HOUSE DOCKET, NO. 2987 FILED ON: 1/21/2011

# HOUSE . . . . . No. 2452

## The Commonwealth of Massachusetts

PRESENTED BY:

***Jonathan Hecht***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to curtail tobacco addiction and related health care costs.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Jonathan Hecht* | *29th Middlesex* |
| *Thomas P. Conroy* | *13th Middlesex* |
| *Antonio F. D. Cabral* | *13th Bristol* |
| *Kevin G. Honan* | *17th Suffolk* |
| *Denise Provost* | *27th Middlesex* |
| *Stephen Kulik* | *1st Franklin* |
| *Frank I. Smizik* | *15th Norfolk* |
| *Carl M. Sciortino, Jr.* | *34th Middlesex* |
| *William N. Brownsberger* | ☐ *[District]* ☐ |
| *Cory Atkins* | *14th Middlesex* |
| *Alice K. Wolf* | *25th Middlesex* |
| *Jason M. Lewis* | *31st Middlesex* |
| *Martha M. Walz* | *8th Suffolk* |
| *Peter V. Kocot* | *1st Hampshire* |
| *Elizabeth A. Malia* | *11th Suffolk* |
| *Cynthia S. Creem* | |

| | |
|---|---|
| | *[District]* |
| *Ruth B. Balser* | *12th Middlesex* |

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# HOUSE . . . . . No. 2452

By Mr. Hecht of Watertown, a petition (accompanied by bill, House, No. 2452) of Jonathan Hecht and others for legislation to provide smoking and tobacco use cessation treatment benefits to active and retired public employees. Public Service.

## The Commonwealth of Massachusetts

An Act to curtail tobacco addiction and related health care costs.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17H the following section:-- Section 17J. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission a smoking and tobacco use cessation treatment benefit. Smoking and tobacco use cessation treatment and information benefits shall include but not be limited to nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying in person or telephonic counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician.

SECTION 2. Chapter 118H of the General Laws is hereby amended by inserting the following section:

Section 7. Any policy of insurance for accident or sickness, or agreement for medical or health services, which shall be delivered or issued or renewed or certified in this Commonwealth through the Commonwealth Care Health Insurance Program described in Chapter 118H of the General Laws, shall provide as a benefit to all individual subscribers and members within the Commonwealth, for expenses of tobacco use cessation treatment as hereinafter set forth. Smoking and tobacco use cessation treatment and information benefits shall include but not be limited to nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying in person or telephonic counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician.

SECTION 3. Section 7B of Chapter 64C of the General Laws is hereby amended by adding the following paragraphs:

(m) In addition to the excise imposed by paragraph (b), an excise shall be imposed on all cigars weighing more than 3 pounds per 1,000 units held in the commonwealth at the rate of 105

24 per cent of the wholesale price of such product. In addition to the excise imposed by paragraph
25 (b), an excise shall be imposed on all smoking tobacco held in the commonwealth at the rate of
26 105 per cent of the wholesale price of such product.

27 (n) Notwithstanding the provisions of section 28 and the provisions of this section, a
28 portion of the cigar and smoking tobacco excise revenue paid under this section shall be credited
29 to the Tobacco Use Reduction and Prevention Fund, established pursuant to section 2XX of
30 chapter 29. The amount credited to the Tobacco Use Reduction and Prevention Fund shall be all
31 sums received pursuant paragraph (m) of section 7B of chapter 64C, together with any penalties,
32 forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts
33 refunded or abated in connection therewith.

34 SECTION 4. Section 7C of Chapter 64C of the General Laws is hereby amended by
35 adding the following paragraph:

36 (d) In addition to the excise imposed by section (a) of chapter 64C, an excise shall be
37 imposed equal to forty-five percent of the price paid by such licensee or unclassified acquirer to
38 purchase smokeless tobacco so sold, imported or acquired. Notwithstanding the provisions of
39 section 28 and the provisions of this section, a portion of the smokeless tobacco excise revenue
40 paid under this section shall be credited to the Tobacco Use Reduction and Prevention Fund,
41 established pursuant to section 2XX of chapter 29. The amount credited to the Tobacco Use
42 Reduction and Prevention Fund shall be all sums received pursuant paragraph (d) of section 7C
43 of chapter 64C, together with any penalties, forfeitures, interest, costs of suits and fines collected
44 in connection therewith, less all amounts refunded or abated in connection therewith.

45 SECTION 5. Section 6 of chapter 64C of the General Laws, as so appearing, is hereby
46 amended by striking out, in lines 3 and 11, the figure "100½" and inserting in place thereof the
47 following figure:- 163

48 SECTION 6. Said Section 6 of said chapter 64C of the General Laws, as so appearing, is
49 hereby further amended by inserting at the end thereof the following paragraph:-

50 Notwithstanding the provisions of section 28 and the provisions of this section, a portion
51 of the cigarette excise revenue paid under this section shall be credited to the Tobacco Use
52 Reduction and Prevention Fund, established pursuant to section 2XX of chapter 29. The amount
53 credited to the Tobacco Use Reduction and Prevention Fund in fiscal year 2012 shall be the
54 monthly excess in cigarette excise payments received in fiscal year 2012 over cigarette excise
55 payments received in the same months in fiscal year 2011. The amount credited to the Tobacco
56 Use Reduction and Prevention Fund for any fiscal year thereafter shall be the monthly excess in
57 cigarette excise payments received in such fiscal year over cigarette excise payments received in
58 the same months in fiscal year 2011

59 SECTION 7. Section 28 of said chapter 64C of the General Laws, as so appearing, is
60 hereby amended by striking out the words “sections 6 and 7A” and inserting in place thereof the
61 following words:- sections 6, 7A, 7B and 7C

62 SECTION 8. Chapter 29 of the General Laws is hereby amended by adding the following
63 section:-

64 Section 2XX. (a) There shall be established and set up on the books of the
65 Commonwealth a separate fund to be known as the Tobacco Use Reduction and Prevention
66 Fund. There shall be credited to the said Fund all sums received pursuant to the excise imposed
67 on tobacco products by sections 6, 7A, 7B and 7C of chapter 64C, together with any penalties,
68 forfeitures, interest, costs of suits and fines in connection therewith, less all amounts refunded or
69 abated in connection therewith. There shall additionally be credited to the said Fund all sums
70 received, in any year after 2008, pursuant to the Master Settlement Agreements or Consent
71 Decrees concerning tobacco product manufacturers, together with any penalties, forfeitures,
72 interests, costs of suits, fines and all other proceeds in connection therewith, less all amounts
73 refunded or abated in connection therewith. On an annual basis, not less than three percent of all
74 amounts credited to the fund shall be held in trust and used solely for the purposes of preventing
75 and reducing tobacco use and shall be available for expenditure by the Commissioner of the
76 Department of Public Health. These funds shall not be used to replace existing funding allocated
77 to state tobacco prevention efforts but solely to increase the total amount of expenditures to
78 prevent and reduce tobacco use and its harms.

79 (b) The funds directed to the Department of Public Health pursuant to paragraph (a) shall
80 be allocated by the Commissioner consistent with tobacco reduction and prevention
81 programmatic recommendations of the Centers for Disease Control and Prevention and as
82 determined by the Commissioner, in consultation with the oversight committee created pursuant
83 to paragraph (c), to engage youth in educating their communities and exposing tobacco industry
84 tactics; to monitor the retail environment for compliance with local and state laws and to
85 document tobacco industry advertising and pricing strategies; to promote smoking cessation
86 resources including those offered through MassHealth's smoking cessation benefit; to provide
87 training and technical assistance to healthcare providers to ensure that smokers have
88 opportunities to receive brief interventions and medicines and are referred to behavioral
89 counseling; to enforce the Commonwealth's smoke-free workplace law; to ensure children and
90 other vulnerable people are not exposed to secondhand smoke; and to conduct interventions to
91 reduce smoking among high risk populations including veterans, pregnant/parenting women,
92 people with disabilities, people with mental illness, people in recovery from addiction and low-
93 income smokers.

94 (c) Within 90 days after this section goes into effect, an oversight committee of nine
95 members shall be established to assist the Commissioner in developing, implementing, and
96 maintaining a strategic plan for allocating the funds directed to the Department, pursuant to

97 paragraph (a), in monitoring and evaluating the use of the funds and all other state expenditures
98 to prevent and reduce tobacco use and its harms, and in assessing the efficacy of all such
99 expenditures to prevent and reduce tobacco use and its harms. Three members of the oversight
100 committee shall be appointed by the Governor, three by the President of the Senate, and three by
101 the Speaker of the House of Representatives. The members of the oversight committee shall be
102 persons with experience and expertise regarding public health, tobacco reduction and prevention
103 policies and programs, public education and counter-marketing, and program oversight and
104 evaluation. No member of the oversight committee shall, during the member's tenure on the
105 committee and for three years before joining the committee, receive any salary, grants, or other
106 payments or support from any business that manufactures, distributes, markets, or sells cigarettes
107 or other tobacco products or serve as a director, employee, or consultant of any organization that
108 receives grants or contributions from any such business or that provides legal, lobbying, public
109 relations, marketing, or advertising services to any such business. Each member of the oversight
110 committee shall also agree not to enter into any such financial or business relationships with the
111 tobacco industry for a period of two years after that member's tenure on the oversight committee
112 ends. The oversight committee shall annually provide a publicly available report on tobacco use
113 and its related harms, including but not limited to those appropriated pursuant to paragraph (a),
114 the effectiveness of such funding allocations, and related surveillance and evaluation findings to
115 the governor and the legislature.

116 (d) The Department of Public Health shall have the authority to promulgate reasonable
117 rules to implement this section.