

USE OF TOBACCO FUNDS FOR SMOKING

CESSATION

2000 GENERAL SESSION

STATE OF UTAH

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AN ACT RELATING TO HEALTH; ESTABLISHING A PROGRAM WITHIN THE DEPARTMENT OF HEALTH TO MAKE SMOKING CESSATION MEDICATIONS AVAILABLE; REQUIRING FUNDS WITHIN THE TOBACCO SETTLEMENT ACCOUNT TO BE USED FOR THE PROGRAM; APPROPRIATING \$1,200,000 FOR THE PROGRAM FOR FISCAL YEAR 2000-01; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-1-30, as last amended by Chapter 364, Laws of Utah 1999

63-97-102, as enacted by Chapter 78, Laws of Utah 1999

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-1-30** is amended to read:

26-1-30. Powers and duties of department.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered; and

(b) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups.

29 (2) In addition to all other powers and duties of the department, it shall have and exercise
30 the following powers and duties:

31 (a) promote and protect the health and wellness of the people within the state;

32 (b) establish, maintain, and enforce rules necessary or desirable to carry out the provisions
33 and purposes of this title to promote and protect the public health or to prevent disease and illness;

34 (c) investigate and control the causes of epidemic, infectious, communicable, and other
35 diseases affecting the public health;

36 (d) provide for the detection, reporting, prevention, and control of communicable,
37 infectious, acute, chronic, or any other disease or health hazard that the department considers to
38 be dangerous, important, or likely to affect the public health;

39 (e) collect and report information on causes of injury, sickness, death, and disability and
40 the risk factors that contribute to the causes of injury, sickness, death, and disability within the
41 state;

42 (f) collect, prepare, publish, and disseminate information to inform the public concerning
43 the health and wellness of the population, specific hazards, and risks that may affect the health and
44 wellness of the population and specific activities which may promote and protect the health and
45 wellness of the population;

46 (g) establish and operate programs necessary or desirable for the promotion or protection
47 of the public health and the control of disease or which may be necessary to ameliorate the major
48 causes of injury, sickness, death, and disability in the state, except that the programs shall not be
49 established if adequate programs exist in the private sector;

50 (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only,
51 exercise physical control over property and individuals as the department finds necessary for the
52 protection of the public health;

53 (i) close theaters, schools, and other public places and forbid gatherings of people when
54 necessary to protect the public health;

55 (j) abate nuisances when necessary to eliminate sources of filth and infectious and
56 communicable diseases affecting the public health;

57 (k) make necessary sanitary and health investigations and inspections in cooperation with
58 local health departments as to any matters affecting the public health;

59 (l) establish laboratory services necessary to support public health programs and medical

60 services in the state;

61 (m) establish and enforce standards for laboratory services which are provided by any
62 laboratory in the state when the purpose of the services is to protect the public health;

63 (n) cooperate with the Labor Commission to conduct studies of occupational health
64 hazards and occupational diseases arising in and out of employment in industry, and make
65 recommendations for elimination or reduction of the hazards;

66 (o) cooperate with the local health departments, the Department of Corrections, the
67 Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims
68 Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any
69 victims of a sexual offense;

70 (p) investigate the cause of maternal and infant mortality;

71 (q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians
72 and drivers of motor vehicles killed in highway accidents be examined for the presence and
73 concentration of alcohol;

74 (r) provide the commissioner of public safety with monthly statistics reflecting the results
75 of the examinations provided for in Subsection (2)(q) and provide safeguards so that information
76 derived from the examinations is not used for a purpose other than the compilation of statistics
77 authorized in this subsection;

78 (s) establish qualifications for individuals permitted to draw blood pursuant to Section
79 41-6-44.10, and to issue permits to individuals it finds qualified, which permits may be terminated
80 or revoked by the department;

81 (t) establish a uniform public health program throughout the state which includes
82 continuous service, employment of qualified employees, and a basic program of disease control,
83 vital and health statistics, sanitation, public health nursing, and other preventive health programs
84 necessary or desirable for the protection of public health;

85 (u) adopt rules and enforce minimum sanitary standards for the operation and maintenance
86 of:

87 (i) orphanages;

88 (ii) boarding homes;

89 (iii) summer camps for children;

90 (iv) lodging houses;

- 91 (v) hotels;
- 92 (vi) restaurants and all other places where food is handled for commercial purposes, sold,
93 or served to the public;
- 94 (vii) tourist and trailer camps;
- 95 (viii) service stations;
- 96 (ix) public conveyances and stations;
- 97 (x) public and private schools;
- 98 (xi) factories;
- 99 (xii) private sanatoria;
- 100 (xiii) barber shops;
- 101 (xiv) beauty shops;
- 102 (xv) physicians' offices;
- 103 (xvi) dentists' offices;
- 104 (xvii) workshops;
- 105 (xviii) industrial, labor, or construction camps;
- 106 (xix) recreational resorts and camps;
- 107 (xx) swimming pools, public baths, and bathing beaches;
- 108 (xxi) state, county, or municipal institutions, including hospitals and other buildings,
109 centers, and places used for public gatherings; and
- 110 (xxii) of any other facilities in public buildings and on public grounds;
- 111 (v) conduct health planning for the state;
- 112 (w) monitor the costs of health care in the state and foster price competition in the health
113 care delivery system;
- 114 (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26,
115 Chapter 21, Health Care Facility Licensing and Inspection Act;
- 116 (y) serve as the collecting agent, on behalf of the state, for the nursing facility assessment
117 fee imposed under Title 26, Chapter 35, Nursing Facility Assessment Act, and the provider
118 assessment imposed under Chapter 40, Utah Children's Health Insurance Act, and adopt rules for
119 the enforcement and administration of the assessments consistent with Chapters 35 and 40;
- 120 (z) monitor and report to the Health Policy Commission created in Title 63C, Chapter 3,
121 Health Policy Commission, on the development of managed health care plans in rural areas of the

122 state, including the effect of the managed health care plans on costs, access, and availability of
123 providers located in the rural communities of the state;

124 (aa) license the provision of child care;

125 (bb) provide a copy of the Master Settlement Agreement for review or purchase to any
126 person upon request and may charge a fee, established in accordance with Section 26-1-6, to any
127 person who desires to purchase a copy of the Master Settlement Agreement; [and]

128 (cc) upon request from a tobacco product manufacturer, as defined in Section 26-44-202,
129 report to the manufacturer the quantities of the manufacturer's cigarettes reported to the department
130 under Section 59-1-403[-]; and

131 (dd) establish a program to make a reasonable quantity of smoking cessation medication
132 available to any individual who:

133 (i) desires to stop using tobacco products; and

134 (ii) pays 5% of the department's cost of the medication.

135 Section 2. Section **63-97-102** is amended to read:

136 **63-97-102. Creation of restricted account.**

137 (1) There is created within the General Fund a restricted account known as the Tobacco
138 Settlement Account.

139 (2) The account shall consist of all funds received by the state that are related to the
140 settlement agreement that the state entered into with leading tobacco manufacturers on November
141 23, 1998.

142 (3) Funds in the account may only be used as follows:

143 (a) \$1,200,000 shall be appropriated each fiscal year for the tobacco cessation program
144 created in Section 26-1-30; and

145 (b) any amount remaining after Subsection (3)(a) as directed by the Legislature through
146 appropriation.

147 Section 3. **Appropriation.**

148 There is appropriated from the Tobacco Settlement Account within the General Fund for
149 fiscal year 2000-01, \$1,200,000 to the Department of Health to purchase smoking cessation
150 medications for the program established by Section 26-1-30.

151 Section 4. **Effective date.**

152 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-25-00 11:23 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel