

The Vermont Statutes Online
Title 18: Health

Chapter 225: TOBACCO PREVENTION, CESSATION, AND CONTROL

§ 9501. Definitions

As used in this chapter:

(1) "Board" means the Vermont tobacco evaluation and review board established by this chapter.

(2) "Secretary" means the secretary of human services.

(3) "Agency" means the agency of human services, unless the context requires otherwise.

(4) "Commissioner" means the commissioner of the department of health.

(5) "Department" means the department of health, unless the context requires otherwise.

(6) "Eligible activity" means any activity that will carry out either or both of the dual purposes of freeing Vermonters from addiction to tobacco, and ensuring that the youth of Vermont in this generation and in generations to come are free from tobacco addiction. Eligible activities include the following:

(A) establishing anti-addiction programs that are accessible to all Vermonters;

(B) creating and fostering anti-tobacco educational programs for use in Vermont schools;

(C) creating and fostering anti-tobacco advertising;

(D) establishing community outreach programs;

(E) supporting tobacco control enforcement activities;

(F) evaluating the effectiveness of tobacco cessation, prevention and control programs;

(7) "Litigation settlement fund" means the Vermont tobacco litigation settlement fund established by 32 V.S.A. § 435a.

(8) "Program" means the Vermont tobacco prevention and treatment program established under this chapter.

(9) "Tobacco Litigation Settlement" means the Master Settlement Agreement between members of the tobacco industry and the state of Vermont, approved by the Vermont superior court on December 14, 1998 and finalized in Vermont on January 13, 1999.

(10) "Trust fund" means the tobacco trust fund established by this chapter. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000.)

§ 9502. Tobacco trust fund

(a)(1) The tobacco trust fund is established in the office of the state treasurer, for the purposes of creating a self-sustaining, perpetual fund for tobacco cessation and prevention which is not dependent upon tobacco sales volume.

(2) The trust fund shall be comprised of:

(A) appropriations made by the general assembly;

(B) transfers from the litigation settlement fund pursuant to subdivision (b) of this section; and

(C) contributions from any other source.

(3) The state treasurer shall not disburse monies from the trust fund, except upon appropriation by the general assembly. In any fiscal year, total appropriations from the trust fund shall not exceed seven percent of the fair market value of the fund at the end of the prior fiscal year.

(4) The trust fund shall be administered by the state treasurer. The treasurer may invest monies in the fund in accordance with the provisions of 32 V.S.A. § 434. All balances in the fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the fund. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the fund.

(b) Unless otherwise authorized by the general assembly on or before ~~June 30, 2000~~,

~~and on~~ June 30 of each ~~subsequent~~ fiscal year, any unencumbered balance in the litigation settlement fund shall be transferred to the trust fund. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000.)

§ 9503. Vermont tobacco prevention and treatment

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the department of health ~~and the Vermont tobacco evaluation and review board~~, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based, and shall include the following components:

- (1) community-based programs;
- (2) school-based programs;
- (3) tobacco cessation programs;
- (4) countermarketing activities;
- (5) enforcement activities;
- (6) surveillance and evaluation activities;
- (7) policy initiatives; and
- (8) any other activities determined by the commissioner ~~or the board~~ to be necessary to implement the provisions of this section.

~~(b) By June 1, 2001, the department and the board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the department and the board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section. The services provided by a quitline approved by the department of health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

(c) The department of liquor control shall administer the component of the program that relates to enforcement activities.

(d) The department of education shall administer school-based programs.

~~(e) The department shall pay all fees and costs of the surveillance and evaluation activities, including the costs associated with hiring a contractor to conduct an independent evaluation of the program.~~

~~(f) The board shall be represented on all tobacco program advisory committees, including, but not limited to, the youth working group, community grants advisory board, and the scientific advisory board. The board's representative on any such advisory committee shall include at least one member other than the commissioner of health. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000; 2007, No. 26, § 1.)~~

§ 9504. Creation of the Vermont tobacco evaluation and review board

(a) There is created and established, within the office of the ~~secretary~~ Commissioner, an advisory body to be known as the Vermont tobacco evaluation and review board, ~~an independent state board~~ created to provide advice to the Commissioner ~~work in partnership with the agency of human services and the department of hHealth in establishing the annual budget, concerning program criteria, and policy development, and review and evaluation of the tobacco prevention and treatment programs.~~

(b) The board shall consist of 14 members, including ex officio ~~the commissioner of health and~~ the commissioner of education, or their designees; the commissioner of the department of liquor control or designee; the attorney general or designee; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the committee on committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the speaker of the house; a member representing the low income community appointed by the senate committee on committees; two persons under the age of 30, one appointed by the speaker of the house and one appointed by the senate committee on committees; and four members appointed by the governor with the advice and consent of the senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the governor to the board shall be appointed, two for a term of two years, one for a term of three years and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(c) The governor shall appoint a chair from among the board's public members. The chair shall serve for a term of two years. The chair may be removed for good cause by a two-thirds voting majority of the board. The board may elect such other officers as it may

determine. The board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Commissioner of Health, chair or at the request of three members; however, the board shall meet no less than four times a year. ~~A majority of the sitting members shall constitute a quorum, and action taken by the board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the board to approve, authorize, award, grant, or otherwise expend money appropriated to the board or the department shall require authorization from a majority of members of the entire board.~~

(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.

~~(e) The board may employ staff, through the agency of human services, to assist the board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the board under this chapter. The board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The board shall use the office of the attorney general for legal services. The board shall receive additional staff assistance from the department of health, the legislative council, and the joint fiscal office.~~

(f) ~~The agency of human services~~ Department of Health shall provide administrative support to the board for the purposes of this chapter.

(g) No member of the board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. All board members shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000; amended 2005, No. 215 (Adj. Sess.), § 276; 2007, No. 91 (Adj. Sess.), § 1, eff. March 19, 2008.)

§ 9505. General powers and duties

~~The board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:~~

~~(1) establish jointly with the department of health the selection criteria for community grants and review and recommend the grants to be funded;~~

~~(2) select, upon the advice of the commissioner, a contractor responsible for countermarketing activities. The department shall pay the fees and costs of any such contractor. The board and commissioner shall jointly approve any final countermarketing campaign;~~

~~(3) review and advise the department selection criteria for grantees and contracts funded by the program in conformity with the goals established by the department and board;~~

~~(4) establish jointly with the department an application process, criteria, and components for an independent evaluation. The board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program;~~

~~(5) review and make recommendations to the overall plan and any memorandum of understanding developed jointly by the department of health and department of education for school based programs funded through the tobacco program fund;~~

~~(6) review and make recommendations to enforcement activities administered by the department of liquor control in accordance with the provisions of this chapter;~~

~~(7) review and advise any state agency, on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use;~~

~~(8) in collaboration with the agency and department, annually organize a minimum of two public meetings by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget;~~

~~(9) conduct jointly with the secretary a review of the department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the governor, joint fiscal committee, and committee on appropriations of the house of representatives and the senate by October 1 of each year;~~

~~(10) propose to the department strategies for program coordination and collaboration with other state agencies, nonprofit organizations dedicated to anti-tobacco activities, health care providers and organizations, community and school groups, and other nonprofit organizations;~~

~~(11) adopt a conflict of interest policy within 30 days of the appointment of the full board and include this policy in the annual report required under this chapter. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000.)~~

§ 9506. Allocation system

(a) In determining the allocation of funds available for the purposes of this chapter, the department ~~and the board~~ shall consider, but not be limited to, the following factors:

- (1) the level of funding or other participation by private or public sources in the activity being considered for funding;
- (2) what resources will be required in the future to sustain the program;
- (3) geographic distribution of funds; and
- (4) the extent to which the outcomes of the project can be measured by reductions in adult or youth smoking rates.

(b) The department's ~~and board's~~ allocation system shall include a method, ~~developed jointly,~~ that evaluates the need for, impact and quality of activities proposed by eligible applicants, including, where appropriate, measuring the outcomes of the project through reductions in adult and youth smoking rates. (Added 1999, No. 152 (Adj. Sess.), § 271, eff. May 29, 2000.)

§ 9507. Annual report

(a) ~~By January 15 of each year, the board shall submit a report concerning its activities under this chapter to the governor and the general assembly which shall include, to the extent possible, the following:~~

- ~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~
- ~~(2) a full financial report of the activities of the departments of health, education, liquor control, and the board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~
- ~~(3) a recommended budget for the program; and~~
- ~~(4) an explanation of the outcomes of approved programs, measured through reductions in adult and youth smoking rates.~~