

HOUSE No. 02452

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 bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>

HOUSE No. 02452

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

In the Year Two Thousand Eleven

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:

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

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

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

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

22 (m) In addition to the excise imposed by paragraph (b), an excise shall be imposed on all cigars
23 weighing more than 3 pounds per 1,000 units held in the commonwealth at the rate of 105 per
24 cent of the wholesale price of such product. In addition to the excise imposed by paragraph (b),
25 an excise shall be imposed on all smoking tobacco held in the commonwealth at the rate of 105
26 per cent of the wholesale price of such product.

27 (n) Notwithstanding the provisions of section 28 and the provisions of this section, a portion of
28 the cigar and smoking tobacco excise revenue paid under this section shall be credited to the
29 Tobacco Use Reduction and Prevention Fund, established pursuant to section 2XX of chapter 29.
30 The amount credited to the Tobacco Use Reduction and Prevention Fund shall be all sums
31 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 adding the
35 following paragraph:

36 (d) In addition to the excise imposed by section (a) of chapter 64C, an excise shall be imposed
37 equal to forty-five percent of the price paid by such licensee or unclassified acquirer to purchase
38 smokeless tobacco so sold, imported or acquired. Notwithstanding the provisions of section 28
39 and the provisions of this section, a portion of the smokeless tobacco excise revenue paid under
40 this section shall be credited to the Tobacco Use Reduction and Prevention Fund, established
41 pursuant to section 2XX of chapter 29. The amount credited to the Tobacco Use Reduction and
42 Prevention Fund shall be all sums received pursuant paragraph (d) of section 7C of chapter 64C,
43 together with any penalties, forfeitures, interest, costs of suits and fines collected in connection
44 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 amended
46 by striking out, in lines 3 and 11, the figure “100½” and inserting in place thereof the following
47 figure:- 163

48 SECTION 6. Said Section 6 of said chapter 64C of the General Laws, as so appearing, is hereby
49 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 of the
51 cigarette excise revenue paid under this section shall be credited to the Tobacco Use Reduction
52 and Prevention Fund, established pursuant to section 2XX of chapter 29. The amount credited to
53 the Tobacco Use Reduction and Prevention Fund in fiscal year 2012 shall be the monthly excess

54 in cigarette excise payments received in fiscal year 2012 over cigarette excise payments received
55 in the same months in fiscal year 2011. The amount credited to the Tobacco Use Reduction and
56 Prevention Fund for any fiscal year thereafter shall be the monthly excess in cigarette excise
57 payments received in such fiscal year over cigarette excise payments received in the same
58 months in fiscal year 2011

59 SECTION 7. Section 28 of said chapter 64C of the General Laws, as so appearing, is hereby
60 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 Commonwealth a
65 separate fund to be known as the Tobacco Use Reduction and Prevention Fund. There shall be
66 credited to the said Fund all sums received pursuant to the excise imposed on tobacco products
67 by sections 6, 7A, 7B and 7C of chapter 64C, together with any penalties, forfeitures, interest,
68 costs of suits and fines in connection therewith, less all amounts refunded or abated in
69 connection therewith. There shall additionally be credited to the said Fund all sums received, in
70 any year after 2008, pursuant to the Master Settlement Agreements or Consent Decrees
71 concerning tobacco product manufacturers, together with any penalties, forfeitures, interests,
72 costs of suits, fines and all other proceeds in connection therewith, less all amounts refunded or
73 abated in connection therewith. On an annual basis, not less than three percent of all amounts
74 credited to the fund shall be held in trust and used solely for the purposes of preventing and
75 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 be
80 allocated by the Commissioner consistent with tobacco reduction and prevention programmatic
81 recommendations of the Centers for Disease Control and Prevention and as determined by the
82 Commissioner, in consultation with the oversight committee created pursuant to paragraph (c), to
83 engage youth in educating their communities and exposing tobacco industry tactics; to monitor
84 the retail environment for compliance with local and state laws and to document tobacco industry
85 advertising and pricing strategies; to promote smoking cessation resources including those
86 offered through MassHealth's smoking cessation benefit; to provide training and technical
87 assistance to healthcare providers to ensure that smokers have opportunities to receive brief
88 interventions and medicines and are referred to behavioral counseling; to enforce the
89 Commonwealth's smoke-free workplace law; to ensure children and other vulnerable people are
90 not exposed to secondhand smoke; and to conduct interventions to reduce smoking among high
91 risk populations including veterans, pregnant/parenting women, people with disabilities, people
92 with mental illness, people in recovery from addiction and low-income smokers.

93 (c) Within 90 days after this section goes into effect, an oversight committee of nine members
94 shall be established to assist the Commissioner in developing, implementing, and maintaining a
95 strategic plan for allocating the funds directed to the Department, pursuant to paragraph (a), in
96 monitoring and evaluating the use of the funds and all other state expenditures to prevent and
97 reduce tobacco use and its harms, and in assessing the efficacy of all such expenditures to
98 prevent and reduce tobacco use and its harms. Three members of the oversight committee shall

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

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