STATE OF NEW YORK

6897--A
1999-2000 Regular Sessions
IN ASSEMBLY
March 11, 1999

Introduced by M. of A. GRANNIS, GOTTFRIED, DINOWITZ, HOCHBERG, LUSTER, EVE, CLARK -- Multi-Sponsored by -- M. of A. CANESTRARI, HARENBERG, McENENY, McLAUGHLIN, ORTIZ -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the public officers law, in relation to establishing the New York tobacco use prevention and control foundation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new article 8-A to read as follows:

ARTICLE 8-A
NEW YORK TOBACCO USE PREVENTION AND CONTROL FOUNDATION

SECTION 820. LEGISLATIVE FINDINGS AND PURPOSE.

The Legislature finds that tobacco use among young people is the most serious preventable public health problem in New York. Young people are particularly vulnerable to the addictive qualities of tobacco and the lure of tobacco company advertisements and promotional products. This year, eighty-seven thousand New York children will start smoking and unless current smoking trends are reversed, three hundred seventy-seven thousand children alive today will die prematurely from tobacco use.

The Legislature further finds that the human and economic losses due to tobacco use in New York are enormous. Each year, tobacco-related illnesses result in over thirty thousand deaths in the state. Annual Medicaid costs to treat people with smoking-related disease are estimated to be up to two billion dollars.

Cigarette smoking is the leading cause of preventable death and disease in the state. Smoking is known to cause heart disease, stroke, lung and esophageal cancer, chronic lung disease, and emphysema. Exposure to environmental tobacco smoke has been causally linked with lung cancer, childhood asthma, sudden infant death syndrome, and lower-respiratory tract infections. Smokeless tobacco use causes cancer of the gum, mouth, pharynx, larynx, and esophagus.

The Legislature further finds that it is in the best interests of the state to improve the health, quality of life, and economic well-being of all its citizens by promoting programs and activities to encourage the prevention and reduction of tobacco use in New York.

For these purposes, there shall be created a non-profit corporation known as the New York tobacco use prevention and control foundation...
SERVE AS AN EXPERT, INDEPENDENT ENTITY TO UNDERTAKE, PROMOTE AND ADMIN-
ISTER PROGRAMS AND ACTIVITIES TO PREVENT TOBACCO USE AMONG YOUNG PEOPLE
AND TO REDUCE TOBACCO USE AMONG ALL POPULATIONS AS RAPIDLY AS POSSIBLE.
IT IS THE INTENT OF THE LEGISLATURE THAT THE FOUNDATION SHALL BE FUND-
ED BY A PORTION OF REVENUES RECEIVED BY THE STATE FROM ANY SOURCE AS A
DIRECT OR INDIRECT RESULT OF ANY JUDGMENT AGAINST OR SETTLEMENT WITH
TOBACCO PRODUCT MANUFACTURERS, TOBACCO RESEARCH ASSOCIATIONS, OR ANY
OTHER PERSON IN THE TOBACCO INDUSTRY RELATING TO LITIGATION, ADMINISTRA-
TIVE PROCEEDINGS OR ANY OTHER CLAIM MADE OR PROSECUTED BY THE STATE TO
RECOVER DAMAGES FOR VIOLATION OF STATE LAWS; OTHER FUNDS MADE AVAILABLE
FROM THE LEGISLATURE BY APPROPRIATION FROM THE GENERAL FUND OR BY DEDI-
CATION OF SPECIAL FUNDS FOR THE PURPOSES OF THIS ARTICLE; AND ANY
PRIVATE OR OTHER FUNDS RECEIVED BY THE FOUNDATION.
MONIES DEDICATED OR APPROPRIATED FOR THE PURPOSES OF THIS ARTICLE
SHALL NOT BE USED TO SUPPLANT EXISTING GENERAL FUND OR OTHER REVENUE
ALLOCATED TO MEET EXISTING PROGRAM OBLIGATIONS.
§ 821. DEFINITIONS. THE FOLLOWING TERMS, WHENEVER USED OR REFERRED TO
IN THIS ARTICLE, UNLESS THE CONTEXT INDICATES OTHERWISE, SHALL HAVE THE
FOLLOWING MEANINGS:
1. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE FOUNDATION.
2. "DIRECT MEDICAL SERVICES" MEANS DIAGNOSIS OR TREATMENT PROVIDED BY
A LICENSED OR CERTIFIED HEALTH CARE PRACTITIONER.
3. "ELIGIBLE ACTIVITIES" MEANS ACTIVITIES APPROVED BY THE BOARD THAT
ARE ELIGIBLE FOR FUNDING PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT
LIMITED TO:
A. COMMUNITY PROGRAMS TO REDUCE AND PREVENT TOBACCO USE THROUGH LOCAL
INVOLVEMENT AND PARTNERSHIPS;
B. SCHOOL-BASED PROGRAMS TO REDUCE AND PREVENT TOBACCO USE AMONG
YOUTH;
C. MARKETING AND ADVERTISING TO DISCOURAGE TOBACCO USE AND SUPPORT
COMMUNITY-BASED INITIATIVES;
D. TOBACCO CESSATION PROGRAMS;
E. ACTIVITIES TO REDUCE TOBACCO-RELATED DISEASE AMONG HIGH-RISK POPU-
LATIONS;
F. ASSISTANCE TO ENFORCEMENT OF LOCAL LAWS TO PROMOTE CLEAN INDOOR AIR
AND RESTRICT YOUTH'S ACCESS TO TOBACCO PRODUCTS;
G. SURVEILLANCE, EVALUATION AND RESEARCH CONCERNING THE IMPLEMENTATION
AND EFFECTIVENESS OF THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION
AND CONTROL PROGRAM; AND
H. SUCH OTHER ACTIVITIES AS ARE DETERMINED BY THE BOARD TO BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE, EXCEPT THAT NO FUNDS SHALL BE USED TO PROVIDE DIRECT MEDICAL SERVICES OTHER THAN THOSE ASSOCIATED WITH CESSATION SERVICES.
4. "ELIGIBLE APPLICANT" MEANS A HEALTH CARE PROVIDER LICENSED PURSUANT TO ARTICLE TWENTY-EIGHT, THIRTY-SIX OR FORTY-FOUR OF THIS CHAPTER OR ARTICLE FORTY-THREE OF THE INSURANCE LAW, A NOT-FOR-PROFIT ORGANIZATION WHICH HAS A DEMONSTRATED ABILITY TO PROVIDE OR COORDINATE TOBACCO PREVENTION, CONTROL PROGRAMS, SERVICES, OR RESEARCH, A SCHOOL DISTRICT, A COLLEGE OR UNIVERSITY, A LOCAL PUBLIC HEALTH DEPARTMENT, A PROFESSIONAL HEALTH ORGANIZATION, ASSOCIATION OR SOCIETY, OR A PROFESSIONAL EDUCATION ORGANIZATION OR ASSOCIATION. NO ELIGIBLE APPLICANT SHALL DIRECTLY RECEIVE OR SEEK ANY REMUNERATION, GIFT OR POLITICAL CONTRIBUTION FROM A TOBACCO MANUFACTURER OR THEIR CONTRACTORS, AGENTS OR REPRESENTATIVES.
5. "FOUNDATION" MEANS THE NEW YORK TOBACCO USE PREVENTION AND CONTROL FOUNDATION.
6. "STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PLAN" OR "PLAN" MEANS THE ANNUAL PLAN DEVELOPED BY THE FOUNDATION AND APPROVED BY THE BOARD PURSUANT TO THE REQUIREMENTS OF SECTION EIGHT HUNDRED TWEN-
TY-SIX OF THIS ARTICLE WHICH IDENTIFIES THE PROGRAMS AND ACTIVITIES TO BE FUNDED BY THE FOUNDATION, AND PRIORITIZES THE PROGRAMS AND ACTIVITIES TO BE FUNDED AND THE POPULATIONS TO BE SERVED. SUCH PROGRAMS AND ACTIVITIES SHALL INCLUDE BUT NOT BE LIMITED TO ELIGIBLE ACTIVITIES.
7. "STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM" MEANS THE COMPONENT PROGRAMS AND ACTIVITIES APPROVED BY THE FOUNDATION FOR FUNDING PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO ELIGIBLE ACTIVITIES.

8. "TOBACCO CONTROL ORGANIZATION" MEANS A NOT-FOR-PROFIT ORGANIZATION ORGANIZED FOR THE PURPOSE OF REDUCING OR PREVENTING TOBACCO CONSUMPTION OR PROTECTING NONSMOKERS FROM THE EFFECTS OF INVOLUNTARY SMOKING.

9. "TOBACCO USE" MEANS THE CONSUMPTION OF TOBACCO PRODUCTS BY BURNING, CHEWING, INHALING, OR OTHER FORMS OF INGESTING.

10. "VOLUNTARY HEALTH ORGANIZATION" MEANS A NOT-FOR-PROFIT ORGANIZATION ORGANIZED FOR PURPOSES RELATED TO HEALTH, INCLUDING BUT NOT LIMITED TO, AN ORGANIZATION DEVOTED TO THE RESEARCH OF CANCER, HEART DISEASE, OR DISEASE OF THE LUNG.

§ 822. NEW YORK TOBACCO USE PREVENTION AND CONTROL FOUNDATION; CREATION AND PURPOSE. 1. THERE IS HEREBY CREATED A NOT-FOR-PROFIT CORPORATION WHICH SHALL BE KNOWN AS THE NEW YORK TOBACCO USE PREVENTION AND CONTROL FOUNDATION. THE FOUNDATION SHALL BE GOVERNED BY THE NOT-FOR-PROFIT CORPORATION LAW EXCEPT WHERE THAT LAW CONFLICTS WITH THIS ARTICLE, IN WHICH CASE THE PROVISIONS OF THIS ARTICLE SHALL GOVERN.

2. THE FOUNDATION IS CREATED TO FULFILL THE PUBLIC PURPOSE OF REDUCING THE HEALTH AND ECONOMIC CONSEQUENCES OF TOBACCO USE BY UNDERTAKING AND PROMOTING PROGRAMS AND ACTIVITIES TO PREVENT TOBACCO USE AND REDUCE TOBACCO USE IN THE STATE AS RAPIDLY AS POSSIBLE.

§ 823. POWERS AND DUTIES OF THE FOUNDATION. THE FOUNDATION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

1. TO SOLICIT AND ACCEPT GIFTS, GRANTS, FUNDS, PROPERTY OR SERVICES FROM PUBLIC OR PRIVATE SOURCES IN FURTHERANCE OF ITS CORPORATE PURPOSES;

2. TO RECEIVE FUNDS APPROPRIATED IN THE GENERAL FUND OR REVENUES MADE AVAILABLE BY THE LEGISLATURE THROUGH DEDICATION TO SPECIAL ACCOUNTS;

3. TO PROHIBIT THE USE OF FOUNDATION FUNDS FOR LOBBYING ACTIVITY;

4. TO ENTER INTO CONTRACTS WITH THE UNITED STATES, STATE, POLITICAL SUBDIVISIONS OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR ANY PERSON, FIRM OR CORPORATION;

5. TO DEVELOP, OVERSEE, ADMINISTER AND IMPLEMENT THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM;

6. TO STUDY THE RESEARCH AND PRACTICES REPORTED IN THE LITERATURE OR DEVELOPED IN OTHER PROGRAMS IN DEVELOPING THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM;

7. TO DEVELOP CRITERIA FOR PRIORITIZING FUNDING OF STATE TOBACCO USE PREVENTION AND CONTROL PROGRAMS AND ELIGIBLE ACTIVITIES;

8. TO NEGOTIATE IN ACCORDANCE WITH THE CRITERIA SET FORTH IN SECTION EIGHT HUNDRED TWENTY-SEVEN OF THIS ARTICLE THE AWARDING OF GRANTS FROM ITS FUNDS FOR THE PURPOSES OF THIS ARTICLE;

9. TO DEVELOP OR CONTRACT FOR THE DEVELOPMENT OF AN EVALUATION OF THE EFFECTIVENESS OF THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM BASED ON A REDUCTION IN THE CONSUMPTION OF TOBACCO;

10. TO ENSURE THAT PEER REVIEWED PUBLIC HEALTH LITERATURE AND MARKETING RESEARCH REGARDING TOBACCO USE PREVENTION AND CONTROL ARE CONSIDERED IN DEVELOPING AND EVALUATING THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM;

11. TO PROVIDE TRAINING, CONSULTATION AND TECHNICAL ASSISTANCE TO ELIGIBLE APPLICANTS AWARDED CONTRACTS PURSUANT TO THIS ARTICLE;

12. TO CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE CONSENT OF ANY DEPARTMENT, BOARD (OTHER THAN THE BOARD OF THE FOUNDATION), OR AGENCY;

13. TO MAINTAIN A REASONABLE RESERVE OF UNALLOCATED FUNDS OF THE ANNUAL AMOUNT HELD BY THE FOUNDATION; AND

14. TO DO ANY AND ALL THINGS REASONABLY NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES AND EFFECTIVELY IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

§ 824. BOARD OF DIRECTORS OF THE FOUNDATION. 1. THE BOARD OF DIRECTORS OF THE FOUNDATION SHALL CONSIST OF THIRTY-SIX MEMBERS OF WHOM EIGHT SHALL BE APPOINTED BY THE GOVERNOR, EIGHT BY THE ATTORNEY GENERAL, EIGHT
BY THE TEMPORARY PRESIDENT OF THE SENATE, EIGHT BY THE SPEAKER OF THE
ASSEMBLY, TWO BY THE MINORITY LEADER OF THE SENATE AND TWO BY THE MINOR-
ITY LEADER OF THE ASSEMBLY. EACH APPOINTEE SHALL BE FROM ONE OF THE
FOLLOWING CATEGORIES:
A. TOBACCO CONTROL ORGANIZATIONS;
B. PROFESSIONAL HEALTH ASSOCIATIONS, ORGANIZATIONS OR SOCIETIES;
C. AREAS OF RESEARCH AND OTHER ACADEMIC EXPERTISE IN TOBACCO CESSATION
AND PREVENTION;
D. EXPERTS IN MEDIA AND MASS MARKETING;
E. REPRESENTATIVES FOR THE INTEREST OF THE GENERAL PUBLIC;
F. VOLUNTARY HEALTH ORGANIZATIONS;
G. EDUCATION ASSOCIATIONS; AND
H. LOCAL PUBLIC HEALTH DEPARTMENTS.

NO APPOINTING AUTHORITY SHALL APPOINT MORE THAN ONE PERSON FROM A
PARTICULAR CATEGORY.

2. THE DIRECTORS SO APPOINTED SHALL SERVE FOR A TERM OF THREE YEARS,
EXCEPT THAT, OF THE EIGHT DIRECTORS SO APPOINTED BY THE GOVERNOR, THREE
SHALL SERVE FOR A TERM OF TWO YEARS AND THREE SHALL SERVE FOR A TERM OF
ONE YEAR; OF THE EIGHT DIRECTORS SO APPOINTED BY THE ATTORNEY GENERAL,
THREE SHALL SERVE FOR A TERM OF TWO YEARS AND THREE SHALL SERVE FOR A
TERM OF ONE YEAR; OF THE EIGHT DIRECTORS SO APPOINTED BY THE TEMPORARY
PRESIDENT OF THE SENATE, THREE SHALL SERVE FOR A TERM OF TWO YEARS AND
THREE SHALL SERVE FOR A TERM OF ONE YEAR, AND OF THE EIGHT DIRECTORS SO
APPOINTED BY THE SPEAKER OF THE ASSEMBLY, THREE SHALL SERVE FOR A TERM
OF TWO YEARS AND THREE SHALL SERVE FOR A TERM OF ONE YEAR.

3. IF ANY VACANCY OTHER THAN BY EXPIRATION OF TERM OCCURS ON THE BOARD
AMONGST THOSE FIRST APPOINTED SUCH VACANCY SHALL BE FILLED BY APPOINT-
MENT FOR THE UNEXPINED TERM BY THE APPOINTING AUTHORITY INITIALLY
APPOINTING SUCH MEMBER. UPON EXPIRATION OF THE INITIAL TERMS, SUCCESSORS
SHALL BE ELECTED BY THE REMAINING MEMBERS OF THE BOARD FOR A THREE YEAR
TERM. MEMBERS SHALL CONTINUE AS SUCH UNTIL THEIR SUCCESSORS HAVE BEEN
DULY ELECTED.

4. THE BOARD SHALL ELECT ONE OF ITS MEMBERS AS CHAIRPERSON AND ONE OF
ITS MEMBERS AS VICE CHAIRPERSON OF SUCH BOARD.

5. MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT SHALL BE
REIMBURSED FOR ACTUAL EXPENSES REASONABLY INCURRED IN THE PERFORMANCE OF
THEIR DUTIES.

6. EACH NOMINEE SHALL HAVE DEMONSTRATED COMPETENCE OR EXPERIENCE RELE-
VANT TO THE HUMAN OR ECONOMIC COSTS OF TOBACCO USE. NO NOMINEE SHALL
HAVE ANY PAST OR CURRENT AFFILIATION WITH THE TOBACCO INDUSTRY OR ANY
INDUSTRY CONTRACTOR, AGENT, OR ORGANIZATION THAT SHARES INTERESTS WITH
THE TOBACCO INDUSTRY. NO NOMINEE SHALL HAVE RECEIVED OR SOUGHT ANY
REMUNERATION, GIFT OR POLITICAL CONTRIBUTION FROM A TOBACCO MANUFACTURER
OR THEIR CONTRACTORS, AGENTS OR REPRESENTATIVES.

7. THE BOARD SHALL MEET AT LEAST FOUR TIMES ANNUALLY AT THE CALL OF
THE CHAIRPERSON OR IN HIS OR HER ABSENCE THE VICE CHAIRPERSON OR ON
PETITION OF ANY THREE MEMBERS. A MAJORITY OF THE MEMBERS OF THE BOARD
THEN IN OFFICE SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY
BUSINESS.

8. NO MEMBER OF THE BOARD SHALL PARTICIPATE IN A DECISION ON THE
AWARDING OF ANY GRANT OR CONTRACT TO AN ORGANIZATION WITH WHICH SUCH
MEMBER IS AFFILIATED.

9. ALL MEETINGS OF THE BOARD SHALL BE OPEN TO THE PUBLIC AND APPROPRI-
ATELY NOTICED.

10. THE FOUNDATION AND ITS CORPORATE EXISTENCE SHALL CONTINUE UNTIL
TERMINATED BY LAW.

§ 825. COOPERATION AND COORDINATION. 1. THE FOUNDATION SHALL ESTABLISH
AND MAINTAIN WORKING RELATIONSHIPS WITH ORGANIZATIONS AND INSTITUTIONS
DIRECTLY INVOLVED IN EFFORTS TO REDUCE THE ADDICTION, DISEASE, DISABILI-
TY AND DEATH CAUSED BY THE USE OF TOBACCO PRODUCTS IN NEW YORK. SUCH
CONTACT SHOULD ALSO INCLUDE GOVERNMENTAL AGENCIES WHICH MAY HAVE PUBLIC
HEALTH RESPONSIBILITIES OR HAVE JURISDICTION OVER FACILITIES AT WHICH
TOBACCO PRODUCTS MAY BE USED OR SOLD.
2. THE FOUNDATION SHALL ANNUALLY MAKE AVAILABLE TO ALL INTERESTED PARTIES A DESCRIPTION OF ITS PROGRAMS AND PLANS AND THE WAYS IN WHICH THE ACTIVITIES OF OTHERS WILL BE SUPPLEMENTED.


2. IN DEVELOPING THE PLAN, THE FOUNDATION SHALL ENSURE THAT THE MOST EFFICACIOUS RESEARCH FINDINGS REGARDING TOBACCO USE PREVENTION AND CONTROL ARE CONSIDERED, AND THAT EXPERTS WITHIN THE STATE, IN OTHER STATES, AND IN THE CENTERS FOR DISEASE CONTROL ARE CONSULTED. THE PLAN SHALL INCLUDE, AT A MINIMUM, ELIGIBLE ACTIVITIES. THE PLAN SHALL INCLUDE RECOMMENDATIONS ON TOBACCO USE PREVENTION AND CONTROL PROGRAMS, FUNDING PRIORITIES, AND POPULATIONS TO BE SERVED. THE PLAN SHALL BE USED AS A BASIS TO PRIORITIZE AND FUND GRANT PROGRAMS AUTHORIZED PURSUANT TO THIS ARTICLE.

§ 827. GRANTS; CRITERIA. 1. THE FOUNDATION SHALL NEGOTIATE THE AWARDING OF GRANTS TO ELIGIBLE APPLICANTS FOR ELIGIBLE ACTIVITIES BASED ON THE STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PLAN APPROVED BY THE FOUNDATION.

2. THE FOUNDATION SHALL DEVELOP CRITERIA FOR AWARDING GRANTS TO ELIGIBLE APPLICANTS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:
   A. A DEMONSTRATION BY THE APPLICANT THAT SCIENTIFICALLY SOUND APPROACHES WILL BE USED TO DIMINISH TOBACCO USE AMONG TARGET GROUPS;
   B. FOR MARKETING PROGRAMS AND ADVERTISING, A DEMONSTRATION BY THE APPLICANT THAT THE MEDIUM AND CONTENT OF THE ADVERTISING SHALL BE THAT DETERMINED TO BE THE MOST EFFECTIVE METHODS FOR PREVENTING AND REDUCING THE CONSUMPTION OF TOBACCO; AND
   C. TO THE EXTENT FEASIBLE, A DEMONSTRATION THAT GEOGRAPHICAL BALANCE IS ACHIEVED IN AWARDING GRANTS.

3. THE FOUNDATION SHALL ESTABLISH CRITERIA FOR MONITORING AND EVALUATING THE EFFECTIVENESS OF PROGRAMS OPERATING PURSUANT TO THIS ARTICLE.


§ 830. LIMITATION ON LIABILITY. EXCEPT AS PROVIDED IN SECTIONS SEVEN
HUNDRED NINETEEN AND SEVEN HUNDRED TWENTY OF THE NOT-FOR-PROFIT CORPORATION LAW, AND EXCEPT ANY ACTION OR PROCEEDING BROUGHT BY THE ATTORNEY GENERAL, NEITHER THE DIRECTORS NOR ANY MEMBER, OFFICER, OR EMPLOYEE OF THE CORPORATION, SHALL BE LIABLE TO ANY PERSON OTHER THAN THE CORPORATION BASED SOLELY ON HIS OR HER CONDUCT WHILE ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY, UNLESS THE CONDUCT OF SUCH DIRECTOR, MEMBER, OFFICER OR EMPLOYEE WITH RESPECT TO THE PERSON ASSERTING LIABILITY CONSTITUTED NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. PROVIDED, HOWEVER, THAT NEITHER THE DIRECTORS, NOR ANY MEMBER, OFFICER OR EMPLOYEE OF THE CORPORATION SHALL BE LIABLE TO ANY PERSON OTHER THAN THE CORPORATION FOR HIS OR HER CONDUCT, WHILE ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY, IN DEVELOPING, PREPARING, APPROVING AND SUBMITTING A STATEWIDE, COMPREHENSIVE TOBACCO USE PREVENTION AND CONTROL PROGRAM FOR IMPLEMENTATION, OR FOR UPDATING THE PLAN, OR FOR ANY RECOMMENDATIONS ON TOBACCO USE PREVENTION AND CONTROL CONTAINED THEREIN, OR FOR ANY LAWFUL DETERMINATION TO DISTRIBUTE, OR DISTRIBUTION OF, FUNDS PURSUANT TO SUCH PLAN.

§ 831. INCONSISTENT PROVISIONS OF OTHER LAWS SUPERSEDED. INSOFAR AS THE PROVISIONS OF THIS ARTICLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER LAW, GENERAL, SPECIAL OR LOCAL, THE PROVISIONS OF THIS ARTICLE SHALL BE CONTROLLING.

§ 832. SEPARABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION, PART OR APPLICATION OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, THAT JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, PART OR APPLICATION THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

§ 2. Subdivision 1 of section 17 of the public officers law is amended by adding a new paragraph (n) to read as follows:

(N) FOR PURPOSES OF THIS SECTION, THE TERM "EMPLOYEE" SHALL INCLUDE DIRECTORS, MEMBERS, OFFICERS AND EMPLOYEES OF THE NEW YORK TOBACCO USE PREVENTION AND CONTROL FOUNDATION.

§ 3. This act shall take effect immediately, provided however, that the appointments to the board of directors as required by section 824 of the public health law as added by section one of this act shall be completed on or before September 1, 1999.