
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2437 Session of
2000

INTRODUCED BY L. I. COHEN, BATTISTO, CARN, FREEMAN, MELIO, ORIE,
SEYFERT AND YOUNGBLOOD, APRIL 3, 2000

REFERRED TO COMMITTEE ON FINANCE, APRIL 3, 2000

AN ACT

1 Prohibiting certain funds from investing in tobacco companies
2 and requiring the funds to divest any investments in those
3 companies.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Tobacco Free
8 Investment and Divestiture Act.

9 Section 2. Legislative findings.

10 The General Assembly finds and declares as follows:

11 (1) Smoking causes the death of one in five
12 Pennsylvanians every year and is the number one preventable
13 cause of death in this Commonwealth.

14 (2) Reducing the incidence of cigarette smoking and
15 other tobacco use in this Commonwealth is a compelling State
16 interest.

17 (3) Various funds in the Commonwealth have over
18 \$300,000,000 invested in tobacco company stocks.

1 (4) Research shows that it is not necessary for public
2 pension funds to invest in tobacco company stock in order to
3 achieve their investment return objectives.

4 (5) The future profitability of tobacco company stock is
5 very much in doubt, in light of extensive litigation against
6 tobacco companies and increasing public awareness of fraud
7 and deception by the tobacco company industry.

8 (6) Current developments introduce an unreasonably high
9 element of risk to tobacco company investments and create
10 serious doubt as to whether it is prudent to continue
11 investing in tobacco company stock.

12 (7) Divestment of tobacco stocks is a financially
13 prudent and morally responsible choice for the Commonwealth.

14 Section 3. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Board." A board of trustees or other governing body that is
19 required by law to establish or administer a fund.

20 "Fund." Any of the following:

21 (1) Any account or fund of Commonwealth moneys in the
22 State Treasury or other moneys of which the State Treasurer
23 is the custodian or moneys under the authority and control of
24 any department, departmental board or commission or any
25 independent department, board or commission that may be
26 lawfully invested in any security of a corporation or other
27 business entity.

28 (2) The State Employees' Retirement Fund.

29 (3) The State Workers' Insurance Fund.

30 (4) The Tuition Payment Fund.

1 (5) The Public School Employees' Retirement Fund.

2 (6) The Pennsylvania Municipal Retirement Fund.

3 (7) Any deferred compensation plan established by the
4 Commonwealth for its elected or appointed officers or
5 employees.

6 "Security." Any preferred stock, common stock, commercial
7 paper or other obligation of a corporation or other business
8 entity. The term also includes a future contract, option
9 contract and any other investment device or instrument involving
10 a corporation or other business entity.

11 "Tobacco company." A corporation or other business entity
12 that derives more than 15% of its annual gross revenues from the
13 production, distribution or sale of tobacco products.

14 "Tobacco products." Cigarettes, cigars, pipe tobacco or
15 smokeless tobacco in any form.

16 Section 4. Tobacco company investments prohibited.

17 Notwithstanding any other law to the contrary, no moneys,
18 assets or earnings of a fund shall be invested in any security
19 of a tobacco company.

20 Section 5. Divestiture of tobacco company investments.

21 Notwithstanding any other law to the contrary and except as
22 otherwise provided in this act, no moneys, assets or earnings of
23 a fund shall continue to be held in any security of a tobacco
24 company and the board, State Treasurer and other person
25 authorized by law to make investments from the moneys, assets
26 and earnings of the fund shall divest the fund of those
27 securities within a 60-day period beginning on the effective
28 date of this act.

29 Section 6. Extension of divestiture period.

30 If the board, State Treasurer or other person required to

1 divest a fund of the security of a tobacco company under this
2 act finds that it is not prudent or consistent with its
3 fiduciary duty to the fund to divest those securities within the
4 60-day period set forth in section 5, the board, State Treasurer
5 or person may divest those securities within an 18-month period
6 beginning at the end of the 60-day period, provided that:

7 (1) No less than one-third of the fair market value of
8 those securities, as determined on the effective date of this
9 act, are divested every six months during the 18-month
10 period.

11 (2) The board, State Treasurer or other person resolves
12 in writing before the end of the 60-day period to exercise
13 the right to the 18-month extension under this section.

14 (3) The board, State Treasurer or other person submits a
15 quarterly report to the General Assembly containing a list of
16 the securities of tobacco companies that remain in the fund
17 and the book value and market value of the securities since
18 the effective date of this act.

19 Section 7. Liability for divestiture.

20 The board, State Treasurer and other person required to
21 divest a fund of the securities of tobacco companies under this
22 act shall not be liable to any person for complying with the
23 duties under this act, provided that the board, State Treasurer
24 and other person exercises the degree of care required by law
25 for the respective fund.

26 Section 8. Effective date.

27 This act shall take effect immediately.