

PCB HCC 07-02

ORIGINAL

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A bill to be entitled  
 An act relating to tobacco education and prevention;  
 creating s. 381.84, F.S.; requiring the Department of  
 Health to conduct a statewide tobacco education and  
 prevention program; providing definitions; providing  
 legislative purpose and findings; establishing components  
 of the program; creating the Tobacco Education and  
 Prevention Advisory Council; providing membership and  
 duties of the council; providing reimbursement for travel  
 and other expenses for council members; requiring the  
 Secretary of Health to award grants in consultation with  
 the council; providing for the appointment of a peer  
 review panel to review proposals for funding; specifying  
 the use of funds appropriated under the program; requiring  
 an annual report by the department; providing rulemaking  
 authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.84, Florida Statutes, is created to  
 read:

381.84 Comprehensive Statewide Tobacco Education and  
 Prevention Program.--

(1) As used in this section and for purposes of the  
 provisions of s. 27, Art. X of the State Constitution, the term:

(a) "CDC" means the United States Centers for Disease  
 Control and Prevention.

(b) "Department" means the Department of Health.

PCB HCC 07-02

ORIGINAL

YEAR

29 (c) "Tobacco" means, without limitation, tobacco itself and  
 30 tobacco products that include tobacco and are intended or  
 31 expected for human use or consumption, including, but not limited  
 32 to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.

33 (d) "Youth" means minors and young adults.

34 (2) It is the purpose of this section to implement s. 27,  
 35 Art. X of the State Constitution. The Legislature finds that s.  
 36 27, Art. X of the State Constitution is intended to require the  
 37 department to conduct a statewide tobacco education and  
 38 prevention program that focuses on youth tobacco use. The  
 39 Legislature further finds that the primary goals of the program  
 40 are to reduce the prevalence of tobacco use among youth and  
 41 adults, reduce per capita tobacco consumption, and reduce  
 42 exposure to environmental tobacco smoke.

43 (3) The department shall conduct a comprehensive, statewide  
 44 tobacco education and prevention program consistent with the  
 45 recommendations for effective program components contained in the  
 46 1999 Best Practices for Comprehensive Tobacco Control Programs of  
 47 the CDC, as amended by the CDC. The program shall include the  
 48 following components, each of which shall focus on educating  
 49 people, particularly youth and their parents, about the health  
 50 hazards of tobacco and discouraging the use of tobacco:

51 (a) An advertising campaign using, at a minimum, Internet,  
 52 print, radio, and television advertising, funded with a minimum  
 53 of one-third of the total annual appropriation required by s. 27,  
 54 Art. X of the State Constitution.

55 (b) Cessation programs, including counseling and treatment.

56 (c) Evaluation of the effectiveness of community and  
 57 statewide programs.

PCB HCC 07-02

ORIGINAL

YEAR

58 (d) Evidence-based curricula and programs, including  
 59 school-based and after-school programs, which involve youth,  
 60 educate youth about the health hazards of tobacco, help youth  
 61 develop skills to refuse tobacco, and demonstrate to youth how to  
 62 stop using tobacco.

63 (e) Programs of local community-based partnerships,  
 64 including programs for the prevention, detection, and early  
 65 intervention of smoking-related chronic diseases.

66 (f) Training of health care providers and smoking cessation  
 67 counselors.

68 (4) The Tobacco Education and Prevention Advisory Council  
 69 is created within the department.

70 (a) The council shall consist of 14 members, including:

71 1. The Secretary of Health, or a designee.

72 2. Two members appointed by the Commissioner of Education,  
 73 of whom one must be a school district superintendent.

74 3. The chief executive officer of the Florida Division of  
 75 the American Cancer Society, or a designee.

76 4. The chief executive officer of the Greater Southeast  
 77 Affiliate of the American Heart Association, or a designee.

78 5. The chief executive officer of the American Lung  
 79 Association of Florida, or a designee.

80 6. Four members appointed by the Governor, of whom two must  
 81 have expertise in the field of tobacco prevention and education  
 82 or smoking cessation.

83 7. Two members appointed by the President of the Senate, of  
 84 whom one must have expertise in the field of tobacco prevention  
 85 and education or smoking cessation.

PCB HCC 07-02

ORIGINAL

YEAR

86           8. Two members appointed by the Speaker of the House of  
87 Representatives, of whom one must have expertise in the field of  
88 tobacco prevention and education or smoking cessation.

89           (b) The appointments shall be for a 3-year term and shall  
90 reflect the diversity of the state's population. A vacancy shall  
91 be filled by appointment by the original appointing authority for  
92 the unexpired portion of the term.

93           (c) An appointed member may not serve more than two  
94 consecutive terms.

95           (d) The council shall annually elect from its membership  
96 one member to serve as chairperson of the council and one member  
97 to serve as vice chairperson.

98           (e) The council shall meet at least quarterly and upon the  
99 call of the chairperson.

100           (f) Members of the council shall serve without compensation  
101 but may be reimbursed for per diem and travel expenses pursuant  
102 to s. 112.061.

103           (g) The department shall provide council members with  
104 information and other assistance as is reasonably necessary to  
105 assist the council in carrying out its responsibilities.

106           (5) The council shall advise the Secretary of Health as to  
107 the direction and scope of the Tobacco Education and Prevention  
108 Program. The responsibilities of the council include, but are not  
109 limited to:

110           (a) Providing advice on program priorities and emphases.

111           (b) Providing advice on the overall program budget.

112           (c) Participating in periodic program evaluation.

PCB HCC 07-02

ORIGINAL

YEAR

113 (d) Assisting in the development of guidelines to ensure  
 114 fairness, neutrality, and adherence to the principles of merit  
 115 and quality in the conduct of the program.

116 (e) Assisting in the development of administrative  
 117 procedures relating to solicitation, review, and award of  
 118 contracts and grants, to ensure an impartial, high-quality peer  
 119 review system.

120 (f) Assisting in the development and supervision of peer  
 121 review panels.

122 (g) Reviewing reports of peer review panels and making  
 123 recommendations for contracts and grants.

124 (h) Recommending meaningful outcome measures through a  
 125 regular review of tobacco prevention and education strategies and  
 126 programs of other states and the Federal Government.

127 (i) Recommending policies to encourage a coordinated  
 128 response to tobacco use in this state, focusing specifically on  
 129 creating partnerships within and between the public and private  
 130 sectors.

131 (6) Contracts and grants for the program components  
 132 described in subsection (3) shall be awarded by the Secretary of  
 133 Health, after consultation with the council, on the basis of  
 134 merit, as determined by an open, competitive, peer review process  
 135 that ensures objectivity, consistency, and high quality. A  
 136 recipient of a contract or grant for the program component  
 137 described in paragraph (3)(c) shall not be eligible for a  
 138 contract or grant award for any other program component described  
 139 in subsection (3) in the same state fiscal year.

140 (a) To ensure that all proposals for funding are  
 141 appropriate and are evaluated fairly on the basis of merit, the

PCB HCC 07-02

ORIGINAL

YEAR

142 Secretary of Health, in consultation with the council, shall  
 143 appoint a peer review panel of independent, qualified experts in  
 144 the field of tobacco control to review the content of each  
 145 proposal and establish its priority score. The priority scores  
 146 shall be forwarded to the council and must be considered in  
 147 determining which proposals shall be recommended for funding.

148 (b) The council and the peer review panel shall establish  
 149 and follow rigorous guidelines for ethical conduct and adhere to  
 150 a strict policy with regard to conflict of interest. A member of  
 151 the council or panel may not participate in any discussion or  
 152 decision with respect to a research proposal by any firm, entity,  
 153 or agency with which the member is associated as a member of the  
 154 governing body or as an employee or with which the member has  
 155 entered into a contractual arrangement. Meetings of the council  
 156 and the peer review panels shall be subject to the provisions of  
 157 chapter 119, s. 286.011, and s. 24, Art. I of the State  
 158 Constitution.

159 (c) In each contract or grant agreement, the department  
 160 shall limit the use of food and promotional items to no more than  
 161 2.5 percent of the total amount of the contract or grant and  
 162 limit overhead or indirect costs to no more than 7.5 percent of  
 163 the total amount of the contract or grant. The department, in  
 164 consultation with the Department of Financial Services, shall  
 165 publish guidelines for appropriate food and promotional items.

166 (d) In each advertising contract, the department shall  
 167 limit the total of production fees, buyer commissions, and  
 168 related costs to no more than 5 percent of the total contract  
 169 amount.

PCB HCC 07-02

ORIGINAL

YEAR

170           (7) By January 31 of each year, the department shall  
 171 provide to the Governor, the President of the Senate, and the  
 172 Speaker of the House of Representatives a report that evaluates  
 173 the program's effectiveness in reducing and preventing tobacco  
 174 use and that recommends improvements to enhance the program's  
 175 effectiveness. The report shall contain, at a minimum, an annual  
 176 survey of youth attitudes and behavior toward tobacco, as well as  
 177 a description of the progress in reducing the prevalence of  
 178 tobacco use among youth and adults, reducing per capita tobacco  
 179 consumption, and reducing exposure to environmental tobacco  
 180 smoke.

181           (8) From the total funds appropriated for the Comprehensive  
 182 Statewide Tobacco Education and Prevention Program in the General  
 183 Appropriations Act, an amount of up to 5 percent may be used by  
 184 the department for administrative expenses.

185           (9) The department may adopt rules pursuant to ss.  
 186 120.536(1) and 120.54 necessary to implement this section.  
 187           Section 2. This act shall take effect July 1, 2007.