive agency lobbyist, or employer that contains the 252
information described in division (F)(2) of section 101.73 of the 253
Revised Code or division (G)(2) of section 121.63 of the Revised 254
Code, all of the nondisputed information contained in the 255
statement delivered to that public official or employee by the 256
legislative agent, executive agency lobbyist, or employer under 257
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 258
the Revised Code. 259

A person may file a statement required by this section in 260
person or by mail. A person who is a candidate for elective office 261
shall file the statement no later than the thirtieth day before 262
the primary, special, or general election at which the candidacy 263
is to be voted on, whichever election occurs soonest, except that 264
a person who is a write-in candidate shall file the statement no 265
later than the twentieth day before the earliest election at which 266
the person's candidacy is to be voted on. A person who holds 267
elective office shall file the statement on or before the 268
fifteenth day of April of each year unless the person is a 269
candidate for office. A person who is appointed to fill a vacancy 270
for an unexpired term in an elective office shall file the 271
statement within fifteen days after the person qualifies for 272
office. Other persons shall file an annual statement on or before 273
the fifteenth day of April or, if appointed or employed after that 274
date, within ninety days after appointment or employment. No 275
person shall be required to file with the appropriate ethics 276
commission more than one statement or pay more than one filing fee 277
for any one calendar year. 278

The appropriate ethics commission, for good cause, may extend 279
for a reasonable time the deadline for filing a statement under 280
this section. 281

A statement filed under this section is subject to public 282
inspection at locations designated by the appropriate ethics 283
commission except as otherwise provided in this section. 284

(B) The Ohio ethics commission, the joint legislative ethics 285
committee, and the board of commissioners on grievances and 286
discipline of the supreme court, using the rule-making procedures 287
of Chapter 119. of the Revised Code, may require any class of 288
public officials or employees under its jurisdiction and not 289
specifically excluded by this section whose positions involve a 290
substantial and material exercise of administrative discretion in 291
the formulation of public policy, expenditure of public funds, 292
enforcement of laws and rules of the state or a county or city, or 293
the execution of other public trusts, to file an annual statement 294
on or before the fifteenth day of April under division (A) of this 295
section. The appropriate ethics commission shall send the public 296
officials or employees written notice of the requirement by the 297
fifteenth day of February of each year the filing is required 298
unless the public official or employee is appointed after that 299
date, in which case the notice shall be sent within thirty days 300
after appointment, and the filing shall be made not later than 301
ninety days after appointment. 302

Except for disclosure statements filed by ~~members of the~~ 303
~~board of trustees and the executive director of the tobacco use~~ 304
~~prevention and control foundation and~~ members of the board of 305
trustees and the executive director of the southern Ohio 306
agricultural and community development foundation, disclosure 307
statements filed under this division with the Ohio ethics 308
commission by members of boards, commissions, or bureaus of the 309
state for which no compensation is received other than reasonable 310

and necessary expenses shall be kept confidential. Disclosure 311
statements filed with the Ohio ethics commission under division 312
(A) of this section by business managers, treasurers, and 313
superintendents of city, local, exempted village, joint 314
vocational, or cooperative education school districts or 315
educational service centers shall be kept confidential, except 316
that any person conducting an audit of any such school district or 317
educational service center pursuant to section 115.56 or Chapter 318
117. of the Revised Code may examine the disclosure statement of 319
any business manager, treasurer, or superintendent of that school 320
district or educational service center. The Ohio ethics commission 321
shall examine each disclosure statement required to be kept 322
confidential to determine whether a potential conflict of interest 323
exists for the person who filed the disclosure statement. A 324
potential conflict of interest exists if the private interests of 325
the person, as indicated by the person's disclosure statement, 326
might interfere with the public interests the person is required 327
to serve in the exercise of the person's authority and duties in 328
the person's office or position of employment. If the commission 329
determines that a potential conflict of interest exists, it shall 330
notify the person who filed the disclosure statement and shall 331
make the portions of the disclosure statement that indicate a 332
potential conflict of interest subject to public inspection in the 333
same manner as is provided for other disclosure statements. Any 334
portion of the disclosure statement that the commission determines 335
does not indicate a potential conflict of interest shall be kept 336
confidential by the commission and shall not be made subject to 337
public inspection, except as is necessary for the enforcement of 338
Chapters 102. and 2921. of the Revised Code and except as 339
otherwise provided in this division. 340

(C) No person shall knowingly fail to file, on or before the 341
applicable filing deadline established under this section, a 342
statement that is required by this section. 343

(D) No person shall knowingly file a false statement that is 344
required to be filed under this section. 345

(E)(1) Except as provided in divisions (E)(2) and (3) of this 346
section, the statement required by division (A) or (B) of this 347
section shall be accompanied by a filing fee of forty dollars. 348

(2) The statement required by division (A) of this section 349
shall be accompanied by the following filing fee to be paid by the 350
person who is elected or appointed to, or is a candidate for, any 351
of the following offices: 352

| | | |
|--|------|-----|
| For state office, except member of the | | 353 |
| state board of education | \$65 | 354 |
| For office of member of general assembly | \$40 | 355 |
| For county office | \$40 | 356 |
| For city office | \$25 | 357 |
| For office of member of the state board | | 358 |
| of education | \$25 | 359 |
| For office of member of a city, local, | | 360 |
| exempted village, or cooperative | | 361 |
| education board of | | 362 |
| education or educational service | | 363 |
| center governing board | \$20 | 364 |
| For position of business manager, | | 365 |
| treasurer, or superintendent of a | | 366 |
| city, local, exempted village, joint | | 367 |
| vocational, or cooperative education | | 368 |
| school district or | | 369 |
| educational service center | \$20 | 370 |

(3) No judge of a court of record or candidate for judge of a 371
court of record, and no referee or magistrate serving a court of 372
record, shall be required to pay the fee required under division 373
(E)(1) or (2) or (F) of this section. 374

(4) For any public official who is appointed to a nonelective 375

office of the state and for any employee who holds a nonelective 376
position in a public agency of the state, the state agency that is 377
the primary employer of the state official or employee shall pay 378
the fee required under division (E)(1) or (F) of this section. 379

(F) If a statement required to be filed under this section is 380
not filed by the date on which it is required to be filed, the 381
appropriate ethics commission shall assess the person required to 382
file the statement a late filing fee of ten dollars for each day 383
the statement is not filed, except that the total amount of the 384
late filing fee shall not exceed two hundred fifty dollars. 385

(G)(1) The appropriate ethics commission other than the Ohio 386
ethics commission shall deposit all fees it receives under 387
divisions (E) and (F) of this section into the general revenue 388
fund of the state. 389

(2) The Ohio ethics commission shall deposit all receipts, 390
including, but not limited to, fees it receives under divisions 391
(E) and (F) of this section and all moneys it receives from 392
settlements under division (G) of section 102.06 of the Revised 393
Code, into the Ohio ethics commission fund, which is hereby 394
created in the state treasury. All moneys credited to the fund 395
shall be used solely for expenses related to the operation and 396
statutory functions of the commission. 397

(H) Division (A) of this section does not apply to a person 398
elected or appointed to the office of precinct, ward, or district 399
committee member under Chapter 3517. of the Revised Code; a 400
presidential elector; a delegate to a national convention; village 401
or township officials and employees; any physician or psychiatrist 402
who is paid a salary or wage in accordance with schedule C of 403
section 124.15 or schedule E-2 of section 124.152 of the Revised 404
Code and whose primary duties do not require the exercise of 405
administrative discretion; or any member of a board, commission, 406
or bureau of any county or city who receives less than one 407

thousand dollars per year for serving in that position. 408

Sec. 183.021. (A) No money from the tobacco master settlement 409
agreement fund, as that fund existed prior to the repeal of 410
section 183.02 of the Revised Code by H.B. 119 of the 127th 411
general assembly, shall be expended to do any of the following: 412
413

(1) Hire an executive agency lobbyist, as defined under 414
section 121.60 of the Revised Code, or a legislative agent, as 415
defined under section 101.70 of the Revised Code; 416

(2) Support or oppose candidates, ballot questions, 417
referendums, or ballot initiatives. 418

(B) Nothing in this section prohibits ~~any~~ either of the 419
following from advocating on behalf of the specific objectives of 420
a program funded under this chapter: 421

(1) ~~The members of the board of trustees, executive director,~~ 422
~~or employees of the tobacco use prevention and control foundation;~~ 423

~~(2)~~ The members of the board of trustees, executive director, 424
or employees of the southern Ohio agricultural and community 425
development foundation; 426

~~(3)~~(2) The members or employees of the third frontier 427
commission or the members of the third frontier advisory board. 428

Sec. 183.30. (A) ~~Except as provided in division (D) of this~~ 429
~~section, no more than five per cent of the total disbursements,~~ 430
~~encumbrances, and obligations of the tobacco use prevention and~~ 431
~~control foundation in a fiscal year shall be for administrative~~ 432
~~expenses of the foundation in the same fiscal year.~~ 433

~~(B)~~ Except as provided in division ~~(D)~~(C) of this section, no 434
more than five per cent of the total disbursements, encumbrances, 435
and obligations of the southern Ohio agricultural and community 436

development foundation in a fiscal year shall be for 437
administrative expenses of the foundation in the same fiscal year. 438

~~(C)~~(B) Except as provided in division ~~(D)~~(C) of this section, 439
no more than five per cent of the total disbursements, 440
encumbrances, and obligations of the biomedical research and 441
technology transfer trust fund in a fiscal year shall be for 442
expenses relating to the administration of the trust fund by the 443
third frontier commission in the same fiscal year. 444

~~(D)~~(C) This section's five per cent limitation on 445
administrative expenses does not apply to any fiscal year for 446
which the controlling board approves a spending plan that the 447
foundation or commission submits to the board. 448

Sec. 183.33. No money shall be appropriated or transferred 449
from the general revenue fund to the ~~tobacco use prevention and~~ 450
~~cessation trust fund, tobacco use prevention and control endowment~~ 451
~~fund,~~ law enforcement improvements trust fund, southern Ohio 452
agricultural and community development trust fund, southern Ohio 453
agricultural and community development foundation endowment fund, 454
Ohio's public health priorities trust fund, biomedical research 455
and technology transfer trust fund, education facilities trust 456
fund, or education technology trust fund. ~~In addition, no money~~ 457
~~shall be otherwise appropriated or transferred from the general~~ 458
~~revenue fund for the use of the tobacco use prevention and control~~ 459
~~foundation.~~ 460

Sec. 2151.87. (A) As used in this section: 461

(1) "Cigarette" and "tobacco product" have the same meanings 462
as in section 2927.02 of the Revised Code. 463

(2) "Youth smoking education program" means a private or 464
public agency program that is related to tobacco use, prevention, 465
and cessation, that is carried out or funded by the ~~tobacco use~~ 466

~~prevention and control foundation~~ department of health pursuant to 467
section ~~183.07~~ 3701.84 of the Revised Code, that utilizes 468
educational methods focusing on the negative health effects of 469
smoking and using tobacco products, and that is not more than 470
twelve hours in duration. 471

(B) No child shall do any of the following unless accompanied 472
by a parent, spouse who is eighteen years of age or older, or 473
legal guardian of the child: 474

(1) Use, consume, or possess cigarettes, other tobacco 475
products, or papers used to roll cigarettes; 476

(2) Purchase or attempt to purchase cigarettes, other tobacco 477
products, or papers used to roll cigarettes; 478

(3) Order, pay for, or share the cost of cigarettes, other 479
tobacco products, or papers used to roll cigarettes; 480

(4) Except as provided in division (E) of this section, 481
accept or receive cigarettes, other tobacco products, or papers 482
used to roll cigarettes. 483

(C) No child shall knowingly furnish false information 484
concerning that child's name, age, or other identification for the 485
purpose of obtaining cigarettes, other tobacco products, or papers 486
used to roll cigarettes. 487

(D) A juvenile court shall not adjudicate a child a 488
delinquent or unruly child for a violation of division (B)(1), 489
(2), (3), or (4) or (C) of this section. 490

(E)(1) It is not a violation of division (B)(4) of this 491
section for a child to accept or receive cigarettes, other tobacco 492
products, or papers used to roll cigarettes if the child is 493
required to do so in the performance of the child's duties as an 494
employee of that child's employer and the child's acceptance or 495
receipt of cigarettes, other tobacco products, or papers used to 496

roll cigarettes occurs exclusively within the scope of the child's 497
employment. 498

(2) It is not a violation of division (B)(1), (2), (3), or 499
(4) of this section if the child possesses, purchases or attempts 500
to purchase, orders, pays for, shares the cost of, or accepts or 501
receives cigarettes, other tobacco products, or papers used to 502
roll cigarettes while participating in an inspection or compliance 503
check conducted by a federal, state, local, or corporate entity at 504
a location at which cigarettes, other tobacco products, or papers 505
used to roll cigarettes are sold or distributed. 506

(3) It is not a violation of division (B)(1) or (4) of this 507
section for a child to accept, receive, use, consume, or possess 508
cigarettes, other tobacco products, or papers used to roll 509
cigarettes while participating in a research protocol if all of 510
the following apply: 511

(a) The parent, guardian, or legal custodian of the child has 512
consented in writing to the child participating in the research 513
protocol. 514

(b) An institutional human subjects protection review board, 515
or an equivalent entity, has approved the research protocol. 516

(c) The child is participating in the research protocol at 517
the facility or location specified in the research protocol. 518

(F) If a juvenile court finds that a child violated division 519
(B)(1), (2), (3), or (4) or (C) of this section, the court may do 520
either or both of the following: 521

(1) Require the child to attend a youth smoking education 522
program or other smoking treatment program approved by the court, 523
if one is available; 524

(2) Impose a fine of not more than one hundred dollars. 525

(G) If a child disobeys a juvenile court order issued 526

pursuant to division (F) of this section, the court may do any or 527
all of the following: 528

(1) Increase the fine imposed upon the child under division 529
(F)(2) of this section; 530

(2) Require the child to perform not more than twenty hours 531
of community service; 532

(3) Suspend for a period of thirty days the temporary 533
instruction permit, probationary driver's license, or driver's 534
license issued to the child. 535

(H) A child alleged or found to have violated division (B) or 536
(C) of this section shall not be detained under any provision of 537
this chapter or any other provision of the Revised Code. 538

Sec. 3701.84. The department of health may prepare a plan to 539
reduce tobacco use by Ohioans, with emphasis on reducing the use 540
of tobacco by youth, minority and regional populations, pregnant 541
women, and others who may be disproportionately affected by the 542
use of tobacco. The plan may provide for periodic surveys to 543
measure tobacco use and behavior toward tobacco use by Ohioans. If 544
the department prepares a plan, copies of the plan shall be 545
available to the public. 546

The plan may also describe youth tobacco consumption 547
prevention programs to be eligible for consideration for grants 548
from the department and may set forth the criteria by which 549
applications for grants for such programs will be considered by 550
the department. Programs eligible for consideration may include: 551

(A) Media campaigns directed to youth to prevent underage 552
tobacco consumption; 553

(B) School-based education programs to prevent youth tobacco 554
consumption; 555

(C) Community-based youth programs involving youth tobacco 556

consumption prevention through general youth development; 557

(D) Retailer education and compliance efforts to prevent 558
youth tobacco consumption; 559

(E) Mentoring programs designed to prevent or reduce tobacco 560
use by students. 561

Pursuant to the plan, the department may carry out, or 562
provide funding for private or public agencies to carry out, 563
research and programs related to tobacco use prevention and 564
cessation. If the department provides such funding, the department 565
shall establish an objective process to determine which research 566
and program proposals to fund. When appropriate, proposals for 567
research shall be peer-reviewed. No program shall be carried out 568
or funded by the department unless there is research that 569
indicates that the program is likely to achieve the results 570
desired. All research and programs funded by the department shall 571
be goal-oriented and independently and objectively evaluated 572
annually on whether it is meeting its goals. The department shall 573
contract for such evaluations and shall adopt rules under Chapter 574
119. of the Revised Code regarding conflicts of interest in the 575
research and programs it funds. 576

The department shall endeavor to coordinate its research and 577
programs with the efforts of other agencies of this state to 578
reduce tobacco use by Ohioans. Any state agency that conducts a 579
survey that measures tobacco use or behavior toward tobacco use by 580
Ohioans shall share the results of the survey with the department. 581

The department may adopt rules under Chapter 119. of the 582
Revised Code as necessary to implement this section. 583

Sec. 3701.841. The tobacco use prevention fund is hereby 584
created in the state treasury. The fund shall consist of money 585
deposited by the treasurer of state into the fund from the 586

liquidation, pursuant to Sub. H.B. 544 of the 127th general 587
assembly, of the former tobacco use prevention and control 588
endowment fund and any gifts, grants, or donations received by the 589
director of health for the purposes of the tobacco use prevention 590
fund. All investment earnings of the fund shall be credited to the 591
fund. The treasurer, in consultation with the director, may invest 592
moneys in the fund in accordance with section 135.143 of the 593
Revised Code. Moneys in the fund shall be used to pay outstanding 594
expenses of the former tobacco use prevention and control 595
foundation at the discretion of the director of health pursuant to 596
Sub. H.B. 544 of the 127th general assembly and shall be used in 597
accordance with section 3701.84 of the Revised Code. 598

Section 2. That existing sections 102.02, 183.021, 183.30, 599
183.33, and 2151.87 and sections 183.03, 183.04, 183.05, 183.06, 600
183.061, 183.07, 183.08, 183.09, and 183.10 of the Revised Code 601
are hereby repealed. 602

Section 3. Upon the effective date of this section, the 603
Tobacco Use Prevention and Control Foundation is abolished. 604

No validation, cure, right, privilege, remedy, obligation, or 605
liability is lost or impaired by reason of the abolition of the 606
Foundation and any such matter shall be administered by the 607
Department of Health. No action or proceeding pending on the 608
effective date of this act is affected by the abolition of the 609
Foundation, and all such matters shall be prosecuted or defended 610
in the name of the Department or the Director of Health. In all 611
such actions and proceedings, the Department or the Director, upon 612
application to the court, shall be substituted as a party. 613

Section 4. Notwithstanding any provision of law to the 614
contrary, on the effective date of this section, the Treasurer of 615

State shall liquidate the Tobacco Use Prevention and Control 616
Foundation Endowment Fund created by section 183.08 of the Revised 617
Code in a prudent manner. The Treasurer of State shall deposit 618
into the state treasury to the credit of the Tobacco Use 619
Prevention Fund (Fund 5BX0), which is created in section 3701.841 620
of the Revised Code, the lesser of \$40 million or 14.8 per cent of 621
the proceeds from liquidation. The Treasurer of State shall 622
deposit the remaining proceeds from liquidation into the state 623
treasury to the credit of the Jobs Fund (Fund 5Z30), which is 624
hereby created. 625

Section 5. All items in this act are hereby appropriated as 626
designated out of any moneys in the state treasury to the credit 627
of the Tobacco Use Prevention Fund (Fund 5BX0). For all 628
appropriations made in this act, those in the first column are for 629
fiscal year 2008 and those in the second column are for fiscal 630
year 2009. The appropriations made in this act are in addition to 631
any other appropriations made for the FY 2008 - FY 2009 biennium. 632

DOH DEPARTMENT OF HEALTH 633

Appropriations

| | | | | | |
|------------------------------------|----|------------|----|-----|-----|
| Tobacco Use Prevention Fund | | | | 634 | |
| 5BX0 440656 Tobacco Use Prevention | \$ | 40,000,000 | \$ | 0 | 635 |
| TOTAL SSR State Special Revenue | \$ | 40,000,000 | \$ | 0 | 636 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 40,000,000 | \$ | 0 | 637 |

TOBACCO USE PREVENTION 638

The foregoing appropriation item 440656, Tobacco Use 639
Prevention, may be used at the Director of Health's discretion to 640
pay outstanding expenses of the Tobacco Use Prevention and Control 641
Foundation. Any remaining funds may be used by the Director of 642
Health to carry out functions specified in section 3701.84 of the 643
Revised Code. 644

An amount equal to the unexpended, unencumbered portion of 645

the foregoing appropriation item 440656, Tobacco Use Prevention, 646
at the end of fiscal year 2008 is hereby reappropriated to the 647
Department of Health for the same purpose for fiscal year 2009. 648

Within the limits set forth in this act, the Director of 649
Budget and Management shall establish accounts indicating the 650
source and amount of funds for each appropriation made in this 651
act, and shall determine the form and manner in which 652
appropriation accounts shall be maintained. Expenditures from 653
appropriations contained in this act shall be accounted for as 654
though made in Am. Sub. H.B. 119 of the 127th General Assembly. 655

The appropriations made in this act are subject to all 656
provisions of Am. Sub. H.B. 119 of the 127th General Assembly that 657
are generally applicable to such appropriations. 658

Section 6. By December 31, 2008, the Director of Health shall 659
submit to the Governor, Speaker of the House of Representatives, 660
President of the Senate, and the chairs and ranking minority 661
members of the standing committees of the Senate and House of 662
Representatives with primary responsibility for health 663
legislation, a plan regarding management of the remaining moneys 664
in the Tobacco Use Prevention Fund (Fund 5BX0). The plan may 665
include a strategy for maintaining a portion of the fund for 666
investment and expending the earned income thereby creating a 667
long-term source of funding for tobacco use prevention and 668
cessation. 669

Section 7. On the effective date of this section, or as soon 670
thereafter as possible, the Director of Budget and Management 671
shall transfer the cash balance in the Tobacco Use Prevention and 672
Control Operating Expenses Fund (Fund 5M80), to the Tobacco Use 673
Prevention Fund (Fund 5BX0). Upon completion of the transfer, the 674
Tobacco Use Prevention and Control Operating Expenses Fund (Fund 675

5M80) is abolished. The Director shall cancel any existing 676
encumbrances against appropriation item 940601, Operating 677
Expenses, and reestablish them against appropriation item 440656, 678
Tobacco Use Prevention. The amounts of the reestablished 679
encumbrances are hereby appropriated. 680

Section 8. That Section 3 of Am. S.B. 192 of the 127th 681
General Assembly is hereby repealed. 682

Section 9. That Section 4 of Sub. S.B. 209 of the 127th 683
General Assembly is hereby repealed. 684

Section 10. That Section 205.10 of Sub. S.B. 321 of the 126th 685
General Assembly is hereby repealed. 686

Section 11. This act is hereby declared to be an emergency 687
measure necessary for the immediate preservation of the public 688
peace, health, and safety. The reason for such necessity is to use 689
state funds in a manner that allows the Department of Health to 690
promote a reduction in tobacco use and to increase employment and 691
job security. Therefore, this act shall go into immediate effect. 692