

CHAPTER 6
SB 199 – FINAL VERSION

2013 SESSION

13-1024
04/09

SENATE BILL **199**

AN ACT authorizing the attorney general to join the settlement of accrued claims relating to the non-participating tobacco manufacturers adjustment disputes for 2003 to 2011 and the 2012 non-participating tobacco manufacturers adjustment.

SPONSORS: Sen. Bradley, Dist 3; Sen. Larsen, Dist 15; Rep. Shurtleff, Merr 11; Rep. Chandler, Carr 1

COMMITTEE:

ANALYSIS

This bill authorizes the attorney general to enter into a settlement agreement with the settling tobacco companies relative to adjustment payments made by non-participating manufacturers.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT authorizing the attorney general to join the settlement of accrued claims relating to the non-participating tobacco manufacturers adjustment disputes for 2003 to 2011 and the 2012 non-participating tobacco manufacturers adjustment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 6:1 Findings. The general court finds that:

2 I. In November 1998, the state of New Hampshire and 45 other states, the District of
3 Columbia, the Commonwealth of Puerto Rico and four United States territories entered into the
4 Tobacco Master Settlement Agreement (the “Master Settlement Agreement” or “MSA”) with the
5 major domestic cigarette manufacturers.

6 II. Under the terms of the MSA, the settling tobacco companies agreed to: (1) make annual
7 payments to the settling states; (2) fund a national foundation devoted to educating the public about
8 the dangers of tobacco use; and (3) adhere to certain restrictions on their advertising, marketing, and
9 other practices.

10 III. New Hampshire receives, on average, between \$40 million and \$50 million per year as
11 its share of the annual payment from the settling tobacco companies.

12 IV. The state of New Hampshire is currently in litigation with the settling tobacco
13 companies over its responsibility to “diligently enforce” the obligation of the non-settling tobacco
14 companies (“non-participating manufacturers” or “NPMs”) to fund escrow accounts required to be
15 established under RSA 541-C. Similar litigation is pending against 34 other states. At issue is
16 whether the settling tobacco companies are entitled to an “NPM adjustment” of their annual
17 payments between 2003 and 2012. The litigation puts at risk up to the entire amount of the state’s
18 annual payment for each year beginning in 2013 through 2021.

19 V. New Hampshire, along with 18 other states, has reached a tentative agreement with the
20 settling tobacco companies to resolve all outstanding disputes for the annual payments made
21 between 2003 and 2012. The settlement is described in a term sheet dated November 14, 2012.

22 VI. Under the terms of the settlement, New Hampshire will receive a lump sum payment of
23 its share of moneys that have been withheld by some of the settling tobacco companies from their
24 annual payment between 2006 and 2012. New Hampshire’s share of the settlement for the NPM
25 adjustment will be deducted from the annual payment over 5 years. The amount needed to fund the
26 NPM adjustment is no more than the lump sum payment to be received by the state of
27 New Hampshire.

28 VII. The settlement does not limit the state’s obligation to diligently enforce RSA 541-C in
29 future years not covered by the settlement, and the attorney general’s office and department of

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1 revenue administration will require such resources as are necessary to fulfill that obligation.

2 VIII. The settlement is subject to approval by the general court because the financial
3 consequences exceed the threshold described in RSA 14:35-b.

4 6:2 Authorization for the Attorney General to Enter into Settlement. Pursuant to RSA 14:35-b,
5 the attorney general is authorized to execute such documents as are necessary to settle the litigation
6 with the settling tobacco companies on terms consistent with the settlement described in the term
7 sheet dated November 14, 2012.

8 6:3 Effective Date. This act shall take effect upon its passage.

9 Approved: March 22, 2013

10 Effective Date: March 22, 2013