STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2313 By: Adair of the House

and

Hobson of the Senate

COMMITTEE SUBSTITUTE

(Public health and safety - Oklahoma Youth Smoking Prevention Act - Youth Smoking Prevention Fund - Youth Smoking Prevention Advisory Commission - codification - effective date -

emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Youth Smoking Prevention Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Youth Smoking Prevention Act:

1. "Department" means the State Department of Health;

2. "Fund" means the Youth Smoking Prevention Fund established pursuant to Section 3 of this act;

3. "Master Settlement Agreement" means the tobacco litigation settlement agreement entered into by Oklahoma and certain other states, United States territories and possessions, and participating tobacco manufacturers, dated November 23, 1998;

4. "Commission" means the Youth Smoking Prevention Advisory Commission established pursuant to Section 4 of this act to develop a State Plan for Youth Smoking Prevention and to make recommendations for the award of grants from the Fund for the purpose of reducing the consumption of cigarettes by minors;

5. "State Plan" means the State Plan for Youth Smoking Prevention adopted pursuant to Section 5 of this act;

6. "Grantee" means any public entity or private nonprofit entity to which the State Department of Health, after recommendation by the Youth Smoking Prevention Advisory Commission, has awarded monies from the Fund for qualified youth smoking prevention programs; and

7. "Qualified youth smoking prevention program" means a program that meets the criteria set forth in the State Plan for Youth Smoking Prevention.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Youth Smoking Prevention Fund". The Fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of the State Plan for Youth Smoking Prevention. Expenditures from said Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The Fund shall be administered by the State Department of Health.

C. All monies in the Fund shall be subject to annual appropriations by the State Legislature for the purposes as are

authorized in this act and shall be available for the award of grants for qualified youth smoking prevention programs and related administrative costs of the Youth Smoking Prevention Advisory Commission.

D. Monies from the Fund shall not be used to engage in any political activities or lobbying, including, but not limited to, support of or opposition to candidates, ballot initiatives, referenda or other similar activities.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Youth Smoking Prevention Advisory Commission, which shall adopt a State Plan for Youth Smoking Prevention and make recommendations for the award of grants from the Fund for qualified youth smoking prevention programs.

B. The Commission shall consist of fourteen (14) members as follows:

1. The State Commissioner of Health or designee, who shall be chairperson;

2. The State Superintendent of Public Instruction, or designee;

3. The Director of the Department of Mental Health and Substance Abuse Services, or designee;

4. The Director of the Department of Human Services, or designee;

5. The Director of the Alcoholic Beverage Laws Enforcement Commission, or designee;

6. Three members appointed by the Governor;

7. Three members appointed by the Speaker of the House of Representatives; and

8. Three members appointed by the President Pro Tempore of the Senate.

The appointed members shall serve two-year terms and may be reappointed. The appointed members shall be selected for their knowledge, competence, experience or interest in youth smoking prevention, or other relevant background, including, but not limited to, youth education, public health, social science and business expertise. Members shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

C. The Commission shall be convened by the State Commissioner of Health for its first meeting no later than October 1, 2000. A vice-chairperson of the Commission shall be elected by a majority vote of its members and shall serve at the pleasure of the majority of the members of the Commission. Meetings of the Commission shall be at the call of the chairperson. The chairperson, or in the chairperson's absence, the vice-chairperson, shall preside over meetings of the Commission. A quorum shall consist of a simple majority of the members.

D. The Commission shall have an Executive Director who shall be appointed by the State Commissioner of Health and approved by a majority vote of the members of the Commission. The salary of the Executive Director and travel and per diem expenses of the Commission members when attending Commission meetings shall be paid for from the Fund. From time to time as necessary to support its activities, the Commission may request from the State Department of Health the assignment of staff and support personnel who are full-time employees of the State Department of Health. No portion of the salaries of such employees shall be reimbursable from the Fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On or before March 1, 2001, the Commission shall propose a State Plan for Youth Smoking Prevention. On or before March 1 of

each subsequent year, the Commission may propose amendments to the plan. The Commission shall submit its proposed State Plan or any proposed amendments thereto to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Attorney General. The Governor, members of the Legislature, and the Attorney General may submit comments to the Commission on the State Plan on or before April 30, 2001, and may submit comments to the Commission on its proposed amendments to the State Plan on or before April 30 of each subsequent year. On or before June 30, 2001, the Commission shall adopt a final State Plan and shall make such plan public. On or before June 30 of each subsequent year, the Commission shall adopt any amendments to the State Plan and shall make such amended State Plan public.

B. The State Plan shall set out the criteria by which grant proposals are considered by the Commission. Such plan shall also describe the types of youth smoking prevention programs that shall be eligible for consideration for grants from the Fund. Such eligible programs shall include, but not be limited to:

1. Media campaigns directed to youth to prevent underage consumption of cigarettes;

2. School-based education programs to prevent youth smoking;

3. Community-based youth programs involving youth smoking prevention through general youth development; and

4. Enforcement and administration of the Prevention of Youth Access to Tobacco Act, and related retailer education and compliance efforts.

C. The State Plan shall provide that no less than fifty percent (50%) of the dollar value of the grants awarded in each year shall be dedicated to programs described in paragraphs 2 and 3 of subsection B of this section.

D. The State Plan further shall provide for a grant for an annual statewide school-based survey to measure cigarette use and

behaviors towards cigarette use by individuals in grades six (6) through twelve (12). Such survey shall:

1. Involve a statistically valid sample of the individuals in each of grades six (6) through twelve (12);

2. Not include any individual who is eighteen (18) years of age or older; and

3. Be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, prior to September 1 of each year.

E. The State Plan shall provide that no more than five percent (5%) of the Fund shall be expended on the administrative costs of the Commission.

F. The development and adoption of the State Plan shall not be subject to the notice and comment provisions of the Administrative Procedures Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall meet at least four times a year to review applications for grants for youth smoking prevention programs. On or before November 1 of each year, the Commission shall make final recommendations to the State Department of Health for the award of grants to qualified applicants for the next fiscal year. No recommendation may be forwarded to the Department without the approval of the vote of a majority of the Commission. To the extent practicable and consistent with the criteria for qualified applicants set forth in the State Plan, the Commission shall make recommendations for the expenditure of the total amount of funds appropriated in FY 2003 and subsequent years for qualified youth smoking prevention programs.

B. An applicant for a grant for a qualified youth smoking prevention program must file an application with the Department no

later than October 1 of the year preceding the fiscal year for which the grant is requested. The Department shall forward all applications to the Commission for review. The recommendation of the Commission shall be binding on the Department.

C. An applicant that requests funding to initiate, continue or expand a youth smoking prevention program shall demonstrate, by means of application, letters of recommendation, and such other means as the Commission may designate, that the proposed youth smoking prevention program for which it seeks funds meets the criteria set forth in the State Plan. Previous grant recipients shall include recent evaluations of their programs with their applications. The Commission may not recommend the award of a grant unless it makes a specific finding, as to each applicant, that the program proposed to be funded meets the criteria set forth in the State Plan.

D. In addition to evaluating the funding request pursuant to the criteria set out in the State Plan, the Commission shall consider:

1. In the case of applications to fund media campaigns directed to youth to prevent underage consumption of cigarettes, whether the campaign provides for sound management and periodic evaluation of the campaign's relevance to the intended audience, including audience awareness of the campaign and recollection of the main message;

2. In the case of applications to fund school-based education programs to prevent youth smoking, whether there is credible evidence that the program is effective in reducing youth smoking;

3. In the case of applications to fund community-based youth programs involving youth smoking prevention through general youth development, whether the program:

a. has a comprehensive strategy with a clear mission and goals,

b. has committed, caring, and professional leadership,

c. offers a diverse array of youth-centered activities in youth-accessible facilities,

d. is culturally sensitive, inclusive and diverse,

e. involves youth in the planning, delivery, and evaluation of services that affect them, and

f. offers a positive focus including all youth; and

4. In the case of applications to fund enforcement and administration of the Prevention of Youth Access to Tobacco Act and related retailer education and compliance efforts, whether such activities and efforts can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of eighteen (18).

E. State and local government departments and agencies shall be eligible for grants provided pursuant to this act. The State Department of Health and other state or local agencies may be awarded a grant only if it is recommended by a two-thirds (2/3) majority of the members of the Commission.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

On or before January 1 of each year, the State Department of Health shall announce the award of grants for the next fiscal year. Any funds appropriated for qualified youth smoking prevention programs not expended in any fiscal year shall be retained in the Fund and available for qualified youth smoking prevention programs in any following year.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As a condition to the receipt of funds under this act, a grantee shall agree to file a report with the State Department of

Health, on or before September 30 after the end of the fiscal year for which the grant was awarded, as to the following:

1. Amount received as a grant and the expenditures made with the proceeds of the grant;

2. A description of the program offered and the number of youths who initially participated and completed the program; and

3. Specific elements of the program meeting the criteria set forth in the State Plan.

B. Any grantee failing to timely file the report required under this section shall be subject to the jurisdiction of the Attorney General for repayment of the full amount of the grant expended.

C. The State Department of Health shall review and evaluate the reports of grantees required pursuant to this section and shall file a written report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor on or before February 1 of each year on the status of the Fund and the activities of the Fund for the fiscal year most recently ended. The report shall include the beginning and ending balance of the Fund for each fiscal year, payments or gifts received by the Fund, income earned and expenditures made, the name of each grantee and the amount of each grant made, the criteria used to award each grant, and whether the program implemented by each grantee met the criteria. The report shall be publicly available immediately upon its filing.

SECTION 9. This act shall become effective July 1, 2000.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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