

Approved: March 17, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:15 a.m. on March 4, 1999 in Room 254-E of the Capitol.

All members were present:

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:

John Campbell, Assistant Attorney General
Jane Nohr, Assistant Attorney General
Jim Conant, Director Alcohol and Beverage Control
Gene Johnson, Kansas Community Alcohol Safety Action Program
Ron Hein, Kansas Restaurant and Hospitality Association
Tuck Duncan, Kansas Wine and Spirits Wholesalers Association
Rebecca Rice, Kansas Retail Liquor Dealers Association
Rita Madl, Kansas Licensed Beverage Association
Paul Manzanares, Paisano's Inc.

Chairman Oleen called for introduction of bills. Senator Becker moved for the introduction of a bill that would cover the Lake View Village, Lenexa, concerning tax exempt status. Senator Jones seconded the motion. The motion carried.

Senator Vidricksen moved for the introduction of a bill that would provide penalties for certain overweight vehicles. Senator Bleeker seconded the motion. The motion carried.

Senator Oleen requested the introduction of a bill to address declining enrollment in K-12. Senator Jones moved for the introduction of the bill. Senator Becker seconded the motion. After discussion by committee and staff it was determined that this bill had been addressed previously and no action was needed so the bill will not need to be introduced.

Chairman Oleen recognized John Campbell, Senior Deputy Attorney General, to address the committees concerning questions that had been raised concerning the Master Settlement Agreement (MSA). Mr. Campbell addresses the issue of restrictions on lobbying that were included in the MSA (Attachment 1). Mr. Campbell stated that tobacco representatives who are certified and have contacted their company, could oppose the passage of SB 239.

Chairman Oleen opened the hearing on

SB 337 - Concerning alcoholic and cereal malt beverages requiring server permits

Theresa Kiernan, Revisors of Statutes, presented the committee with a review of **SB 337**. The bill would require certain training requirement for licensees under the beverage consumption and liquor control act. The bill sets out the information covering the alcohol server education program and the duties of the director concerning this program. This bill would have an effective date of January 1, 2000.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse at 11:15 a.m. on March 4, 1999

Chairman Oleen introduced Jane Nohr, Assistant Attorney General, as a proponent for **SB 337**. Ms. Nohr stated that this bill was the recommendation of the Far-Reaching Alteration of Traffic and Alcohol Laws (FATAL) Task Force. (Attachment 2) The Task Force is confident that mandatory alcohol server training will heighten the sensitivity of servers to be more aware of potential alcohol or drug abuse. Upon successful completion of the training and a criminal records check, individuals would be able to obtain a server card to be used in any state licensed establishment where alcoholic liquor or cereal malt beverages are mixed, or sold in Kansas. At this time, there are at least seven other states which have alcohol server training laws. She urged the favorable consideration of **SB 337** by the committee.

Chairman Oleen called on Jim Conant, Director of Alcoholic Beverage Control, who appeared as a proponent to **SB 337**. Mr. Conant stated that this bill represents a two-pronged approach to alcohol-related issues such as underage access, excessive consumption and other problems which result when young people drink or people drink excessively and then drive. (Attachment 3). As a prevention, the training required by the bill would insure that persons have information to do their jobs in a responsible, professional manner. The second aspect of the bill is enforcement. The issuance and potential for suspension or revocation of the required permit should greatly increase the motivation of the permit holder to actually apply the training they have received each time they interact with a customer. Mr. Conant suggested that the committee consider standardizing the statutory employee qualifications for retail liquor stores and on-premise licensees. The issue is whether there is intended to be a single server permit, authorizing the holder to work in both retail liquor and on-premises businesses, or separate permits for those who can qualify for retail employment but do not meet the on-premise standards.

Chairman Oleen recognized Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association. Mr. Johnson appeared as a proponent for **SB 337** and stated that for the last 15 years the Kansas Community Alcohol Safety Action Project Coordinators Association has supported a positive action by Legislature to provide mandatory server training for those individuals who dispense alcohol beverages to the public. (Attachment 4) Mr. Johnson stated that he served on the FATAL Task Force and it was with the unanimous support of that body to pass server training legislation. He urged the committee to take positive action on this bill.

Ron Hein was recognized by Chairman Oleen as a proponent to **SB 337**. Mr. Hein, Kansas Restaurant and Hospitality Association (KRHA) representative, stated that KRHA generally supported the concept of **SB 337**. (Attachment 5) Since this bill requires any restaurant serving alcohol to require any employee who participates in any manner in the sale of alcoholic liquor to have a valid server permit, there is concern about certain provisions of the bill and the impact that it will have on small restaurants and restaurants in rural areas. Another concern that was expressed was the length of time it takes for the state to complete the processing of an employee. The KRHA also has some other concerns about the bill. KRHA does believe that **SB 337** is a move in the right direction but recommends it be referred to interim study to work out these details.

Chairman Oleen called on R. E. "Tuck" Duncan, Kansas Wine and Spirits Wholesalers Association, as a proponent for **SB 337**. Mr. Duncan stated that he was also a member of the FATAL Task Force and this group looked at successful programs in numerous states, including the program in Oregon and concluded that this is an important prevention technique. (Attachment 6) Mandatory training will heighten the sensitivity of servers to the potential for alcohol abuse. Improved server training is an important part of the combination of approaches needed to reduce the incidence of drunken driving. If the January 1, 2000 date needs to be changed move it back to July 1, 2000. The Kansas Legislature should adopt a mandatory program of server training for all management personnel and persons involved in dispensing or selling alcohol at licensed retail liquor dealers, clubs and drinking establishments.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse at 11:15 a.m. on March 4, 1999

Chairman Oleen recognized Rebecca Rice, Legislative Counsel for Kansas Retail Liquor Dealers Association. Ms. Rice stated that the Legislative Counsel for KRLDA is opposed to SB 337, however it is completely supportive of a substitute bill which would institute a voluntary state-wide server training program for all sellers of alcoholic beverages. (Attachment 7). Mr. Rice stated that although KRLDA cannot support SB 337 in its current form, we would encourage the committee to consider a substitute bill incorporating these specific points.

Chairman Oleen called on Rita Madl, President of Kansas Licensed Beverage Association. Ms. Madl appeared has a proponent to SB 337 with amendments. Mr. Madl stated that KLBA has been a supporter of Server Education in the Lawrence Kansas. (Attachment 8). The KLBA has found some legislation from Louisiana that makes this concept more economical for our small businesses. These would include a server training fee not to exceed twenty-five dollars per person; create an advisory board to help the Director create minimum server training requirements and approvals; permit fees should be shared with licensees; grandfather all current registered employees and allow a 45 day grace period for certification of employees.

Chairman Oleen recognized Paul A. Manzanares, Paisano's Inc., as a proponent to SB 337. Mr. Manzanares stated that he was in support of the bill with a few concerns. (Attachment 9). Concern about the bill include the cost for the permit be \$35.00 and it also states that the individual seeking a permit must pay for a KBI background check. There is not mention as to the cost of that background check. There is no mention of a time frame in which the ABC and KBI has to complete and issue or deny a permit. The bill makes no mention as to current employees and what will happen to them come January 1, 2000.

Chairman Oleen called attention to written testimony received by the committee from Mothers Against Drunk Driving (MADD). (Attachment 10) and then closed the hearing.

The meeting adjourned at 12:15 p.m. The next meeting will be of this committee will be March 8, 1999.



State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

March 2, 1999

MAIN PHONE: (785) 296-2215
FAX: 296-6296
TTY: 291-3767

The Honorable Lana Oleen
Chairperson of Senate Federal and State Affairs
Room 136-N, State Capitol
Topeka, KS 66612

RE: Tobacco Lobbying Under the Master Settlement Agreement

Dear Senator Oleen:

INTRODUCTION

With reference to your questions presented at the Senate Federal and State Affairs Committee Meeting on February 22, 1999 and our subsequent conversation, the following is my interpretation of those portions of the tobacco litigation settlement dealing with lobbying by tobacco products manufacturers. The tobacco products manufacturers may have differing opinions. It is also possible that as events unfold I may come to see these portions in a different light.

By way of background, please find attached a summary of that settlement. This summary provides an overview of the agreement. In addition, please note that in 1996, Attorney General Stovall filed suit against the five largest tobacco products manufacturers: Philip Morris, Brown & Williamson, Lorillard and Liggett. The suit alleged **civil law** wrongs and was not a **criminal law** action. The filing of the Kansas Tobacco Litigation, as well as its subsequent settlement (Master Settlement Agreement, MSA), was not a federal action and was never intended to create criminal liability nor did it place federal statutory or regulatory obligations on any person or company.

The primary purpose of the various states Tobacco Litigation (all 50 states eventually sued the major tobacco products manufacturers) was to change the marketing practices of tobacco products manufacturers, especially those aimed at children. In addition, the suits sought to recover a portion of the expense incurred in the treatment of tobacco related illnesses, *e.g.*, cancer and emphysema.

MAR 3

Sen. Federal & State Affairs Comm.
Date: 3-4-99
Attachment: # 1-1

All of the states have entered into settlement agreements with the above-named tobacco manufacturers. The Kansas settlement agreement is like a contract, not a state or federal criminal law. If the tobacco manufacturers or their agents, such as a lobbyist, were to violate that agreement, the State could petition the court to stop the tobacco manufacturer's violation of the agreement through an injunction. Further, the court could be asked to reimburse the state for any expenses or damages associated with violation of the agreement.

RESTRICTIONS ON LOBBYING

I. Under the MSA, lobbyists who are employed by or acting on behalf of any of tobacco company which has signed the MSA, designated in the MSA as Participating Manufacturers (PM) or Subsequent Participating Manufacturers (SPM) cannot oppose or support legislation on tobacco issues unless they:

(A) Have a PMs' or SPMs' express authorization (except where such advance express authorization is not reasonably practicable);

(B) Are aware of and will fully comply with the MSA and all laws and regulations applicable to their lobbying activities.

(C) Have reviewed and will fully abide by the PMs' or SPMs' corporate principles on youth access and consumption. Please note those corporate principles must be in place by June 1, 1999, they currently do not exist and thus this portion of the MSA will most likely not be in effect this session.

This same restriction would apply to lobbyists employed by or acting on behalf of United States Tobacco under the Smokeless Tobacco MSA which is a separate agreement.

II. Under the MSA, lobbyists employed by or acting on behalf of any PM or SPM cannot oppose legislation with regard to the following tobacco issues:

Limitations on youth access to vending machines.

Inclusion of cigars within the definition of tobacco products.

Enhancement of enforcement efforts to identify and prosecute violations of laws prohibiting retail sales to youth.

Encouraging or supporting use of technology to increase effectiveness of age-of-purchase laws, such as, without limitation, the use of programmable scanners, scanners to read drivers' licenses, or use of other age/ID data banks.

Limitations on promotional programs for non-tobacco goods using tobacco products as prizes or give-aways.

Enforcement of access restrictions through penalties on youth for possession or use.

Limitations on tobacco product advertising in or on school facilities, or wearing of tobacco logo merchandise in or on school property.

Limitations on non-tobacco products which are designed to look like tobacco products, such as bubble gum cigars, candy cigarettes, etc.

This same restriction would apply to a lobbyist employed by or acting on behalf of United States Tobacco.

III. Under the MSA, lobbyists employed by or acting on behalf of any PM or SPM cannot oppose legislation which would prohibit the sale of any pack or other container of cigarettes containing fewer than 20 cigarettes.

IV Under the MSA, lobbyists employed by or acting on behalf of any PM or SPM cannot oppose legislation which was introduced prior to January 22, 1999. This same restriction would apply to United States Tobacco.

In my opinion, if a bill, such as SB 239 were opposed or caused to be opposed by a PM, SPM or United States Tobacco would be limited.

First the PM, SPM and United States Tobacco lobbyists must have the explicit permission of the manufacturers on whose behalf they are acting if those manufacturers are Philip Morris, Brown & Williamson, Lorillard, Liggett, United States Tobacco, Commonwealth Brands, Inc., Santa Fe Natural Tobacco Company, Crossline Distributors, ITL (USA) Limited, Japan Tobacco International USA, King Maker Marketing, Lane Limited, Lignum-2, LTD Corporation, The Medallion Company, Point Marketing, Djarum, Sherman's 1400 Broadway N.Y.C., Ltd., Societe' National d' Exploitation Industrielle des Tabacs et Allumettes, Tobacco

The Honorable Lana Oleen
March 2, 1999
Page 4

Exporter International (USA) Ltd., Tob Tobacco, L.P., or any other Subsequent Participating Manufacturer that has signed the MSA.

Second, the lobbyists, if working for or at the request of a PM, SPM or United States Tobacco must have certified in writing to the company that they have reviewed the MSA (or Smokeless MSA) and that they will abide by the provisions of those agreements.

Third, those portions of the bill which are aimed at preventing youth access and consumption is off limits to the lobbyists of the above-named companies and cannot be opposed by them.

Fourth, lobbyists cannot oppose any bill that was introduced prior to January 22, 1999; in that it appears that SB 239 was introduced on February 4, 1999, it does not appear that the blanket pre January 22, 1999 prohibit would apply.

Fifth, those portions of the bill which deals with adult consumption may be opposed by the lobbyists.

CONCLUSION

What happens if a lobbyist violates a provision of the MSA? This is not a crime; no one goes to jail or is fined. However, it is a serious matter that would be brought to the attention of the PM or SPM involved and if a satisfactory solution was not reached, it could be referred to the court for the civil enforcement of the MSA. The same is true for United States Tobacco.

The MSA does not *per se* prohibit lobbyists from providing information at the request of an individual legislator. However, if that information is not objective and verifiable, the State will consider the supplying of such information as advocacy and apply the MSA accordingly.

The Honorable Lana Oleen

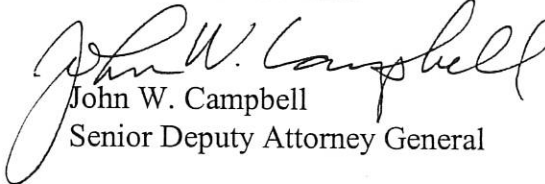
March 2, 1999

Page 5

I am sorry for the length of this letter. The MSA is a lengthy and complex document. If I can be of assistance please call. I will be attending the committee's March 4, 1999 meeting and will be glad to answer questions.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL


John W. Campbell
Senior Deputy Attorney General

JWC:dsw

Tobacco Settlement Proposal Summary for Attorneys General

Public Health Initiatives

Prohibits Youth Targeting

- Prohibits targeting youth in advertising, promotions, or marketing.
- Bans industry actions aimed at initiating, maintaining or increasing youth smoking.

Bans Cartoon Characters

- Bans use of cartoons in the advertising, promotion, packaging or labeling of tobacco products.

Restricts Sponsorships By Brand Names

- Limits tobacco companies to only one brand name sponsorship per year (after current contracts expire or after three years – whichever comes first).
- Prohibits brand name sponsorship of events with a significant youth audience.
- Prohibits sponsorship of team sports (football, basketball, baseball, hockey or soccer).
- Prohibits sponsorship of events where any of the paid participants or contestants are underage.
- Allows corporate sponsorship of athletic, musical, cultural, artistic or social events as long as the corporate name does not include the brand name of a domestic tobacco product.
- Bans tobacco brand names for stadiums and arenas.
- Limits outdoor advertising for sponsored events to the site of the event.

Bans Outdoor Advertising

- Bans all outdoor advertising, including: billboards, signs and placards in arenas; stadiums, shopping malls, and video game arcades.
- Limits advertising outside retail establishments to 14 square feet.
- Bans transit advertising of tobacco products.
- Tobacco billboards and transit ads must be removed within 150 days after the Master Settlement Agreement Execution Date.
- Allows states to substitute for the duration of billboard lease periods, alternative advertising which discourages youth smoking.
- Requires tobacco companies to designate a contact person to facilitate sign removal in each state.

Bans Placement of Tobacco Products

- Bans payments to promote tobacco products in movies, television shows, theater productions or live performances, live or recorded music performances, videos and video games.

Bans Sale of Merchandise With Tobacco Brand Names

- Beginning July 1, 1999, bans distribution and sale of apparel and merchandise with brand-name logos (caps, T-shirts, backpacks, etc.).

Bans Youth Access To Free Samples

- After Master Settlement Agreement Execution Date, free samples cannot be distributed except in a facility or enclosed area where the operator ensures no underage person is present.

Bans Proof of Purchase Gifts

- Bans gifts without proof of age (legible driver's license certified to be valid by the gift recipient). Effective one year after Master Settlement Agreement Execution Date.

Prohibits Third Parties From Using Tobacco Brand Names

- Tobacco companies are prohibited from authorizing third parties to use or advertise brand names in any way prohibited by the agreement.
- Tobacco companies must designate a contact in each state who will respond to Attorney General complaints of prohibited third party activity.
- Exempts licensing agreements or contracts in existence as of July 1, 1998, although contracts cannot be extended beyond current terms.

Bans Non-Tobacco Brand Names

- Bans future cigarette brands from being named after recognized non-tobacco brand or trade names (such as Harley Davidson, Yves Saint Laurent, Cartier) or nationally recognized sports teams, entertainment groups or individual celebrities.

Sets Minimum Pack Size At 20 Cigarettes

- Limits minimum pack size to 20 cigarettes through December 31, 2001.
- Tobacco companies prohibited from opposing state legislation which bans the manufacture and sale of packs containing fewer than 20 cigarettes.

Changes The Corporate Culture

Requires Corporate Commitments To Reduce Youth Access and Consumption

- Beginning 180 days after the Master Settlement Agreement Execution Date, companies must:
- Develop and regularly communicate corporate principles that commit to complying with the Master Settlement Agreement and reducing youth smoking.

- Designate executive level manager to identify ways to reduce youth access and consumption of tobacco.
- Encourage employees to identify additional methods to reduce youth access and youth consumption.

Disbands Tobacco Trade Associations

- Disbands the Council for Tobacco Research (CTR), the Tobacco Institute (TI), and the Council for Indoor Air Research (CIAR).
- Requires all records of these organizations that relate to any lawsuit to be preserved.

Provides Regulation and Oversight of Any New Trade Organizations

- Requires any new trade association to adopt bylaws that provide:
- Officers of the association will be appointed by the board, be employees of the association and will not be employed by a member tobacco company;
- Legal counsel will be independent and not serve as counsel to member companies;
- Minutes of board of director meetings will be prepared and maintained for at least five years.
- Antitrust staff for any settling state may inspect and copy all non-privileged, non-work-product records and interview association directors, officer and employees.

Restricts Industry Lobbying

Stops Industry Assault On Tobacco Control Laws

- After state specific finality, tobacco companies will be prohibited from opposing proposed state or local laws or administrative rules which are intended to limit youth access to and consumption of tobacco products.
- The industry must require its lobbyists to certify in writing they have reviewed and will fully comply with settlement terms including disclosure of financial contributions regarding lobbying activities and new corporate culture principles;
- In states without laws regarding financial disclosure of lobbying, requires disclosure of lobbying costs to the state Attorney General.
- Prohibits lobbyists from supporting or opposing state, federal, or local laws or actions without authorization of the companies.
- Prohibits the industry from lobbying for the diversion of settlement money to non-tobacco or non-health related uses or legislation which would eliminate or diminish state rights under the settlement.

Protects State And Local Youth Access Laws

- Prohibits new challenges by the industry against the enforceability or constitutionality of tobacco control laws, ordinances, and rules passed prior to June 1, 1998.

Dismisses Lawsuits Against State Laws

- Requires the industry to dismiss, without fees, all claims against participating states.

No Criminal Immunity

- Specifies that states expressly do not waive any right to pursue criminal prosecutions based on federal, state, or, local law.

Opens Industry Records And Research

Opens Public Access To Tobacco Documents

- Tobacco companies will release documents that are under protective orders in state lawsuits and have no privilege or trade-secret claim.
- Settling states may seek court-approved public release of any documents which have been subject to an order or ruling, prior to August 17, 1998, denying privilege, work-product or trade secret protection. The industry can contest the action.

Creates User-Friendly Website For Industry Documents

- Requires tobacco companies to maintain for ten years, at their expense, a Website which includes all documents produced in state and other smoking and health related lawsuits.
- Requires the industry to maintain the site in a user-friendly and searchable format (requires an index and other features to improve searchable access).
- Requires the industry to add, at its expense, all documents produced in future civil actions involving smoking and health cases.
- The industry will provide the National Association of Attorneys General with up to \$100,000 for a computer consultant to ensure that the industry's Website is truly usable.

Stops Conspiracy To Hide Research Regarding Smoking and Health

- Prohibits manufacturers from jointly contracting or conspiring to:
- Limit information about the health hazards from the use of their products;
- Limit or suppress research into smoking and health; or
- Limit or suppress research into the marketing or development of new products.
- Prohibits the industry from making any material misrepresentations regarding the health consequences of smoking.

Creates A Foundation And \$1.45 Billion Public Education Fund

- Outside contributions can be made to the foundation and specifically to the education fund.

Enforcement

Provides Court Jurisdiction For Implementation and Enforcement

- Settling states or tobacco companies may apply to the court to enforce the terms of the consent decree.
- A state is not required to give any prior notice before seeking an order to enforce a consent decree from the court – except that a 10-day notice is required if the claimed violation involves targeting youth or making material misrepresentations about tobacco products (unless the Attorney General determines there is a public health or safety concern requiring faster action, or the party has committed substantially similar violations previously).
- If the court finds the consent decree has been violated, the court may award any relief available under the consent decree or the law in that state.
- Settling states may also apply to the court to enforce or interpret the terms of the Agreement, although before applying to the court a party must give the other parties and NAAG 30-days notice (unless the Attorney General determines there is a public health or safety concern requiring faster action).
- If the court issues an enforcement order enforcing the agreement and a party violates that order, the court may order monetary, civil contempt or criminal sanctions to enforce compliance with the enforcement order.
- Allows settling state AGs access to company documents, records and personnel to enforce the agreement.

NAAG Provides Implementation And Enforcement Coordination

- NAAG will:
- Receive \$150,000 per year until 2007 from the industry for oversight costs.
- Monitor potential conflicting court interpretations involving the settlement.
- Convene two meetings each year and one national conference every three years to evaluate the success of the settlement and coordinate AG efforts.
- Assist states with inspection and discovery activities which are conducted to enforce the settlement.

State Enforcement Fund Established

- On March 31, 1999, the industry is directed to pay \$50 million which will be used to assist settling states in enforcing and implementing the agreement and to investigate and litigate potential violations of state tobacco laws.

Financial Recovery

Creates A National Foundation to Reduce Teen Smoking and Substance Abuse

- Requires the industry to pay \$250 million over the next ten (10) years to fund a charitable foundation which will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use.
- The NAAG Executive Committee will provide for creation of the foundation.
- The foundation will be governed by an eleven-member board of directors. NAAG, the National Governors' Association and the National Conference of State Legislatures each will appoint two board members and the six will select the final five members, four of whom must have expertise in public health, medicine and child psychology.
- The foundation will:
- Carry out a nationwide, sustained advertising and education program to counter youth tobacco use and educate consumers about the cause and prevention of diseases associated with tobacco use.
- Develop, disseminate and test the effectiveness of counter advertising campaigns.
- Develop, disseminate and test the effectiveness of model classroom educational programs, including programs targeting at-risk populations.
- Develop, disseminate and test the effectiveness of criteria for effective cessation programs.
- Commission studies, fund research and publish reports on factors that influence youth smoking and substance abuse.
- Develop targeted training and information programs for parents.
- Maintain a library of foundation studies, reports and publications.
- Track and monitor youth smoking and substance abuse with a focus on reasons for increases or failures to decrease tobacco and substance use rates.
- The foundation is prohibited from engaging in political or lobbying activities.
- Includes a severance clause for settling states which are prohibited by state law from entering into the foundation portion of the agreement.

Creates A National Public Education Fund

- Requires the industry to pay \$1.45 billion over the next five years for a National Public Education Fund.
- The agreement includes continued funding depending on the number of tobacco product manufacturers who have agreed to be bound by the Agreement..
- The fund is established to carry out a nationwide sustained advertising and education program to counter youth tobacco use and educate consumers about tobacco-related diseases.
- The fund may make grants to states and political subdivisions to carry out the fund's purposes.
- Industry payments to the foundation and education fund will be held in an escrow account until state-specific finality in at least one state.

States Will Recover Over \$206 Billion

- Payments will be made to settling states and a national foundation, and for administration and enforcement purposes.
- Distributions directly to states will be made based on percentages agreed to by Attorneys General (Exhibit A).

Up-front Payments Total \$12.742 Billion

- Tobacco companies will make five (5) initial payments between 1998 and 2003. They will pay \$2.4 billion in 1998, \$2.472 billion on January 10, 2000, \$2.546 billion in 2001, \$2.623 billion in 2002, and \$2.701 billion in 2003.

Annual Payments Begin April 15, 2000 and Total \$183.177 Billion Through 2025

- If all states participate in the settlement, annual payments will “ramp-up” beginning with a \$4.5 billion payment on April 15, 2000. Ensuing April 15 payments will be at the following rates:
 - 2001: \$5 billion
 - 2002-2003: \$6.5 billion
 - 2004-2007: \$8 billion
 - 2008-2017: \$8.139 billion (plus \$861 million to the strategic fund)
 - 2018 on: \$9 billion
- These amounts (when under \$8 billion) will be reduced for percentages for previously settled states. (The \$183.177 billion total is the total through 2025 after the previously settled state reduction is taken.)

Strategic Contribution Fund Payments of \$8.610 Billion

- On April 15, 2008 and on April 15 each year through 2017, the companies will pay \$861 million into a strategic contribution fund.
- Money from the fund will be allocated to states based on a strategic contribution formula developed by Attorneys General no later than June, 1999. The allocation formula will reflect the contribution made by states toward resolution of the state lawsuits against tobacco companies (Exhibit U).

Payments to the Foundation Totaling \$250 Million Over the Next 10 Years

Payments to the National Public Education Fund at Least Totaling \$1.45 Billion Between 2000 and 2003

One-Time Payment of \$50 Million into Attorney General Enforcement Fund in 1999

Payments of NAAG for Administrative Expenses Totaling \$1.5 Million Over the Next Ten (10) Years

Miscellaneous Payment Provisions

- Payment calculations for the industry will be made by an independent auditor paid for by the industry and by a fund established in the agreement.
- The independent auditor will be selected by the NAAG executive committee and the companies.
- Payments made by tobacco companies (annual payments, strategic contribution fund) will be adjusted annually based on an inflation factor. (The annual CPI but not less than 3%.)
- The amount of the annual payments will be subject to "volume adjustments". Tobacco company payments will rise if cigarette sales increase and fall if cigarette sales decrease.
- Annual payments also are subject to a Non-Settling States adjustment. If states do not participate in the settlement, the annual payments made by tobacco companies will be reduced by the settlement share amounts which have been allocated to those non-settling states.

Federal Legislation Adjustment

- If federal legislation requires participating tobacco companies to make payments to the federal government, and some portion of that money is sent to the settling states, those payments may be offset, dollar for dollar, from the annual payments, under certain enumerated circumstances.

Non-Participating Manufacturers Adjustment

- Settlement negotiations originated with the four major tobacco companies, but an early goal was to ensure industry-wide participation in the public health and other initiatives achieved in the agreement. To achieve that goal, attempts were made to involve additional companies in the negotiations and to develop provisions which would encourage all tobacco companies to follow terms of the settlement.
- States are encouraged to pass model statutes that effectively create a reserve fund for non-participating manufacturers to pay future claims. (Exhibit T)
- If the aggregate market share of all companies participating in the agreement decline by more than two percent because of their participation in the agreement, their annual payment is reduced by three percent for each percent lost over the two percent threshold. Only states that have not passed a model statute would have their annual payments reduced.
- States which pass the model statute would not have their annual payments reduced.
- If a state's model statute is struck down by the court, a state's annual payment would be reduced, by no more than 65 percent.

Cost Recovery and Attorney Fees

States Recover Cost, Expenses and Market Rate For Attorney Fees

- Tobacco companies will reimburse offices of state Attorneys General and other political subdivisions for all reasonable costs and expenses and in-house attorney fees (up to a total of \$150 million).

Industry Will Pay Outside Attorney Fees

- Two payment methods are available – liquidated fee agreement and arbitration.
- Outside counsel can negotiate a liquidated fee agreement with the industry, and if accepted, would be paid from a \$1.25 billion pool of money from the tobacco industry over four years. If outside counsel accepts a liquidated fee, they must release the state from all claims for attorney fees.
- If outside counsel rejects the liquidated fee process or cannot agree to an offer, they can go through arbitration.
- A three-member arbitration panel will be established with two permanent members and a member from the state represented by the outside counsel.
- The industry will pay whatever arbiters award, but timing of the payment will be subject to a \$500-million-per-year cash flow cap.

Miscellaneous Provisions

Release Provisions

- If an Attorney General does not have the authority to release claims for political subdivisions or certain other entities and that political subdivision or entity proceeds with a lawsuit and wins a judgment or settlement (and the AG agrees to the settlement), the amount of that recovery will be taken out of the state's settlement share.

Court Approval of Settlements and Consent Decrees Required

- By December 11, 1998, suing states must file a motion to approve the settlement.
- Non-filing states will have 30 days to file suit and a motion to approve the settlement agreement.

Most Favored Nation Provisions

- If tobacco companies, before October 1, 2000, enter into an agreement with better overall terms, settling states will get the benefit of that agreement. (This does not apply to any agreement reached after the seating of a jury or commencement of trial.)
- If more favorable non-economic terms are offered in an agreement on or after October 1, 2000, settling states at their option may benefit.
- If a settling state enters into an agreement with a company not participating in this settlement and the terms are more favorable to the industry, settling companies can benefit, but only within that state.

Settlement Amendment Provisions

- The settlement can be amended only if all affected states and all affected companies agree to the amendment.

Key Dates

- There are three critical dates in the agreement: Master Settlement Execution Date, State Specific Finality date, and Final Approval date.
- **MSA Execution:** This is the starting date and it occurs when Attorneys General and the companies sign the Master Settlement Agreement. Various public health provisions are triggered by this date. If both sides sign, this date will be November 23, 1998.
- **State Specific Finality :** This date occurs when a state court approves the settlement and consent decree and appeal time has run, or, if there is an appeal, the appeal has been decided in favor of approval. This important date keys more public health initiatives and vests the state for financial recovery.
- **Final Approval:** This is the earlier of June 30, 2000 or the date when 80 percent of the settling states reach State Specific Finality and states with 80 percent of the financial allocation reach State Specific Finality. No money is disbursed to the states until Final Approval is reached.

Annual Payments to Each State

Year	1998	1999	2000
Amount	\$2,400,000,000.00	\$0.00	\$6,411,750,000.00
Alabama	\$38,787,139.87	\$0.00	\$103,822,268.35
Alaska	\$8,194,049.54	\$0.00	\$21,890,915.48
Arizona	\$35,373,228.92	\$0.00	\$84,501,788.55
Arkansas	\$19,873,586.24	\$0.00	\$53,093,527.74
California	\$306,334,930.78	\$0.00	\$818,382,913.50
Colorado	\$32,900,874.16	\$0.00	\$87,896,207.30
Connecticut	\$44,558,896.25	\$0.00	\$119,038,533.13
Delaware	\$9,491,288.84	\$0.00	\$25,356,517.92
D.C.	\$14,570,838.84	\$0.00	\$38,926,906.65
Florida	\$0.00	\$0.00	\$0.00
Georgia	\$58,906,980.41	\$0.00	\$157,373,679.86
Hawaii	\$14,444,758.81	\$0.00	\$38,590,078.82
Idaho	\$8,718,317.14	\$0.00	\$23,291,529.13
Illinois	\$111,701,933.67	\$0.00	\$298,418,697.16
Indiana	\$48,955,278.39	\$0.00	\$130,787,085.94
Iowa	\$20,872,006.95	\$0.00	\$55,760,871.07
Kansas	\$20,008,109.85	\$0.00	\$53,452,915.44
Kentucky	\$42,267,806.11	\$0.00	\$112,921,085.75
Louisiana	\$54,128,474.21	\$0.00	\$144,607,601.88
Maine	\$18,464,411.55	\$0.00	\$49,328,829.47
Maryland	\$54,260,987.50	\$0.00	\$144,934,850.37
Mass.	\$96,935,496.43	\$0.00	\$258,969,237.19
Michigan	\$104,446,741.41	\$0.00	\$279,035,997.59
Minnesota	\$0.00	\$0.00	\$0.00
Mississippi	\$0.00	\$0.00	\$0.00
Missouri	\$54,590,425.53	\$0.00	\$145,841,733.70
Montana	\$10,194,218.72	\$0.00	\$27,234,492.45
Nebraska	\$14,279,588.86	\$0.00	\$38,148,843.51
Nevada	\$14,638,443.42	\$0.00	\$39,107,516.49
New Hampshire	\$15,982,416.92	\$0.00	\$42,698,025.70

Annual Payments to Each State

Year	1998	1999	2000
Amount	\$2,400,000,000.00	\$0.00	\$6,411,750,000.00
New Jersey	\$92,807,910.83	\$0.00	\$247,842,134.27
New Mexico	\$14,313,352.87	\$0.00	\$38,239,016.77
New York	\$308,288,745.07	\$0.00	\$818,269,625.50
North Carolina	\$55,974,840.09	\$0.00	\$149,540,283.73
North Dakota	\$8,784,330.84	\$0.00	\$23,467,889.12
Ohio	\$120,800,234.58	\$0.00	\$322,992,532.93
Oklahoma	\$24,867,287.65	\$0.00	\$66,434,513.15
Oregon	\$27,543,797.82	\$0.00	\$73,584,977.37
Penn.	\$137,924,810.41	\$0.00	\$368,474,217.00
Rhode Island	\$17,253,727.23	\$0.00	\$46,094,410.65
South Carolina	\$28,232,446.25	\$0.00	\$75,424,744.89
South Dakota	\$8,374,689.41	\$0.00	\$22,373,532.90
Tennessee	\$58,581,467.29	\$0.00	\$156,504,051.21
Texas	\$0.00	\$0.00	\$0.00
Utah	\$10,677,285.47	\$0.00	\$28,525,035.47
Vermont	\$9,868,441.49	\$0.00	\$26,364,158.22
Virginia	\$49,073,882.70	\$0.00	\$131,103,944.75
Washington	\$49,278,196.65	\$0.00	\$131,649,782.25
West Virginia	\$21,275,048.98	\$0.00	\$56,837,623.03
Wisconsin	\$49,728,936.59	\$0.00	\$132,853,962.15
Wyoming	\$5,960,276.82	\$0.00	\$15,923,252.04
American Samoa	\$365,208.62	\$0.00	\$975,677.65
N. Marianas	\$202,503.22	\$0.00	\$541,000.00
Guam	\$526,489.51	\$0.00	\$1,406,549.63
US Virgin Island	\$416,623.09	\$0.00	\$1,113,034.64
Puerto Rico	\$26,910,657.33	\$0.00	\$71,893,502.96
	\$2,400,000,000.00	\$0.00	\$6,411,750,000.00

Year - Amount	2001	2002	2003
	\$6,923,860,000.00	\$8,313,294,800.00	\$8,391,971,144.00
Alabama	\$111,895,403.67	\$134,353,720.06	\$135,625,232.71
Alaska	\$23,638,672.09	\$28,383,145.58	\$28,651,761.36
Arizona	\$102,046,748.48	\$122,528,359.76	\$123,687,958.17
Arkansas	\$57,332,480.87	\$68,839,575.47	\$69,491,067.80
California	\$883,732,877.84	\$1,061,105,244.62	\$1,071,147,458.11
Colorado	\$94,913,784.01	\$113,983,751.40	\$115,042,295.05
Connecticut	\$128,540,333.44	\$154,339,422.45	\$155,800,078.15
Delaware	\$27,380,966.02	\$32,876,548.30	\$33,187,689.27
D.C.	\$42,034,805.88	\$50,471,532.83	\$50,949,191.30
Florida	\$0.00	\$0.00	\$0.00
Georgia	\$169,938,293.33	\$204,046,288.14	\$205,977,366.58
Hawaii	\$41,671,085.70	\$50,034,811.08	\$50,508,336.45
Idaho	\$25,151,109.85	\$30,189,141.89	\$30,484,944.11
Illinois	\$322,244,254.19	\$386,921,293.46	\$390,583,085.03
Indiana	\$141,229,042.84	\$169,574,858.88	\$171,179,701.52
Iowa	\$60,212,783.18	\$72,297,977.85	\$72,982,200.02
Kansas	\$57,720,581.87	\$69,305,547.47	\$69,961,449.52
Kentucky	\$121,936,632.68	\$146,410,305.30	\$147,795,920.49
Louisiana	\$156,152,979.89	\$187,484,151.32	\$189,268,580.68
Maine	\$53,267,211.52	\$63,958,373.54	\$64,563,670.37
Maryland	\$156,506,355.69	\$187,918,452.52	\$189,686,897.43
Mass.	\$279,645,174.68	\$335,772,232.68	\$338,949,953.70
Michigan	\$301,314,052.34	\$361,790,230.09	\$365,214,183.32
Minnesota	\$0.00	\$0.00	\$0.00
Mississippi	\$0.00	\$0.00	\$0.00
Missouri	\$157,485,644.00	\$189,094,291.94	\$190,883,864.90
Montana	\$29,408,876.82	\$35,311,477.28	\$35,645,662.22
Nebraska	\$41,194,622.68	\$49,462,718.04	\$49,930,829.17
Nevada	\$42,229,835.47	\$50,705,708.47	\$51,185,581.14
New Hampshire	\$48,107,008.63	\$55,361,059.77	\$55,884,992.33

Year	2001	2002	2003
Amount	\$6,923,860,000.00	\$8,313,294,800.00	\$8,391,971,144.00
New Jersey	\$267,737,674.95	\$321,474,801.04	\$324,517,212.33
New Mexico	\$41,291,995.30	\$49,579,634.15	\$50,048,851.76
New York	\$883,599,638.62	\$1,060,945,263.21	\$1,070,985,962.65
North Carolina	\$161,479,483.90	\$193,889,727.95	\$195,724,684.52
North Dakota	\$25,341,550.30	\$30,427,805.29	\$30,716,771.56
Ohio	\$348,780,049.22	\$418,783,038.09	\$422,746,388.81
Oklahoma	\$71,738,602.00	\$86,137,122.12	\$86,952,316.82
Oregon	\$79,459,954.68	\$95,408,213.01	\$96,311,148.56
Penn.	\$397,892,961.71	\$477,753,311.05	\$482,274,729.42
Rhode Island	\$49,774,558.78	\$59,764,717.02	\$60,330,325.43
South Carolina	\$81,446,607.84	\$97,793,603.59	\$98,719,114.28
South Dakota	\$24,159,821.39	\$29,008,893.79	\$29,283,431.59
Tennessee	\$168,999,234.09	\$202,918,753.08	\$204,839,159.61
Texas	\$0.00	\$0.00	\$0.00
Utah	\$30,802,455.97	\$36,984,759.08	\$37,334,779.83
Vermont	\$28,469,055.67	\$34,183,026.39	\$34,506,531.76
Virginia	\$141,571,199.45	\$169,985,689.11	\$171,594,419.81
Washington	\$142,160,618.27	\$170,693,406.67	\$172,308,835.15
West Virginia	\$61,375,502.33	\$73,694,064.18	\$74,391,498.79
Wisconsin	\$143,460,937.12	\$172,254,712.48	\$173,884,917.03
Wyoming	\$17,194,554.25	\$20,645,640.96	\$20,841,029.62
American Samoa	\$1,053,575.12	\$1,265,036.21	\$1,277,008.41
N. Marianas	\$584,193.09	\$701,445.39	\$708,083.81
Guam	\$1,518,847.65	\$1,823,692.71	\$1,840,951.99
US Virgin Island	\$1,201,898.61	\$1,449,129.42	\$1,456,787.08
Puerto Rico	\$77,633,434.04	\$93,215,094.84	\$94,097,274.89
	<u>\$6,923,860,000.00</u>	<u>\$8,313,294,800.00</u>	<u>\$8,391,971,144.00</u>

Year	2004 to 2007	2008 to 2017
Amount	\$7,004,000,000.00	\$7,143,000,000.00
Alabama	\$113,193,803.17	\$115,440,225.02
Alaska	\$23,912,967.90	\$24,387,539.93
Arizona	\$103,230,867.24	\$105,279,566.63
Arkansas	\$57,997,749.17	\$59,148,761.04
California	\$893,987,439.65	\$911,729,337.72
Colorado	\$96,015,134.08	\$97,920,631.45
Connecticut	\$130,031,875.55	\$132,612,462.45
Delaware	\$27,698,686.24	\$28,248,388.89
D.C.	\$42,522,584.69	\$43,368,459.11
Florida	\$0.00	\$0.00
Georgia	\$171,910,204.50	\$175,321,900.45
Hawaii	\$42,154,624.04	\$42,991,216.38
Idaho	\$25,442,955.52	\$25,947,891.39
Illinois	\$325,983,476.42	\$332,452,880.08
Indiana	\$142,867,820.78	\$145,703,147.32
Iowa	\$60,911,473.61	\$62,120,310.68
Kansas	\$58,390,333.34	\$59,549,136.35
Kentucky	\$123,351,547.49	\$125,799,557.93
Louisiana	\$157,964,930.57	\$161,099,871.36
Maine	\$53,885,307.70	\$54,954,704.87
Maryland	\$158,322,406.83	\$161,464,442.03
Mass.	\$282,890,090.42	\$288,504,271.26
Michigan	\$304,810,407.01	\$310,859,814.11
Minnesota	\$0.00	\$0.00
Mississippi	\$0.00	\$0.00
Missouri	\$159,313,058.50	\$162,474,753.97
Montana	\$29,760,128.30	\$30,340,543.46
Nebraska	\$41,672,632.27	\$42,499,659.09
Nevada	\$42,719,857.37	\$43,567,667.21
New Hampshire	\$46,642,020.04	\$47,567,668.35

Year	2004 to 2007	2008 to 2017
Amount	\$7,004,000,000.00	\$7,143,000,000.00
New Jersey	\$270,844,419.77	\$276,219,544.60
New Mexico	\$41,771,134.78	\$42,600,118.47
New York	\$893,852,654.37	\$911,591,877.52
North Carolina	\$163,353,241.67	\$166,585,117.83
North Dakota	\$25,635,605.78	\$26,144,364.95
Ohio	\$352,827,184.57	\$358,829,323.15
Oklahoma	\$72,571,034.45	\$74,011,264.86
Oregon	\$80,381,983.32	\$81,977,228.27
Penn.	\$402,509,988.05	\$410,488,121.73
Rhode Island	\$50,352,127.30	\$51,351,405.67
South Carolina	\$82,381,688.98	\$84,028,818.16
South Dakota	\$24,440,164.46	\$24,925,199.13
Tennessee	\$170,960,248.71	\$174,353,092.02
Texas	\$0.00	\$0.00
Utah	\$31,159,878.10	\$31,778,270.89
Vermont	\$28,799,401.75	\$29,370,948.99
Virginia	\$143,213,947.68	\$146,056,143.38
Washington	\$143,810,203.90	\$148,884,232.79
West Virginia	\$62,087,684.60	\$63,319,864.52
Wisconsin	\$145,125,613.28	\$148,005,747.52
Wyoming	\$17,394,074.52	\$17,739,273.88
American Samoa	\$1,065,800.48	\$1,086,952.15
N. Marianas	\$590,971.89	\$602,700.20
Guam	\$1,536,471.89	\$1,566,984.41
US Virgin Island	\$1,215,845.06	\$1,239,974.49
Puerto Rico	\$78,534,268.30	\$80,082,843.87
	<u>\$7,004,000,000.00</u>	<u>\$7,143,000,000.00</u>

Year	2018 to 2025	Total
Amount	\$8,003,999,997.00	\$195,918,675,920.00
Alabama	\$129,355,111.40	\$3,166,302,118.81
Alaska	\$27,327,155.19	\$668,903,058.50
Arizona	\$117,969,711.74	\$2,887,614,909.02
Arkansas	\$66,278,410.08	\$1,622,338,125.69
California	\$1,021,626,993.76	\$25,008,972,510.74
Colorado	\$109,723,748.27	\$2,685,773,548.89
Connecticut	\$148,597,248.93	\$3,637,303,381.55
Delaware	\$31,653,381.58	\$774,798,676.89
D.C.	\$48,593,747.53	\$1,189,458,105.58
Florida	\$0.00	\$0.00
Georgia	\$196,454,779.60	\$4,808,740,888.60
Hawaii	\$48,173,273.84	\$1,179,165,923.07
Idaho	\$29,075,587.65	\$711,700,479.23
Illinois	\$372,525,948.64	\$9,118,539,559.10
Indiana	\$163,265,853.39	\$3,996,355,551.01
Iowa	\$69,608,143.15	\$1,703,839,985.56
Kansas	\$66,727,045.67	\$1,633,317,646.19
Kentucky	\$140,963,133.32	\$3,450,438,588.10
Louisiana	\$180,518,461.42	\$4,418,657,915.22
Maine	\$61,578,812.49	\$1,507,301,275.81
Maryland	\$180,926,976.58	\$4,428,657,383.58
Mass.	\$323,279,880.48	\$7,913,114,212.77
Michigan	\$348,329,882.46	\$8,526,278,033.60
Minnesota	\$0.00	\$0.00
Mississippi	\$0.00	\$0.00
Missouri	\$182,059,069.06	\$4,458,368,288.30
Montana	\$33,997,719.42	\$832,182,430.63
Nebraska	\$47,622,465.53	\$1,165,683,457.48
Nevada	\$48,819,208.77	\$1,194,976,854.76
New Hampshire	\$53,301,360.40	\$1,304,689,150.27

Year	2018 to 2025	Total
Amount	\$8,003,999,997.00	\$195,918,675,920.00
New Jersey	\$309,514,382.50	\$7,576,167,918.47
New Mexico	\$47,735,031.79	\$1,168,438,809.05
New York	\$1,021,472,964.43	\$25,003,202,243.12
North Carolina	\$186,676,091.64	\$4,569,381,898.24
North Dakota	\$29,295,743.66	\$717,089,369.09
Ohio	\$403,202,282.16	\$8,869,422,448.51
Oklahoma	\$82,932,404.27	\$2,029,985,862.29
Oregon	\$91,858,565.71	\$2,248,476,833.11
Penn.	\$459,978,575.54	\$11,259,169,603.46
Rhode Island	\$57,541,180.29	\$1,408,469,747.28
South Carolina	\$94,155,208.21	\$2,304,693,119.82
South Dakota	\$27,929,622.54	\$683,650,008.54
Tennessee	\$195,369,193.34	\$4,782,168,127.09
Texas	\$0.00	\$0.00
Utah	\$35,608,747.04	\$871,616,513.42
Vermont	\$32,911,252.36	\$805,588,329.25
Virginia	\$163,661,398.74	\$4,006,037,550.26
Washington	\$164,342,785.78	\$4,022,716,266.79
West Virginia	\$70,952,288.31	\$1,736,741,427.33
Wisconsin	\$165,846,003.46	\$4,059,511,421.32
Wyoming	\$19,877,523.19	\$486,553,976.10
American Samoa	\$1,217,970.74	\$29,812,995.31
N. Marianas	\$675,348.22	\$16,530,900.80
Guam	\$1,755,842.52	\$42,978,803.27
US Virgin Island	\$1,389,438.02	\$34,010,102.11
Puerto Rico	\$89,747,042.16	\$2,186,791,813.07
	<u>\$8,003,999,997.00</u>	<u>\$195,918,675,920.00</u>

MASTER SETTLEMENT AGREEMENT - PAYMENTS THROUGH 2025

Calendar Year	§ IX(b) Initial Payments	§ IX(c)(1) Annual Payments	§ IX(c)(1) Annual Payments less Previously Settled States Reduction	§ IX(c)(2) Strategic Contribution Fund Payments	§ VI(b) Base Foundation Payments	§ VI(c) National Public Education Fund Payments	§ VIII(b) NAAG Administration Payments	§ VIII(c) AG Enforcement Fund
1998	\$2,400,000,000						\$150,000	
1999					\$25,000,000	\$250,000,000	\$150,000	\$50,000,000
2000	\$2,472,000,000	\$4,500,000,000	\$3,939,750,000		\$25,000,000	\$300,000,000	\$150,000	
2001	\$2,546,160,000	\$5,000,000,000	\$4,377,500,000		\$25,000,000	\$300,000,000	\$150,000	
2002	\$2,622,544,800	\$6,500,000,000	\$5,690,750,000		\$25,000,000	\$300,000,000	\$150,000	
2003	\$2,701,221,144	\$6,500,000,000	\$5,690,750,000		\$25,000,000	\$300,000,000	\$150,000	
2004		\$8,000,000,000	\$7,004,000,000		\$25,000,000		\$150,000	
2005		\$8,000,000,000	\$7,004,000,000		\$25,000,000		\$150,000	
2006		\$8,000,000,000	\$7,004,000,000		\$25,000,000		\$150,000	
2007		\$8,000,000,000	\$7,004,000,000		\$25,000,000		\$150,000	
2008		\$8,139,000,000	\$7,143,000,000	\$861,000,000	\$25,000,000			
2009		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2010		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2011		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2012		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2013		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2014		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2015		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2016		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2017		\$8,139,000,000	\$7,143,000,000	\$861,000,000				
2018		\$9,000,000,000	\$8,003,999,997					
2019		\$9,000,000,000	\$8,003,999,997					
2020		\$9,000,000,000	\$8,003,999,997					
2021		\$9,000,000,000	\$8,003,999,997					
2021		\$9,000,000,000	\$8,003,999,997					
2023		\$9,000,000,000	\$8,003,999,997					
2024		\$9,000,000,000	\$8,003,999,997					
2025		\$9,000,000,000	\$8,003,999,997					
Total	\$12,741,925,944	\$207,890,000,000	\$183,176,749,975	\$8,610,000,000	\$250,000,000	\$1,450,000,000	\$1,500,000	\$50,000,000
UST payments						\$95,750,000	\$250,000	\$4,000,000
TOTAL	\$12,741,925,944	\$207,890,000,000	\$183,176,749,975	\$8,610,000,000	\$250,000,000	\$1,545,750,000	\$1,750,000	\$54,000,000

Grand Total of Cigarette Agreement without PSS Reduction taken	\$230,993,425,944
Grand Total of Cigarette Agreement with PSS Reduction taken	\$206,280,175,919
Grand Total of Cigarette Agreement & UST Agreement without PSS Reduction	\$231,093,425,944
Grand Total of Cigarette Agreement & UST Agreement with PSS Reduction	\$206,380,175,919

1-24



State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL

ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215
FAX: 296-6296
TTY: 291-3767

TESTIMONY OF
ASSISTANT ATTORNEY GENERAL JANE E. NOHR
BEFORE THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE
RE: SENATE BILL 337
MARCH 4, 1999

Madam Chairperson and Members of the Committee:

I am appearing before you today on behalf of Attorney General Carla J. Stovall and members of the Far-Reaching Alteration of Traffic and Alcohol Laws (FATAL) Task Force to ask for your support of Senate Bill 337. This bill is a recommendation from the prevention subcommittee of the FATAL Task Force Attorney General Stovall created in June 1998 to conduct a comprehensive examination of current traffic and alcohol laws and provide recommendations to change these laws.

Senate Bill 337 would require mandatory alcohol server training for managers or employees working in a state licensed establishments where alcoholic liquor or cereal malt beverages are mixed, sold or served. This would include retail liquor stores, restaurants, clubs and bars. This bill does not include grocery store sales or other businesses licensed solely under the cereal malt beverage act.

The bill would further require Alcoholic Beverage Control to establish rules and regulations for the implementation and enforcement of the Act. The director would approve training providers who would provide educational alcohol training on a variety of issues including how to recognize and handle potential problem customers, understanding the rate of alcohol absorption, the physiological and behavioral effects of alcohol and what current state laws exist relating to the sale, possession and consumption of alcohol, beer or other drugs. Upon successful completion of the training and a criminal records check, individuals would be able to obtain a server card to be used in any state licensed establishments where alcoholic liquor or cereal malt beverages are mixed, sold or sold in Kansas. The training and the server permit would be valid for three years. We would respectfully ask that the bill be amended to include the provision that server permits would be valid for three years subject to renewal.

At this time, there are at least seven other states which have alcohol server training laws. The Task Force is confident that mandatory alcohol server training will heighten the sensitivity of servers to be more aware of potential alcohol or drug abuse. This is a positive prevention measure which will reduce the number of individuals driving under the influence of alcohol or drugs and prevent tragic loss of life. On behalf of Attorney General Stovall and the FATAL Task Force, I would urge your favorable consideration of Senate Bill 337.

1. Sen. Federal & State Affairs Comm.
Date: 3-4-99
Attachment: # 2-1

Jim Conant, Director
Division of Alcoholic Beverage Control
4 Townsite Plaza, Suite 210
200 S.E. 6th Street
Topeka, KS 66603-3512



(785) 296-7015
FAX (785) 296-0922

Division of Alcoholic Beverage Control

Memorandum

TO: Senator Lana Oleen, Chairperson
Senate Committee on Federal & State Affairs

FROM: Jim Conant, Director

RE: Senate Bill 337

DATE: March 4, 1999

Thank you for the opportunity to appear before the committee in support of Senate Bill 337. This bill represents a two-pronged approach to alcohol-related issues such as underage access, excessive consumption and the myriad of problems which can result when young people drink or people of any age drink excessively and then drive. The bill provides both prevention and enforcement tools, focused on the precise point where most problems begin on licensed premises - the point of sale.

From a prevention perspective, the training required by the bill would insure that persons who work the liquor store counter or serve drinks in a bar have the information they need to do their jobs in a responsible, professional manner. The state has recognized that alcohol is a product which requires special handling, with the sale and consumption allowed only on tightly regulated licensed premises. Yet, when we look closely at the actual transactions that occur at the retail liquor counter or the table in the bar or restaurant, the only qualifications for the employee involved is that they have attained a certain age and are free of certain criminal convictions. Training in detecting youthful characteristics and fake IDs is needed to help licensees and their employees keep pace with the constant efforts of underage individuals to fool them. Similarly, training in how to recognize and deal effectively with individuals who are at risk of harming themselves and others because of over-consumption is key to reducing the mayhem on our streets and highways associated with DUI. These and other aspects of a comprehensive training program will continue to move us towards what I believe is the goal of both the industry and regulatory agencies - **responsible** hospitality.

The second aspect of the bill is enforcement. The issuance and potential for suspension or revocation of the required permit should greatly increase the motivation of the permit holder to

Sen. Federal & State Affairs Com
Date: 3-4-99
Attachment: # 3-1

actually apply the training they have received each time they interact with a customer. While we recognize that some percentage of the employee base in the liquor industry is transient in nature, and therefore may place reduced value on their ability to hold a permit and remain employed, it would appear that a permit holder with no violation history and good experience in the industry would be of special interest to licensees in terms of retention as a long-term employee. Ultimately, the bill does not relieve licensees of responsibility for their business, but does allow us to take enforcement action against the individual who actually committed the violation.

Finally, we would respectfully suggest that the committee consider standardizing the statutory employee qualifications for retail liquor stores and on-premise licensees. K.S.A. 41-713 prohibits a retailer from employing a convicted felon. K.S.A. 41-2610 prohibits on-premise licensees from employing convicted felons or persons convicted of morals charges or liquor law violations. The issue is whether there is intended to be a single server permit, authorizing the holder to work in both retail liquor and on-premise businesses, or separate permits for those who can qualify for retail employment but do not meet the on-premise standards. While the program could certainly be implemented either way, any clarification in this area would be welcome.

114

Testimony
Senate Federal and State Affairs Committee
Senate Bill 337
March 4, 1999

Good Morning, Chairperson Oleen, and Members of the Committee,

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. Our organization provides alcohol and drug evaluations to the courts of the State of Kansas for those persons who have been convicted of, or have received diversion from, DUI or other alcohol related charges. In addition, we provide to the courts alcohol/drug evaluations for all the persons under the age of 21 who have violated the liquor consumption laws of the State of Kansas.

For the past 15 years our Association has supported a positive action by the Legislature to provide mandatory server training for those individuals who dispense alcohol beverages to the public. We feel any person who is dispensing a mind-altering drug should be aware of the consequences of the consumption of alcohol by that individual, especially in regard to their personal safety in the operation of machinery and/or a motor vehicle after such consumption.

We think Senate Bill 337 is a positive statement in providing education for those individuals who wish to serve intoxicating beverages. We also believe that placing the responsibility on the individual server employed in such establishments, somewhat professionalizes that occupation. By having the individual server obtain a permit for a period of three years, will allow that individual to carry that permit with them in case they choose to change employers.

Personally, I participated in volunteer server training operations in Shawnee County some two years ago and found that both management and employees welcome the opportunity to receive education concerning the effects of alcohol and how to determine when a person is incapacitated by that drug. Those individuals took time off from their employment to participate in this workshop, held on a Saturday. There was very good participation in this volunteer program.

We are aware there are several volunteer programs in server training which are available now throughout the State, however, we feel that all individuals who dispense alcoholic beverages should participate. We realize that the only way this can be accomplished is to have mandatory server training as set forth by this proposed legislation.

Sen. Federal & State Affairs Comm.
Date: 3-4-99
Attachment: # 4-1


Testimony
March 4, 1999
SB 337
page 2

I also served on the FATAL Task Force over the past summer, and it was with the unanimous support of that body, that we request the legislature to pass server training legislation.

Again, I urge this committee to take positive action on this proposed legislation as a pro-active measure for responsible drinking by the citizens of Kansas.

Thank you for allowing me to testify and I will attempt to answer any questions.

Respectfully,


Gene Johnson, Legislative Liaison
Kansas Community Alcohol Safety Action Project Coordinators Association

5

HEIN AND WEIR, CHARTERED

ATTORNEYS AT LAW

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

Ronald R. Hein

Stephen P. Weir

FEDERAL AND STATE AFFAIRS

TESTIMONY RE: SB337

Presented by Ronald R. Hein

on behalf of

Kansas Restaurant & Hospitality Association

March 4, 1999

Madame Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for approximately 1,200 restaurant and hospitality businesses in Kansas.

The KRHA generally supports the concept of SB337.

With regards to employees who will be serving alcohol, it is very frustrating to hire and train an employee and then to have them fail the criminal background checks required by Kansas law. This can be very costly to the restaurant, not only in lost time, but lost money. Restaurants invest a lot of time and money in training these personnel, only to find they must fire them when ABC is done with the review.

SB 337 would provide for that review up front, and the restaurants would know when they hire the employee with a server permit that that employee has met the requirements set out in the law.

However, since SB337 requires any restaurant serving alcohol to require any employee who participates "in any manner in the sale of alcoholic liquor" to have a valid server permit, we are concerned about certain provisions of the bill and the impact that it will have on small restaurants and restaurants in rural areas.

The KRHA has not had a chance to poll our entire membership, or even those restaurants that serve alcohol. We have found several restaurants that support this legislation, and one of them is here today if there are questions I cannot answer. On the other hand, our legislative committee has not had a chance to get responses from smaller, rural restaurants and how this legislation might impact them or their employee pool.

For instance, the restaurant and hospitality industry is plagued with an employee crisis. Restaurants often have trouble finding qualified individuals to work. The KRHA has set up a training program within the association to try to recruit and train young people for employment in the industry. How will SB 337 impact that.

Another problem with the bill as written is that it can already take a long time for the state to complete the processing of an employee. If every restaurant or other alcohol serving business employee in the state must be processed, we are concerned by the January 1, 2000, deadline. If current workers are not processed to receive permits and are unable to be involved in the serving of alcohol, this certainly impacts the ability of the restaurant to stay open and to stay in compliance. Situations could, and we believe will, arise where there would not be enough permitted servers to allow a restaurant to properly staff their operation.

The KRHA may also have some concerns about other details in the act. For instance, the bill provides for revocation of a server permit if the employee performs an act which would constitute a violation of the liquor control act. This committee is currently reviewing SB 6 which ties liquor licenses to payment of taxes. Would a server lose a permit for non-payment of taxes?

So far as I am aware, the KRHA was not invited to participate in any way in the drafting of this legislation. As an industry, we recognize our responsibility to ensure that our employees do not serve alcohol to persons who are not of legal drinking age, or, because of other reasons, should not consume alcohol. This is not a responsibility that our industry takes lightly. Our restaurants do train their personnel, and they do know their obligation to society and to the welfare of our customers.

Although we believe SB 337 is a move in the right direction, we believe this bill should be referred to interim study to work out these details. If the committee wishes to proceed yet this session, we would suggest a subcommittee review the bill further, although we would still be concerned about our ability to poll our membership that quickly. The KRHA would offer to work with the department and the committee on these matters, including helping draft amendments.

Despite these concerns, the KRHA supports the concept and basic structure of SB 337. The KRHA would support passage if appropriate amendments were made so as not to adversely impact the industry.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

#6

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

March 4, 1999

To: Senate Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan
Kansas Wine & Spirits
Wholesalers Association

RE: Server Training

The Kansas Wine & Spirits Wholesalers Association supports mandatory server training.

Comprehensive alcohol server training -- teaching servers how to look for potential problems, properly check IDs, understand alcohol's effect on the body and familiarizing servers with Kansas' laws -- will improve the industry and will benefit its customers. The Attorney General's Task Force looked at successful programs in numerous states, including the decade old program in Oregon, and concluded this is an important prevention technique.

The Kansas Legislature should adopt a mandatory program of server training for all management personnel and persons involved in dispensing or selling alcohol at licensed retail liquor dealers, clubs and drinking establishments.

Server training programs would be approved by the Alcoholic Beverage Control in accordance with national standards for such courses. The State would authorize the issuance of a "server" card, after appropriate statutory criteria are checked, which will allow an individual to work in a licensed retail liquor store, club or drinking establishment. These cards, and the training, would be renewed every three years. At the same time certain paperwork now required to register employees can be eliminated.

Currently there are private and public providers of voluntary server training in Kansas. Mandatory training, paid for by the participant or their employers, will heighten the sensitivity of servers to the potential for alcohol abuse. Improved server training is an important part of the combination of approaches needed to reduce the incidence of drunken driving.

Thank you for your attention to and consideration of this matter.

7

**TESTIMONY PRESENTED TO THE
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
re: SB 337**

MARCH 4, 1999

BY REBECCA RICE, LEGISLATIVE COUNSEL
KANSAS RETAIL LIQUOR DEALERS ASSOCIATION

Thank you, Madam Chair and members of the Committee. My name is Rebecca Rice and I appear before you today on behalf of the Kansas Retail Liquor Dealers Association.

We faced a dilemma when confronted with the problem of categorizing KRLDA as proponents or opponents of SB 337. The Association is absolutely opposed to SB 337. However, it is completely supportive of a substitute bill for SB 337 which would institute a voluntary state-wide server training program for all sellers of alcoholic beverages. So, what should we do?

We chose to list ourselves as proponents although some may consider that disingenuous. Please allow me to explain. KRLDA supports a voluntary server training program. KRLDA is absolutely opposed to SB 337 in its present form — **not** because it institutes server training but because the training is mandatory. Therefore, KRLDA members support the policy initiative behind SB 337 but they oppose the implementation.

KRLDA was optimistic last summer and fall at the prospect of supporting “server training permit” legislation this session. We met with Mr. Conant during that time and discussed different ideas that might be included in legislation that both KRLDA and the ABC could support. KRLDA had determined that “server training permits” might provide a partial solution to what we believed were some unnecessarily punitive ABC enforcement actions. Additionally, we were searching for methods to demonstrate to you and the public that most stores are operated in a responsible manner. We believed “server permit” legislation could address some of those issues but knew it had to be drafted in a way to lessen possible opposition from on-premise licensees and the package C.M.B. retailers.

We were further encouraged that “server permit” legislation might garner wider support than in previous years when we attended the final meeting of the Attorney General’s task force and discussed server training briefly with AG staff. As with keg registration, we explained that server training had met resistance in the past and we had some ideas which we thought might make the legislation more acceptable to the industry as a whole. We again suggested a meeting between AG staff, ABC staff and our organization before any legislation was drafted by AG staff. Although we were optimistic, the meeting was never arranged and, instead, legislation which we had hoped the entire industry could support is now before you in a form that, at least KRLDA and probably others, can not support.

Sen. Federal & State Affairs Comm
Date: 3-4-99
Attachment: # 7-1

We believe server training is a great idea. We think the mandate set forth in this bill is a giant leap when a stride would be more acceptable, more workable and more appropriate. Many alcohol beverage servers/sellers already receive formal training regarding serving/selling alcohol. For example, KRLDA offers Techniques of Alcohol Management (TAM) and actively encourages all licensees to participate. The program teaches employees how to comply with the regulations and statutes that govern liquor sales and how to prevent sales to underage individuals. KRLDA currently encourages all licensees to attend a training seminar of some sort. However, there is no monetary incentive which some individuals require before they will participate. We believe a formal, statutory system *encouraging* training and testing through incentives rather than *mandating* through penalties would be a positive step forward for our industry.

We respectfully request a substitute bill which would include the following factors:

- A state-wide, voluntary, server-trained, permit program. The voluntary permit program would include all alcohol beverage licensees including C.M.B. package sales.
- The Division should certify programs and/or instructors similar to the current bill with an assurance of consistency among programs.
- Any fee charged should reflect the actual cost of the Division providing the permits, maintaining a registry, and performing the background check. (The current bill's fee structure seems high.)
- Establishment of incentives for licensees which would encourage the hiring of individuals who are or will be server-trained permit holders. The ABC should be given flexibility in determining the types of incentives as enforcement priorities change. However, the legislation should specify that licensees with permit holders as employees will have a different, *incentive-based* penalty structure. No employees or licensees will be forced to obtain permits. They will simply operate under a slightly different penalty structure than licensees and employees who have permits.
- The permit should be transportable from job to job and city to city regardless of who paid for the training and the permit. (The value to both the licensee and the employee should be obvious.) The permit should be valid for 3 years.
- The permit should substitute for a server permit required by any local unit of government. The employee may choose to have a local rather than a state permit. The local permit would not act as a substitute for the state permit, however.
- Require a standard open book written exam similar to a driver's license exam.

- A background check as stated in the current bill should be required.
- Some form of temporary permit should be allowed or considered automatic upon completion of training to acknowledge that government action is not instantaneous.

Although KRLDA can not support SB 337 in its current form, we would encourage the committee to consider a substitute bill incorporating these specific points.

Thank you, Madam Chair, for allowing us to testify regarding our support of the theory behind SB 337 just not this particular implementation.

Kansas Retail Liquor Dealers Association
P.O. Box 3842
Topeka, KS 66604-6842
785-266-3963

C:\MyFiles\KRLDA\srvtmng.wpd



Kansas Licensed Beverage Association

March 3, 1999

Senate Committee on Federal & State Affairs
Kansas Senate
State Capital Building
300 SW 10th Street
Topeka, KS 66612

Dear Senators,

Thank you for the opportunity to appear before the committee in support of Senate Bill 337. The KLBA is a proud supporter of Server Education. Lawrence Bar and Restaurant owners have been meeting yearly for several years to train and re-train themselves and their staff in responsible serving. MADD, DCCCA, ABC, University of Kansas, City of Lawrence, and the KDHE have all been great participants in our seminars. These seminars have had attendance in excess of 200 bartenders and waitresses from the Lawrence area. The KLBA was founded by these participating establishments with the intention of continuing these seminars throughout the state. This has always been a voluntary program. Our license holders believe responsible serving is an essential aspect of our industry.

The KLBA has found some legislation from Louisiana that makes this concept more economical for our small businesses. The following are needed amendments for SB 337:

- The server training fee should not exceed twenty- five dollars per person.
- Create an advisory board to help the Director create minimum server training requirements and program approvals.
- Permit fees should be shared with the licensees. (Increase our yearly Liquor license by \$50 and only charge a \$10 permit fee.)
- Grandfather all current registered employees. (No permit fees for pre-registered employees.)
- Allow a 45 day grace period for certification of employees. With this grace period, many volunteers and once- a- year servers would not have to be certified.

Please help our small business owners establish economical and practical ways to educate our staff in responsible serving. Our Lawrence members will be holding their next seminar this March 30th, the KLBA be happy to send the information on location and time to this committee.

Thank you for your time and consideration.

Rita Madl

Rita Madl
President
Kansas Licensed Beverage Association
Owner of The Sandbar in Lawrence

117 East 8th Street
Lawrence, Kansas 66044



Membersh
Phone: 781

Sen. Federal & State Affairs Comm.
Date: 3-4-99
Attachment: # 8-1

SENATE BILL No. 337

Appearing in support of

Paul A. Manzanares
Chief Operating Officer
Paisano's Inc.
Paisano's II Inc.

If we understand the point of this bill, to ensure that all persons working with alcohol are legal to do so by having to obtain a permit from the State of Kansas, then we are in support of the bill, with a few concerns.

Reasons for or support of this bill:

- 1) This bill will automatically filter out those persons who are not allowed by law to work with alcohol.
- 2) The cost of training a new employee is, on average, \$1500.00 - \$2000.00 and with this bill the restaurant or bar will not have to waste time, energy, and money, only to have the ABC inform them that the individual hired is not allowed to work with alcohol. This process has never been swift. Our company alone has received several letters informing us that certain individuals can no longer work with alcohol, the problem has been that we receive these letters months and years after the person(s) have been employed.
- 3) We support a continuing education program for all persons who handle alcohol.

Concerns that we have for this bill:

- 1) The states a cost for the permit to be \$35.00 and it also states that the individual seeking a permit must pay for a KBI background check. The problem we have here is that there is no mention as to the cost of the KBI background check. We fill that a dollar amount needs to be stated as to the cost of the background check and that said amount must be reasonable and affordable.
- 2) There is no mention of a time frame in which the ABC and KBI has to complete and issue or deny a permit. We fill this process must be quick to ensure that persons who are eligible to work with alcohol are not unemployed for any long period of time.
- 3) This bill makes no mention as to current employees and what will happen to them come January 1, 2000. We feel that anyone applying for a permit should be granted a temporary work permit at the time an application is made. If this is done, it would be up to the individual restaurants, bars and liquor stores to decide if they want to hire an individual with a temporary permit or not.

In closing, we support the general idea of this bill, but feel that the bill has to address certain questions and concerns before it should be passed.



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (785) 271-7525 • 1 (800) 228-6233

KANSAS STATE OFFICE

3/3/99

Senator Lana Oleen, Chairperson
Senate Federal & State Affairs Committee
Rm. 136-N
State Capitol
Topeka, Kansas 66612

Dear Senator Oleen and Committee Members:

Kansas MADD will not be able to have a representative available to testify on behalf of Senate Bill 337 scheduled for hearing March 4, 1999 at 11:00 a.m. I would like to submit MADD's public policy statement regarding Alcohol Server Training.

"MADD advocates more widespread implementation of responsible beverage serving practices and training to include instruction of both management and servers for licensed outlets as well as any individuals or organizations who serve alcohol in settings frequented by those under the age of 21. MADD further advocates expanded education on responsible social hosting.

On behalf of Kansas MADD, I ask your support for Senate Bill 337.

Sincerely,

Dee Meyer
Dee Meyer
State Chairperson
Kansas MADD

Sen. Federal & State Affairs Comm.

Date: 3-4-99

Attachment: # 10-1