

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 1096

AN ACT

To repeal section 196.1003, RSMo, and to enact in lieu thereof one new section relating to the tobacco master settlement agreement, with a referendum clause.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 196.1003, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 196.1003,  
3 to read as follows:

4           196.1003. Requirements.

5           Any tobacco product manufacturer selling cigarettes to  
6 consumers within the State (whether directly or through a  
7 distributor, retailer or similar intermediary or intermediaries)  
8 after the date of enactment of this Act shall do one of the  
9 following:

10          (a) become a participating manufacturer (as that term is  
11 defined in section II(jj) of the Master Settlement Agreement) and  
12 generally perform its financial obligations under the Master  
13 Settlement Agreement; or

14          (b) (1) place into a qualified escrow fund by April 15 of  
15 the year following the year in question the following amounts (as  
16 such amounts are adjusted for inflation)--

17           1999:	\$ .0094241 per unit sold
18	after the date of enact-
19	ment of this Act;

2000: \$.0104712 per unit sold;  
for each of 2001 and 2002: \$.0136125 per unit sold;  
for each of 2003 through 2006: \$.0167539 per unit sold;  
for each of 2007 and each year  
thereafter: \$.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances--

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than the [State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i) (2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i) (3) of that Agreement other than the Inflation Adjustment)] Master Settlement Agreement payments, as determined under section IX(i) of that Agreement including after final determination of

1 all adjustments, that such manufacturer would have been required  
2 to make on account of such units sold had it been a participating  
3 manufacturer, the excess shall be released from escrow and revert  
4 back to such tobacco product manufacturer; or

5 (C) to the extent not released from escrow under  
6 subparagraphs (A) or (B), funds shall be released from escrow and  
7 revert back to such tobacco product manufacturer twenty-five  
8 years after the date on which they were placed into escrow.

9 (3) Each tobacco product manufacturer that elects to place  
10 funds into escrow pursuant to this subsection shall annually  
11 certify to the Attorney General that it is in compliance with  
12 this subsection. The Attorney General may bring a civil action  
13 on behalf of the State against any tobacco product manufacturer  
14 that fails to place into escrow the funds required under this  
15 section. Any tobacco product manufacturer that fails in any year  
16 to place into escrow the funds required under this section shall-

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18 (A) be required within 15 days to place such funds into  
19 escrow as shall bring it into compliance with this section. The  
20 court, upon a finding of a violation of this subsection, may  
21 impose a civil penalty to be paid to the State's general revenue  
22 fund in an amount not to exceed 5 percent of the amount  
23 improperly withheld from escrow per day of the violation and in a  
24 total amount not to exceed 100 percent of the original amount  
25 improperly withheld from escrow;

26 (B) in the case of a knowing violation, be required within  
27 15 days to place such funds into escrow as shall bring it into  
28 compliance with this section. The court, upon a finding of a

1 knowing violation of this subsection, may impose a civil penalty  
2 to be paid to the State's general revenue fund in an amount not  
3 to exceed 15 percent of the amount improperly withheld from  
4 escrow per day of the violation and in a total amount not to  
5 exceed 300 percent of the original amount improperly withheld  
6 from escrow; and

7 (C) in the case of a second knowing violation, be  
8 prohibited from selling cigarettes to consumers within the State  
9 (whether directly or through a distributor, retailer or similar  
10 intermediary) for a period not to exceed 2 years.

11 Each failure to make an annual deposit required under this  
12 section shall constitute a separate violation. Any tobacco  
13 product manufacturer that violates the provisions of this section  
14 shall pay the State's cost and attorney's fees incurred during a  
15 successful prosecution under this section.

16 Section B. This act is hereby submitted to the qualified  
17 voters of this state for approval or rejection at an election  
18 which is hereby ordered and which shall be held and conducted on  
19 Tuesday next following the first Monday in November, 2016,  
20 pursuant to the laws and constitutional provisions of this state  
21 for the submission of referendum measures by the general  
22 assembly, and this act shall become effective when approved by a  
23 majority of the votes cast thereon at such election and not  
24 otherwise.