



2020 South Dakota Legislature
Senate Bill 25
ENROLLED

AN ACT

ENTITLED An Act to establish certain requirements to maintain state compliance with the Master Settlement Agreement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That a NEW SECTION be added:

10-50B-18. Cigarette importers--Tobacco product manufacturer--Joint and several liability--Escrow fund.

Any person that imports cigarettes into the United States shall be jointly and severally liable with any tobacco product manufacturer required to place a deposit into a qualified escrow fund pursuant to subdivision 10-50B-7(2) for the obligation to make the deposit into the qualified escrow fund.

Section 2. That a NEW SECTION be added:

10-50B-19. State directory--Manufacturers--Surety bond--Amount.

Before being listed in the state directory of manufacturers and brands permitted to be sold, any tobacco product manufacturer required to place a deposit into a qualified escrow fund pursuant to subdivision 10-50B-7(2) shall provide a surety bond to the attorney general at least ten days before the beginning of each calendar quarter. The amount of the bond shall be the greater of:

- (1) The largest required deposit into a qualified escrow fund by the tobacco product manufacturer or the tobacco product manufacturer's predecessor for any of the twelve preceding calendar quarters; or
- (2) Twenty-five thousand dollars.

Section 3. That a NEW SECTION be added:

10-50B-20. Disclosure of information--Purposes.

Notwithstanding any other law, the secretary of revenue or the attorney general may disclose, at the discretion of the secretary or the attorney general, any information received pursuant to title 10 for purposes of the proper administration, determination of compliance, or enforcement of chapters 10-50 and 10-50B, to:

- (1) Participating manufacturers;
- (2) Signatory states that are signatories to the NPM Adjustment Settlement Agreement; or
- (3) The Data Clearinghouse;

as those terms are defined in the Master Settlement Agreement or the NPM Adjustment Settlement Agreement.

Section 4. That § 10-50B-3 be AMENDED:

10-50B-3. Definitions.

Terms used in §§ 10-50B-1 to 10-50B-10, inclusive, mean:

- (1) "Adjusted for inflation," increased in accordance with the formula for inflation adjustment set forth in the Master Settlement Agreement;
- (2) "Affiliate," a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms, owns, is owned, and ownership, mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term, person, means an individual, partnership, committee, association, corporation, or any other organization or group of persons;
- (3) "Allocable share," allocable share as that term is defined in the Master Settlement Agreement;
- (4) "Master Settlement Agreement," the settlement agreement, and related documents, entered into on November 23, 1998, by the State of South Dakota and major United States tobacco product manufacturers which is filed as part of the court record in *State of South Dakota, et al. v. Philip Morris, Inc., et al.*, Civ. No. 98-65, Sixth Judicial Circuit, Hughes County;
- (5) "Qualified escrow fund," an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that the financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into

escrow from using, accessing, or directing the use of the funds' principal except as consistent with § 10-50B-8;

- (6) "Released claims," released claims as that term is defined in the Master Settlement Agreement;
- (7) "Releasing parties," releasing parties as that term is defined in the Master Settlement Agreement;
- (8) "NPM Adjustment Settlement Agreement," the settlement agreement, and related documents, entered into on March 9, 2018, by the State of South Dakota and major United States tobacco product manufacturers which is filed as part of the court record in *State of South Dakota, et al. v. Philip Morris, Inc., et al.*, Civ. No. 98-65, Sixth Judicial Circuit, Hughes County.

An Act to establish certain requirements to maintain state compliance with the Master Settlement Agreement.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 25

2020 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2020

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 25
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State