
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 460 Session of
1999

INTRODUCED BY SCHWARTZ, BOSCOLA, COSTA, MUSTO, BELL AND O'PAKE,
FEBRUARY 24, 1999

REFERRED TO FINANCE, FEBRUARY 24, 1999

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) The Commonwealth has initiated litigation against
18 the major tobacco companies, claiming the industry has

1 engaged in a conspiracy to entice children into a deadly
2 addiction of tobacco use.

3 (4) Various funds in the Commonwealth have over
4 \$300,000,000 invested in tobacco company stocks.

5 (5) Research shows that it is not necessary for public
6 pension funds to invest in tobacco company stock in order to
7 achieve their investment return objectives.

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

12 (7) Current developments introduce an unreasonably high
13 element of risk to tobacco company investment and create
14 serious doubt as to whether it is prudent to continue
15 investing in tobacco company stock.

16 (8) Divestment of tobacco stocks is a financially
17 prudent and morally responsible choice for the Commonwealth.

18 Section 3. Definitions.

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

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

24 "Fund." Any account or fund of Commonwealth moneys in the
25 State Treasury or other moneys of which the State Treasurer is
26 custodian or moneys under the authority and control of any
27 department, departmental board or commission or any independent
28 department, board or commission that may be lawfully invested in
29 any security of a corporation or other business entity. The term
30 shall include, but not be limited to, the Pennsylvania Municipal

1 Retirement Fund, the Public School Employees' Retirement Fund,
2 the State Employees' Retirement Fund, the State Workers'
3 Insurance Fund and the Tuition Payment Fund.

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

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

12 "Tobacco products." Cigarettes, cigars, pipe tobacco or
13 smokeless tobacco in any form.

14 Section 4. Tobacco company investments prohibited.

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

18 Section 5. Divestiture of tobacco company investments.

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

27 Section 6. Extension of divestiture period.

28 If the board, State Treasurer or other person required to
29 divest a fund of the security of a tobacco company under this
30 act finds that it is not prudent or consistent with its

1 fiduciary duty to the fund to divest those securities within the
2 60-day period set forth in section 5, the board, State Treasurer
3 or person may divest those securities within an 18-month period
4 beginning at the end of the 60-day period, provided that:

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

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

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

17 Section 7. Liability for divestiture.

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

24 Section 8. Effective date.

25 This act shall take effect immediately.