

## **What is the Tobacco Settlement?**

In the mid 1990s, many states sued cigarette companies like Philip Morris and R.J. Reynolds for deceptive practices in making and marketing cigarettes. Some of these practices included deliberately making cigarettes more addictive and deadly while intentionally misrepresenting the risks. The states sought court orders modifying the companies' marketing practices and money damages to pay for increased medical costs caused by tobacco-related diseases. In 1998, the companies and states entered into a comprehensive settlement of all these claims, requiring the companies to change their marketing practices and pay billions of dollars to the states over time. This settlement is called the Tobacco Master Settlement Agreement.

Since 1998, many other tobacco companies have joined the Master Settlement Agreement. They voluntarily agreed to the settlement's marketing restrictions and obligation to make ongoing payments. Some cigarette companies have not joined the settlement, but are obligated to comply with state laws that have some similar provisions.

## **How are the settlement payments calculated?**

The annual settlement payments are based on the total volume of cigarettes sold in the United States, as determined by the number of cigarettes subject to the federal government's cigarette excise tax. Therefore, if the companies sell fewer cigarettes, their annual settlement payments decrease. The payments may also decrease if the companies that settled lose significant market share to cigarette companies that did not settle. However, the payments are adjusted upward for inflation at a rate not lower than 3% compounded annually. If inflation is over 3%, the inflation adjustment matches the overall inflation rate.

Since the settlement, adult smoking rates have declined by nearly a third<sup>1</sup>. Although this good news has led to a decline in the companies' settlement payment obligation, the upward adjustment for inflation has made their actual payments relatively stable over the years.

## **How much have the companies paid and how much has Maryland received?**

The settlement requires cigarette companies to pay approximately \$6 billion to the states collectively every year. As of 2016, the companies' payments to the states have

---

<sup>1</sup> The Centers for Disease Control and Prevention reported that 24.7% of all Americans smoked in 1997. Centers for Disease Control and Prevention, Cigarette Smoking Among Adults – United States, 1997, Morbidity and Mortality Weekly Report (Nov. 5, 1999), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4843a3.htm>. By 2014, the rate had dropped to 16.8%. Centers for Disease Control and Prevention, Current Cigarette Smoking Among U.S. Adults Aged 18 Years and Older, <http://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html> (last visited April 20, 2016).

totaled more than \$100 Billion. Their payments will continue in perpetuity, meaning that the companies will pay for as long as they sell cigarettes anywhere in the United States.

Maryland receives 2.26% of the companies' annual settlement payment. Its base payment is approximately \$160 million every year, although the cigarette companies typically withhold some of their payments due to certain disputes. As of 2016, Maryland's tobacco settlement payments totaled \$2.56 Billion.

### **How has Maryland used the money?**

A law passed by the General Assembly in 2001 requires that all tobacco settlements go to Maryland's Cigarette Restitution Fund. Money from the Fund supports the Tobacco Use Prevention and Cessation Program, the Cancer Prevention, Education, Screening and Treatment Program, and other anti-tobacco and public health programs, including Medicaid, which must pay for the medical care some Marylanders receive for tobacco-related diseases.

### **What does tobacco cost Maryland?**

Despite the settlement, the tobacco industry continues to impose substantial unreimbursed costs on Maryland taxpayers. In 2015, Maryland's Medicaid expenses treating tobacco-related diseases totaled \$576.5 million, several times Maryland's annual tobacco settlement payment. Maryland residents' state and federal tax burden from smoking-related government expenses was about \$787 per household. These figures do not include health costs caused by second-hand smoke, fires caused by smoking, and tobacco products other than cigarettes. Smoking-related lost productivity was approximately \$2.22 billion last year.<sup>2</sup>

### **Has the settlement helped reduce smoking rates?**

The facts speak for themselves. According to the Center for Disease Control, in 1997, the last year before the tobacco settlement, 24.7% of all Americans<sup>3</sup> and 28 % of American high school students smoked<sup>4</sup>. By 2013, the numbers had dropped to 16.8 % of

---

<sup>2</sup> Campaign for Tobacco-Free Kids, The Toll of Tobacco in Maryland, [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/maryland](https://www.tobaccofreekids.org/facts_issues/toll_us/maryland) (last visited April 20, 2016).

<sup>3</sup> Centers for Disease Control and Prevention, Cigarette Smoking Among Adults – United States, 1997, Morbidity and Mortality Weekly Report (Nov. 5, 1999), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm4843a3.htm>.

<sup>4</sup> Department of Health and Human Services, Office of Adolescent Health, Trends in Adolescent Tobacco Use, <http://www.hhs.gov/ash/oah/adolescent-health-topics/substance-abuse/tobacco/trends.html> (last visited April 20, 2016).

all Americans<sup>5</sup> and 9.3% of all American high school students<sup>6</sup>. Maryland's adult smoking rate in 2013 was 16.4%<sup>7</sup>, but 11.9% of Maryland high school students smoked.<sup>8</sup> Clearly, Maryland needs to work harder to reduce teen smoking.

### **How many people does smoking kill?**

The Center for Tobacco Free Kids estimates that 7,500 Marylanders died last year from cigarettes, and smoking will prematurely kill 92,000 kids now living in our state.<sup>9</sup> Nationally, smoking kills 480,000 Americans every year, and 5.6 million American kids alive today will die prematurely from smoking.<sup>10</sup>

### **How many Maryland teenagers still smoke?**

The Center for Tobacco Free Kids estimates that 36,000 Maryland high-school student smoke, 11.9 % of the total high-school population, and 3,500 kids under 18 become new smokers each year. Maryland teens bought or smoked 7.5 million packs of cigarettes in 2015.

### **Has the tobacco settlement changed the way cigarettes are marketed to youths?**

Yes. As a result of the settlement, cigarette companies can no longer target young people. Cartoon characters like Joe Camel are permanently banned. In addition, the settlement is directly responsible for the disappearance of cigarette advertising on billboards, trains, taxicabs, and buses, and the few advertisements the settlement permits are severely limited in size. Tobacco companies can no longer name sports stadiums or sponsor sporting and cultural events with a significant youth audience.

### **How else does the settlement reduce teen smoking?**

One provision of the settlement required the cigarette companies to fund the American Legacy Foundation, now known as the truth initiative, which works to reduce youth tobacco use and tobacco-related diseases. The truth initiative produces the award-winning "Truth" advertising campaign to discourage young people from smoking.

---

<sup>5</sup> Centers for Disease Control and Prevention, Current Cigarette Smoking Among U.S. Adults Aged 18 Years and Older, <http://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html> (last visited April 20, 2016).

<sup>6</sup> Centers for Disease Control and Prevention, Youth and Tobacco Use, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm) (last visited April 20, 2016).

<sup>7</sup> Centers for Disease Control and Prevention, State-Specific Prevalence of Current Cigarette Smoking and Smokeless Tobacco Use Among Adults Age ≥ 18 Years – United States, 2011-2013, Morbidity and Mortality Weekly Report (May 22, 2015), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6419a6.htm>.

<sup>8</sup> Campaign for Tobacco-Free Kids, The Toll of Tobacco in Maryland, [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/maryland](https://www.tobaccofreekids.org/facts_issues/toll_us/maryland) (last visited April 20, 2016).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Legacy also maintains a searchable digital library hosted by the University of California that contains more than 14 million internal tobacco industry documents related to their advertising and scientific research activities.

### **How does Maryland enforce the settlement?**

Maryland's tobacco lawsuit has not been dismissed. The case is still active under the terms of the consent decree that implemented the settlement. If Maryland detects a violation, it can move for an injunction or other remedies in the Circuit Court for Baltimore City.

### **Isn't smoking a person's individual choice and none of the state's business?**

Smokers may have a choice when they start smoking, but cigarettes are highly addictive. Studies have found that it is more difficult to quit smoking cigarettes than it is to quit using heroin and other illegal drugs.<sup>11</sup> Young people are particularly susceptible to its effects,<sup>12</sup> and nearly 9 out of 10 smokers started before they turned 19.<sup>13</sup> For the addict, the only choice left is to quit.<sup>14</sup>

Smoking harms non-smokers and smokers alike. Children exposed to cigarette smoke at home and in cars are more likely to develop asthma and other smoking-related diseases.<sup>15</sup> Because cigarette taxes and the tobacco settlement pay for only a fraction of the costs the state must pay treating these diseases, smoking affects every taxpayer in the state. The Office of the Attorney General believes that the tobacco industry, not Maryland's taxpayers, should pay the enormous costs cigarettes impose on everyone, smokers and non-smokers alike.

### **How can I help?**

The Office of the Attorney General maintains a staff of lawyers in its Tobacco Enforcement Unit dedicated to enforcing the tobacco settlement. If you see suspicious

---

<sup>11</sup> See, e.g., Sandra Blakeslee, *Nicotine: Harder to Kick . . . Than Heroin*, N.Y. Times Magazine, March 29, 1987, available at <http://www.nytimes.com/1987/03/29/magazine/nicotine-harder-to-kickthan-heroin.html?pagewanted=all>; Lynn T. Kozlowski, PhD, et al., *Comparing Tobacco Cigarette Dependence with Other Drug Dependencies*, 261 JAMA 898 (1989), available at <http://jama.jamanetwork.com/article.aspx?articleid=376289&resultclick=1>

<sup>12</sup> Shefali Sabharanjak, PhD, *Smoking and Adolescent Brain Development*, Brain Blogger (Oct. 14, 2012), <http://brainblogger.com/2012/10/14/smoking-and-adolescent-brain-development>.

<sup>13</sup> Centers for Disease Control and Prevention, Youth and Tobacco Use, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/) (last visited April 21, 2016).

<sup>14</sup> Approximately 70 % of all smokers report that they want to quit. [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use) (last visited April 25, 2016).

<sup>15</sup> Centers for Disease Control and Prevention, Asthma and Secondhand Smoke, <http://www.cdc.gov/tobacco/campaign/tips/diseases/secondhand-smoke-asthma.html> (last visited April 22, 2016).

activity related to the sale or marketing of cigarettes, please call the Office of the Attorney General at 410-576-6300 and ask to speak with an attorney who can help you.