OFFICE OF THE ATTORNEY GENERAL
Lawrence G. Wasden
Consumer Protection Division
954 W. Jefferson, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-2424

Summary of Attorneys General's Settlement with Tobacco Industry

Public Health Initiatives

Prohibits Youth Targeting

- Prohibits targeting youth in advertising, promotions, or marketing.
- Bans industry actions aimed at initiating, maintaining or increasing youth smoking.

Bans Cartoon Characters

- Bans use of cartoons in the advertising, promotion, packaging or labeling of tobacco products.

Restricts Sponsorships By Brand Names

- Limits tobacco companies to only one brand name sponsorship per year (after current contracts expire or after three years – whichever comes first).
- Prohibits brand name sponsorship of events with a significant youth audience.
- Prohibits sponsorship of team sports (football, basketball, baseball, hockey or soccer).
- Prohibits sponsorship of events where any of the paid participants or contestants are underage.
- Allows corporate sponsorship of athletic, musical, cultural, artistic or social events as long as the corporate name does not include the brand name of a domestic tobacco product.
- Bans tobacco brand names for stadiums and arenas.
- Limits outdoor advertising for sponsored events to the site of the event.

Bans Outdoor Advertising

- Bans all outdoor advertising, including: billboards, signs and placards in arenas, stadiums, shopping malls, and video game arcades.
- Limits advertising outside retail establishments to 14 square feet.

Bans Placement of Tobacco Products

- Bans payments to promote tobacco products in movies, television shows, theater productions or live performances, live or recorded music performances, videos and video games.

Bans Sale of Merchandise With Tobacco Brand Names

- Bans distribution and sale of apparel and merchandise with brand-name logos (caps, T-shirts, backpacks, etc.).

Bans Youth Access To Free Samples

- Free samples cannot be distributed except in a facility or enclosed area where the operator ensures no underage person is present.

Bans Gifts To Underage Persons Based on Proof of Purchase

- Bans gifts without proof of age (legible driver's license certified to be valid by the gift recipient).
-

Prohibits Third Parties From Using Tobacco Brand Names

- Tobacco companies are prohibited from authorizing third parties to use or advertise brand names in any way prohibited by the agreement.

Bans Non-Tobacco Brand Names

- Bans future cigarette brands from being named after recognized non-tobacco brand or trade names (such as Harley Davidson, Yves Saint Laurent, Cartier) or nationally recognized sports teams, entertainment groups or individual celebrities.

Stops Misrepresentations Concerning Health Consequences Of Smoking

- Prohibits the industry from making any material misrepresentations regarding the health consequences of smoking.

Financial Recovery

States Will Recover Over $206 Billion

- Payments will be made to settling states and a national foundation, and for administration and enforcement purposes.
- Distributions directly to states will be made based on percentages agreed to by Attorneys General in the Master Settlement Agreement.
- Idaho is set to receive $712 million over the first 25 years of the settlement.
- The monetary payments to Idaho come with <u>no</u> strings attached. The legislature may spend these funds for <u>any</u> state purpose.

Up-front Payments Total $12.742 Billion

- Tobacco companies will make five (5) initial payments between 1998 and 2003. They will pay $2.4 billion in 1998, which they did, $2.472 billion on January 10, 2000, $2.546 billion in 2001, $2.623 billion in 2002, and $2.701 billion in 2003.

Annual Payments Begin April 15, 2000 and Total $183.177 Billion Through 2025

- Annual payments will "ramp-up" beginning with a $4.5 billion payment on April 15, 2000. Ensuing April 15 payments will be at the following rates:
    - 2001: $5 billion
    - 2002-2003: $6.5 billion
    - 2004-2007: $8 billion
    - 2008-2017: $8.139 billion (plus $861 million to the strategic fund)
    - 2018 on: $9 billion

- These amounts (when under $8 billion) will be reduced for percentages for previously settled states. (The $183.177 billion total is the total through 2025 after the previously settled state reduction is taken.)

Strategic Contribution Fund Payments of $8.610 Billion

- On April 15, 2008 and on April 15 each year through 2017, the companies will pay $861 million into a strategic contribution fund to be shared by the states.

- Idaho's share of this Fund is $65 million, payable over 10 years.

Payments to the Foundation Totaling $250 Million Over the Next 10 Years (see below)

Payments to the National Public Education Fund at Least Totaling $1.45 Billion Between 2000 and 2003 (see below)

One-Time Payment of $50 Million into National Attorney General Enforcement Fund in 1999

Miscellaneous Payment Provisions

- Payment calculations for the industry will be made by an independent auditor paid for by the industry and by a fund established in the agreement.
- The independent auditor is PriceWaterhouseCoopers.
- Payments made by tobacco companies (annual payments, strategic contribution fund) will be adjusted annually based on an inflation factor. (The annual CPI but not less than 3%.)
- The amount of the annual payments will be subject to "volume adjustments." Tobacco company payments will rise if cigarette sales increase and fall if cigarette sales decrease.

Non-Participating Manufacturers Adjustment

- Settlement negotiations originated with the four major tobacco companies, but an early goal was to ensure industry-wide participation in the public health and other initiatives achieved in the agreement. To achieve that goal, attempts were made to involve additional companies in the negotiations and to develop provisions which would encourage all tobacco companies to follow terms of the settlement.
- If the aggregate market share of all companies participating in the agreement decline by more than two percent because of their participation in the agreement, their annual payment is reduced by three percent for each percent lost over the two percent threshold. Only states that have not passed a model statute would have their annual payments reduced.
- States which pass the model statute would not have their annual payments reduced.
- Idaho passed the model statute in 1999.

Creates A Foundation And $1.45 Billion Public Education Fund

Creates A National Foundation to Reduce Teen Smoking and Substance Abuse

- Requires the industry to pay $250 million over the next ten (10) years to fund a charitable foundation which will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use.

Creates A National Public Education Fund

- Requires the industry to pay $1.45 billion over the next five years for a National Public Education Fund.
- The fund is established to carry out a nationwide sustained advertising and education program to counter youth tobacco use and educate consumers about tobacco-related diseases.
- The fund may make grants to states and political subdivisions to carry out the fund's purposes.

Enforcement

Provides Court Jurisdiction For Implementation and Enforcement

- Settling states or tobacco companies may apply to the court to enforce the terms of the consent decree.
- If the court finds the consent decree has been violated, the court may award any relief available under the consent decree or the law in that state.
- If the court issues an enforcement order enforcing the agreement and a party violates that order, the court may order monetary, civil contempt or criminal sanctions to enforce compliance with the enforcement order.
- Allows Attorneys General access to company documents, records and personnel to enforce the agreement.

State Enforcement Fund Established

- On March 31, 1999, the industry paid $50 million to be used to assist settling states in enforcing and implementing the agreement and to investigate and litigate potential violations of state tobacco laws.

Disbands Tobacco Trade Associations

- Disbands the Council for Tobacco Research (CTR), the Tobacco Institute (TI), and the Council for Indoor Air Research (CIAR).
- Requires all records of these organizations that relate to any lawsuit to be preserved.

Restricts Industry Lobbying

Limits Industry Lobbying On Tobacco Control Laws

- Tobacco companies will be prohibited from opposing proposed state or local laws or administrative rules which are intended to limit youth access to and consumption of tobacco products.
- Prohibits the industry from lobbying for the diversion of settlement money to non-tobacco or non-health related uses or legislation which would eliminate or diminish state rights under the settlement.

Protects State And Local Youth Access Laws

- Prohibits new challenges by the industry against the enforceability or constitutionality of tobacco control laws, ordinances, and rules passed prior to June 1, 1998.

No Criminal Immunity

- Specifies that states expressly do not waive any right to pursue criminal prosecutions based on federal, state, or, local law.

Opens Industry Records And Research

Opens Public Access To Tobacco Documents

- Tobacco companies will release documents that are under protective orders in state lawsuits and have no privilege or trade-secret claim.

Creates User-Friendly Website For Industry Documents

- Requires tobacco companies to maintain for ten years, at their expense, a Website which includes all documents produced in state and other smoking and health related lawsuits.
- Requires the industry to maintain the site in a user-friendly and searchable format (requires an index and other features to improve searchable access).
- Requires the industry to add, at its expense, all documents produced in future civil actions involving smoking and health cases.

Opens Research Regarding Smoking and Health

- Prohibits manufacturers from jointly contracting or conspiring to:
    - Limit information about the health hazards from the use of their products;
    - Limit or suppress research into smoking and health; or
    - Limit or suppress research into the marketing or development of new products.

Cost Recovery and Attorney Fees

States Recover Cost, Expenses and Market Rate For Attorney Fees

- Tobacco companies will reimburse offices of state Attorneys General for all reasonable costs and expenses and in-house attorney fees.
- Idaho has been reimbursed its in-house attorney fees and costs.

Industry Will Pay Outside Attorney Fees

- Two payment methods are available – liquidated fee agreement and arbitration.
- Idaho’s outside counsel agreed to a liquidated fee of $7 million, which was paid by the tobacco defendants. No state funds were used.