

By Senator Saunders

37-1426-07

1 A bill to be entitled
2 An act relating to tobacco prevention and
3 education; amending s. 20.05, F.S.; requiring
4 the Secretary of Health to concurrently serve
5 as the state's Surgeon General; creating s.
6 386.301, F.S.; providing a short title;
7 creating s. 386.302, F.S.; providing
8 legislative intent; creating s. 386.303, F.S.;
9 establishing the Florida Comprehensive Tobacco
10 Prevention and Education Program within the
11 Department of Health; providing for the use of
12 appropriated funds; providing components for
13 the program; authorizing the inclusion of
14 smoking cessation programs administered by
15 county health departments; authorizing the
16 inclusion of programs to address certain
17 disparities among groups of persons; providing
18 for a minimum annual appropriation; prohibiting
19 the use of appropriated funds for certain
20 activities; providing a limitation on
21 administrative costs; creating s. 386.304,
22 F.S.; providing criteria for advertising
23 campaigns; creating s. 386.305, F.S.; requiring
24 the Surgeon General to appoint a Director of
25 Tobacco Control; providing the functions of the
26 director; providing duties of the Surgeon
27 General in consultation with the Statewide
28 Tobacco Policy Oversight Board; creating s.
29 386.306, F.S.; creating the Statewide Tobacco
30 Policy Oversight Board; providing for
31 membership; providing for terms of appointment;

1 providing for reimbursement for per diem and
2 travel expenses; providing for duties of the
3 board; requiring the chairperson of the board
4 to appoint workgroups; requiring the board to
5 submit reports to the Governor and the
6 Legislature; providing an effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. Subsection (5) is added to section 20.05,
11 Florida Statutes, to read:

12 20.05 Heads of departments; powers and duties.--

13 (5) The Secretary of Health shall also serve
14 concurrently as the state's Surgeon General.

15 Section 2. Section 386.301, Florida Statutes, is
16 created to read:

17 386.301 Short title.--Sections 386.301-386.306 may be
18 cited as the "Tobacco Prevention and Education Act."

19 Section 3. Section 386.302, Florida Statutes, is
20 created to read:

21 386.302 Legislative intent.--It is the intent of the
22 Legislature to implement the will of the electorate as
23 expressed during the 2006 general election by the adoption of
24 s. 27, Art. X, of the State Constitution. Accordingly, it is
25 the intent of the Legislature to protect people, especially
26 youth, from addiction, disease, and other health hazards of
27 using tobacco by dedicating a minimum of 15 percent of the
28 proceeds the state receives annually from the legal settlement
29 from the tobacco industry for a comprehensive statewide
30 program on tobacco prevention and education using best
31 practices from the Centers for Disease Control, as well as

1 specific components delineated in s. 27, Art. X of the State
2 Constitution. Moreover, it is the intent of the Legislature to
3 annually adjust the funding for this comprehensive program on
4 tobacco prevention and education, based on inflation, as
5 required by s. 27, Art. X of the State Constitution.

6 Section 4. Section 386.303, Florida Statutes, is
7 created to read:

8 386.303 Florida Tobacco Prevention and Education
9 Program; program components; distribution of funds; annual
10 appropriation; use of funds; cap on administrative expenses.--

11 (1) The Florida Comprehensive Tobacco Prevention and
12 Education Program, with attendant components required pursuant
13 to s. 27, Art. X of the State Constitution, is established
14 within the Department of Health.

15 (2) The moneys appropriated annually pursuant to this
16 section shall be used to fund a comprehensive statewide
17 program for tobacco prevention and education consistent with
18 the recommendations for effective program components in the
19 1999 Best Practices for Comprehensive Tobacco Control Programs
20 of the Centers for Disease Control (CDC Best Practices). This
21 program shall include, at a minimum, the following components,
22 and may include additional components that are also contained
23 within the CDC Best Practices, as periodically amended, that
24 are effective at accomplishing the purpose of this section,
25 and that do not undermine the effectiveness of these required
26 minimum components:

27 (a) An advertising campaign to discourage the use of
28 tobacco and educate people, especially youth, about the health
29 hazards of tobacco, which shall be designed to be effective at
30 achieving these goals and shall include, but need not be
31 limited to, television, radio, and print advertising, with no

1 limitations on any individual advertising medium used. This
2 campaign shall be funded at a level equivalent to one-third of
3 each total annual appropriation required by this section;

4 (b) Evidence-based curricula and programs to educate
5 youth about tobacco and to discourage their use of it,
6 including, but not limited to, programs that educate youth
7 about the health hazards of tobacco, help youth develop skills
8 to refuse tobacco, and demonstrate to youth how to stop using
9 tobacco;

10 (c) Programs of local community-based partnerships
11 which discourage the use of tobacco and work to educate
12 people, especially youth, about the health hazards of tobacco,
13 with an emphasis on programs that involve youth and emphasize
14 the prevention and cessation of tobacco use;

15 (d) Enforcement of laws, rules, and policies against
16 the sale or provision of tobacco to minors, and the possession
17 of tobacco by minors; and

18 (e) Publicly reported annual evaluations to ensure
19 that moneys appropriated pursuant to this section are spent
20 properly, which shall include evaluation of the program's
21 effectiveness in reducing and preventing tobacco use and
22 annual recommendations for improvements to enhance the
23 program's effectiveness, which shall include comparisons to
24 similar programs proven to be effective in other states, as
25 well as comparisons to CDC Best Practices, including its
26 amendments.

27 (3) The tobacco control program may include cessation
28 programs, administered by county health departments, and a
29 toll-free telephone number.

30 (4) The tobacco control program may include programs
31 to address disparities that are directed towards groups of

1 persons that have a higher morbidity or mortality rate than
2 the general population due to tobacco use or exposure to
3 secondhand smoke.

4 (5) Beginning with the 2007-2008 fiscal year, the
5 minimum legislative appropriation for the purposes expressed
6 in this section, from the total gross funds that tobacco
7 companies pay to this state under the tobacco settlement,
8 shall be an amount equal to 15 percent of such funds paid to
9 the state in 2005; and the annual appropriation required by
10 this section shall be adjusted each subsequent year for
11 inflation, using the Consumer Price Index as published by the
12 United States Department of Labor.

13 (6) Funds appropriated in furtherance of this section
14 may not be disbursed or expended for activities that do not
15 principally benefit the act of tobacco control in this state,
16 and funds appropriated in the furtherance of this section may
17 not be used for the purpose of lobbying any branch or agency
18 of state government.

19 (7) Administrative costs for the Florida Comprehensive
20 Tobacco Prevention and Education Program required by s. 27,
21 Art. X of the State Constitution and by this section may not
22 exceed 10 percent.

23 Section 5. Section 386.304, Florida Statutes, is
24 created to read:

25 386.304 Florida Tobacco Prevention and Education
26 Program; required advertising component; university consortia;
27 limitation of commissions.--In the implementation of the
28 tobacco prevention and education advertising component
29 required by s. 386.303(2)(a), the following provisions shall
30 apply:

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1 (1) Preference in contracting for the creation and
2 media placement of the program's advertising campaigns shall
3 be given to collaborations or consortia of universities in
4 this state if a high level of quality can be demonstrated to
5 the oversight board created in s. 386.306 and to the state's
6 Surgeon General.

7 (2) Commission awards to any media buyer for
8 advertisements placed pursuant to this section shall be
9 limited to 5 percent, with any refunds, rebates, or
10 commissions otherwise awarded by applicable media outlets
11 being reinvested into additional media purchases.

12 (3) Any advertisements disseminated under this section
13 shall be demographically tested for their target audience,
14 whether youth or adult, with appropriate tobacco
15 counter-marketing messages incorporated.

16 Section 6. Section 386.305, Florida Statutes, is
17 created to read:

18 386.305 Surgeon General; Director of Tobacco Control;
19 tobacco prevention and education roles and duties.--

20 (1) The state's Surgeon General shall appoint a
21 Director of Tobacco Control.

22 (2) The function of Director of Tobacco Control is to
23 work in collaboration with the office of planning and
24 budgeting within the Department of Management Services to:

25 (a) Coordinate tobacco-control efforts and enlist the
26 assistance of the public and private sectors in those efforts,
27 including, but not limited to, federal, state, and local
28 agencies.

29 (b) Provide information to the public about the
30 problem of tobacco use and the programs and services which are
31 available for tobacco prevention and education.

1 (c) Act as the liaison for this state's Surgeon
2 General with state agencies, other state governments, federal
3 agencies, and the public and private sectors on matters that
4 relate to tobacco use.

5 (d) Work to secure funding and other support for the
6 state's tobacco control efforts, including, but not limited
7 to, establishing cooperative relationships among state and
8 private agencies.

9 (e) Develop a strategic program and funding initiative
10 that links the separate jurisdictional activities of state
11 agencies with respect to tobacco control. The office may
12 designate lead and contributing agencies to develop such
13 initiatives.

14 (3) The state's Surgeon General, upon consultation
15 with the Statewide Tobacco Policy Oversight Board created
16 pursuant to s. 386.306, shall:

17 (a) Advise the Governor and the Legislature on
18 tobacco-use trends in this state, the status of current
19 tobacco prevention and education programs and services, and
20 the status of the development and implementation of the
21 state's tobacco-control strategy.

22 (b) Make recommendations to the Governor on measures
23 that the director considers advisable for the effective
24 implementation of the state's tobacco-control strategy.

25 (c) Report to the Governor, the President of the
26 Senate, and the Speaker of the House of Representatives on the
27 information and recommendations required under paragraphs (a)
28 and (b) on or before December 1 of each year.

29 Section 7. Section 386.306, Florida Statutes, is
30 created to read:

31 386.306 Statewide Tobacco Policy Oversight Board.--

1 (1)(a) The Statewide Tobacco Policy Oversight Board is
2 created within the Department of Health. The state's Surgeon
3 General shall be a nonvoting, exofficio member of the
4 oversight board and shall act as chairperson. The director of
5 the office of planning and budgeting shall be a nonvoting,
6 exofficio member of the oversight board. The Department of
7 Health and the office of planning and budgeting shall provide
8 staff support for the oversight board.

9 (b) The following state officials shall be appointed
10 to serve on the oversight board:

11 1. The Director of Tobacco Control.

12 2. The Attorney General, or his or her designee.

13 3. The Secretary for Health Care Administration, or
14 his or her designee.

15 4. The Commissioner of Education, or his or her
16 designee.

17 5. The Secretary of Business and Professional
18 Regulation, or his or her designee.

19 (c) In addition, the Governor shall appoint nine
20 members of the public to serve on the oversight board. Of
21 these appointees, a majority shall have some type of expertise
22 in the field of tobacco prevention and education or smoking
23 cessation. At least one of the Governor's appointees at any
24 given time must be a teenager at the time of his or her
25 appointment. The members appointed by the Governor must, to
26 the extent possible, equitably represent all geographic areas
27 of the state.

28 (d) The President of the Senate shall appoint a member
29 of the Senate to the oversight board.

1 (e) The Speaker of the House of Representatives shall
2 appoint a member of the House of Representatives to the
3 oversight board.

4 (f) The Chief Executive Officer of the Florida
5 Division of the American Cancer Society, or his or her
6 designee, shall serve on the oversight board.

7 (g) The Chief Executive Officer of the Florida/Puerto
8 Rico Affiliate of the American Heart Association, or his or
9 her designee, shall serve on the oversight board.

10 (h) The Chief Executive Officer of the American Lung
11 Association of Florida, or his or her designee, shall serve on
12 the oversight board.

13 (i) Members appointed by the Governor, the President
14 of the Senate, and the Speaker of the House of Representatives
15 shall be appointed to terms of 4 years each. However, for the
16 purpose of providing staggered terms, of the Governor's
17 initial appointments, five members shall be appointed for
18 2-year terms and four members shall be appointed for 4-year
19 terms.

20 (2)(a) Any vacancy on the oversight board shall be
21 filled in the same manner as the original appointment, and any
22 member appointed to fill a vacancy occurring because of death,
23 resignation, or ineligibility for membership shall serve only
24 for the unexpired term of the member's predecessor. A member
25 is eligible for reappointment.

26 (b) Members of the oversight board and members of
27 workgroups appointed under subsection (4) shall serve without
28 compensation, but are entitled to reimbursement for per diem
29 and travel expenses as provided in s. 112.061.

30 (c) The oversight board shall meet at least quarterly
31 and upon the call of the chairperson.

1 (3) The oversight board shall:

2 (a) Determine the most effective means of establishing
3 clear and meaningful lines of communication between the
4 oversight board and the public and private sectors in order to
5 ensure that the process of developing and implementing the
6 state's tobacco-control strategy is consistent with s. 27,
7 Art. X of the State Constitution and affords a broad spectrum
8 of the public and private sectors an opportunity to comment
9 and make recommendations.

10 (b) Review and make recommendations to the Governor
11 and the Legislature on funding programs and services for
12 tobacco prevention and education consistent with s. 27, Art. X
13 of the State Constitution. The oversight board may recommend
14 the creation of a separate appropriations category for funding
15 services delivered or procured by applicable state agencies
16 and may recommend the use of performance-based contracting as
17 provided in s. 414.065.

18 (c) Review various programs on tobacco prevention and
19 education and recommend, where needed, measures that are
20 sufficient to determine program outcomes. The oversight board
21 shall review different methodologies for evaluating programs
22 and determine whether programs within different agencies have
23 common outcomes.

24 (d) Review the tobacco control strategies and programs
25 of, and efforts by, other states and the Federal Government
26 and compile the relevant research, with emphasis given to the
27 United States Centers for Disease Control's Best Practices for
28 Tobacco Control, as amended.

29 (e) Recommend to the Governor and the Legislature
30 applied research projects that would use research capabilities
31 within the state, including, but not limited to, the resources

1 of the State University System, for the purpose of achieving
2 improved outcomes and making better-informed strategic
3 budgetary decisions within the parameters set forth in s. 27,
4 Art. X of the State Constitution.

5 (f) Recommend to the Governor and the Legislature
6 changes in law which would remove barriers to, or enhance the
7 implementation of, the strategy on tobacco control.

8 (g) Make recommendations to the Governor and the
9 Legislature on the need for public information campaigns to be
10 conducted in the state, consistent with s. 27, Art. X of the
11 State Constitution, to limit tobacco consumption.

12 (h) Ensure that there is coordinated, integrated, and
13 multidisciplinary response to the tobacco-use problem in this
14 state, with special attention given to creating partnerships
15 within and between the public and private sectors, and to the
16 coordinated, supported, and integrated delivery of
17 multiple-system services for tobacco users, including a
18 multiagency team approach to tobacco prevention and education.

19 (4)(a) The chairperson of the oversight board shall
20 appoint workgroups in order to efficiently address specific
21 components of the comprehensive program on tobacco prevention
22 and education required pursuant to s. 27, Art. X of the State
23 Constitution. These workgroups may include public or private
24 sector individuals who are not members of the board, and may
25 include staff from state agencies involved in the development
26 or implementation of the applicable program component.

27 (b) The oversight board shall submit to the Governor,
28 the President of the Senate, and the Speaker of the House of
29 Representatives, by December 1 of each year, a report that
30 contains a summary of the work of the board during that year
31 and the recommendations required under subsection (3). Interim

1 reports may be submitted at the discretion of the chairperson
2 of the oversight board.

3 Section 8. This act shall take effect July 1, 2007.
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6 SENATE SUMMARY

7 Establishes the Florida Comprehensive Tobacco Prevention
8 and Education Program. Provides for the use of
9 appropriated funds. Provides components for the program.
10 Authorizes the inclusion of smoking cessation programs
11 administered by county health departments. Authorizes the
12 inclusion of programs to address certain disparities
13 among groups of persons. Provides a minimum legislative
14 appropriation. Prohibits the use of appropriated funds
15 for certain activities. Provides a limitation on
16 administrative costs. Provides criteria for advertising
17 campaigns. Requires the Surgeon General to appoint a
18 Director of Tobacco Control. Provides the functions of
19 the director. Provides duties of the Surgeon General in
20 consultation with the Statewide Tobacco Policy Oversight
21 Board. Creates the Statewide Tobacco Policy Oversight
22 Board. Provides for membership. Provides for terms of
23 appointment. Provides for reimbursement of per diem and
24 travel expenses. Provides for duties of the board.
25 Requires the chairperson of the board to appoint
26 workgroups. Requires the board to submit reports to the
27 Governor and the Legislature.
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