

A Comparison of recent U.S. Tobacco Initiatives and Canadian Law

The following chart compares the major provisions of the settlement agreed to on June 20, 1997 by 40 U.S. state attorneys general and the major tobacco companies and current provisions of B.C. and Canadian law..

This is intended as a working draft only, and no assurance is given to its accuracy.

Sources:

*Tobacco Settlement Summary, National Association of Attorneys General,
“Major Public Health Provisions: Tobacco Settlement at a Glance” produced by the Indiana Prevention Resource
Center at Indiana University,
“Statement vs. Current law (i.e. FDA)” taken from Tobacco Free Kids Web-site; Minnesota Attorney General Web-site;
The National Conference of State Legislatures Web-site; Fact Sheet:
The 1997 Tobacco Act: History and Legislative Summary, National Clearinghouse on Tobacco and Health;
The Tax Burden on Tobacco, Tobacco Institute, 1997]*

Master Settlement November 16, 1998	June 20, 1997 Settlement	FDA Provisions (August 1996)	Minnesota Settlement	(S.1415) McCain Bill (not passed)	Can- ada ?	Canadian/B.C. provisions (A = whether they are under chal- lenge in Canada)	A
YOUTH SMOKING							
<p>Responsibility for youth smoking Requires companies to:</p> <ul style="list-style-type: none"> Develop and regularly communicate corporate principles which commit to complying with the MSA and reducing youth smoking Designate executive level manager to identify ways to reduce youth access and consumption of tobacco Encourage employees to identify additional methods to reduce youth access and youth consumption. Prohibits targeting youth in advertising, promotions or marketing Bans industry actions aimed at initiating, maintaining or increasing youth smoking 	<p>Responsibility for youth smoking</p> <ul style="list-style-type: none"> Tobacco companies will be required to assume responsibility of reducing the prevalence of tobacco use by youth under age 18. They will have to pay stiff penalties (billions of dollars) if youth smoking does not decrease by at least 30% in five years, 50% in seven years and 60% in ten years 	<ul style="list-style-type: none"> FDA sets goal of 50% reduction in 7 years, based only on current consumption. No penalties for non-attainment. 		<ul style="list-style-type: none"> Sets reduction targets of underage use: <i>Cigarettes:</i> 3 yrs – 15%; 5 yrs – 30% 7 yrs – 50%; 10 yrs – 60%; <i>Smokeless Tobacco</i> 3 yrs – 12.5%; 5 yrs – 25%; 7 yrs – 35%; 10 yrs – 45% Requires industry to pay tiered monetary penalties (non-tax deductible) for falling short of youth reduction targets: 1-5 percentage points short - \$80 million per point 6-10 percentage points short - \$160 million per point 10 or more percentage points short - \$240 million Establishes an annual cap of \$3.5 billion on penalty payments (not tax deductible) <i>(other fine-print applicable)</i> 	No	Nothing similar in Canada.	

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<p>Enforcement of access laws Provides court jurisdiction for implementation and enforcement</p> <ul style="list-style-type: none"> If the court issues an enforcement order enforcing the agreement and a party violates that order, the court may order monetary, civil contempt or criminal sanctions to enforce compliance with the enforcement order Key public health provisions of the agreement are included in consent decrees to be filed in each state Settling states or tobacco companies may apply to the court to enforce the terms of the consent decree Allows settling state Ags access to company documents, records and personnel to enforce the agreement On march 31, 1999 the industry is directed to pay \$50 million which will be used to assist settling states in enforcing and implementing the agreement and to investigate and litigate potential violations of state tobacco laws. 	<p>Enforcement of access laws</p> <ul style="list-style-type: none"> States will be required to reduce illegal tobacco sales to minors by 75% in five years and 85% in seven years, or lose part of their settlement money. Tobacco industry will pay for enforcement costs of a program using undercover youth in "sting operations" to identify vendors that sell to youth. 	Not addressed		<ul style="list-style-type: none"> Sets compliance goals for state and tribal governments Provides funding from the settlement for enforcement efforts 	Yes and no	<p>Tough enforcement, but no obligation on provinces.</p> <ul style="list-style-type: none"> British Columbia has among the most aggressive enforcement policies, and has entered into a cost-sharing agreement with the federal government on enforcement. B.C. uses "sting" operations and has the highest compliance rate among retailers in Canada. There is no penalty for lax enforcement in any Canadian jurisdiction (including by regional health boards). 	
YOUTH MARKETING							
<p>Licensing of vendors.</p>	<p>Licensing of vendors.</p> <ul style="list-style-type: none"> License can be suspended or revoked and/or administrative fines imposed for violation of sales to minors, signage or advertising rules, etc. 			<ul style="list-style-type: none"> Requires state, tribal and federal licensing program to be funded from settlement payments Requires FDA to draft a model state law Creates block grant program for states that enact laws requiring licensing of retailers 	Yes	Currently exists in B.C. (Tobacco Sales Act)	No

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Ban on sales to minors; FDA rules on proof of age accepted	Ban on sales to minors; FDA rules on proof of age accepted <ul style="list-style-type: none"> New rules requiring retailers to verify the age of tobacco purchasers who appear to be younger than 27 are accepted, and all challenges to the provisions are withdrawn. Tobacco industry will pay for the enforcement costs. 	Same provisions. <i>Under appeal by industry</i>	Industry agrees not to challenge state law	<ul style="list-style-type: none"> Establishes federal prohibition on sales to minors under 18. Requires photo-id for individuals under 27 	Yes	Similar provisions in force in B.C. (Tobacco Sales Act) and Canada (Tobacco Act, 1997, s. 8 (1) and (2) and 14(a)) <ul style="list-style-type: none"> The tobacco companies have not challenged federal and provincial laws requiring proof of age. Enforcement costs are paid for by government 	No.
Outdoor advertising of tobacco prohibited. <ul style="list-style-type: none"> All outdoor advertising, including billboards, signs and placards in arenas, stadiums, shopping malls and video game arcades Limits advertising outside retail establishments to 14 square feet Bans transit advertising of tobacco products Allows states to substitute, for the duration of billboard lease periods, alternative advertising which discourages youth smoking 	Outdoor advertising of tobacco prohibited. <ul style="list-style-type: none"> All outdoor advertising of tobacco products, including billboards, banners, neon lights and signs within stores that face outward will be banned. This ban will also include enclosed sports stadiums and arenas 	<ul style="list-style-type: none"> Restricts outdoor advertising Permits outdoor advertising in black and white (except bans outdoor advertising within 1000 feet of school or playground.) <i>Industry successfully appealed (Greenboro decision)</i>	<ul style="list-style-type: none"> Tobacco Billboards removed Fifty come down within a month, the rest to be phased out in less than six months. Tobacco advertising on buses, taxis and bus stops will also end. 	<ul style="list-style-type: none"> Prohibits outdoor advertising Places size, colour, number and placement restrictions on point of sale advertising and displays Prohibits additional point of sale advertising for companies with higher market share Provides for federal and state regulatory authority over tobacco product advertising. 	Yes and No	Outdoor advertising of tobacco products is prohibited (Tobacco Act, 1997 (s.19, 22)) <ul style="list-style-type: none"> Tobacco products may only be advertised in publications with 85% adult readership, direct mail and places where persons under 18 are not allowed (i.e. bars). Billboards and other advertising of tobacco brand names through sponsorship promotion is allowed until October 1, 1998 (and, pending legislative amendment, until 2001). 	Yes
No use of people or cartoon characters in ads <ul style="list-style-type: none"> Bans the use of cartoons in the advertising, promotion, packaging or labeling of tobacco products. 	No use of people or cartoon characters in ads <ul style="list-style-type: none"> Ads will no longer be able to use pictures of people or cartoon characters. For the most part, ads will be limited to text and pictures of the cigarette packs 	Not addressed by FDA	<ul style="list-style-type: none"> Ban on marketing to kids 	<ul style="list-style-type: none"> Prohibits use of human images, animal figures or cartoon characters 	Yes and No	Similar restrictions on advertising of tobacco products (Tobacco Act, 1997, s. 21 (2 and 3)) <ul style="list-style-type: none"> No such restrictions on advertising of tobacco brand names through sponsored events (allowed until October 1, 1998, and, pending legislative amendment, until 2001) 	YES

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Advertisements in youth publica- tions No specific measures (but ban on marketing directed at kids)	<ul style="list-style-type: none"> Ads in any publication with significant youth readership will be restricted to black and white text only 	<ul style="list-style-type: none"> Restrictions on advertise- ments. Black and white ads, restricted by place, size and number. <i>Industry successfully appealed (Greenboro)</i>	<ul style="list-style-type: none"> Ban on marketing to kids 	<ul style="list-style-type: none"> Limits print advertising to black and white text only (except in adult periodicals and venues); Limits color ads to the back face of adult magazines Limits advertising to FDA/FTC specified media 	Yes and No	No product advertisements in youth publi- cation (Tobacco Act, 1997, s. 22 & 24) <ul style="list-style-type: none"> Cigarette products can only be ad- vertised in publications with a mini- mum 85% adult readership. No restrictions on advertisements for cigarette brands through sponsorship promotion until October 1, 1998 or later (see above) 	YES
Tobacco brand sponsorships <ul style="list-style-type: none"> Prohibits brand-name sponsor- ship of events with a significant youth audience or team sports (football, basketball, baseball, hockey or soccer) Prohibits sponsorship of events where the paid participants or contestants are underage Limits tobacco companies to one brand name sponsorship per year (after current contracts expire or after three years – whichever comes first Bans tobacco brand names for stadiums and arenas 	<ul style="list-style-type: none"> Tobacco companies will no longer be able to use brands to sponsor any sports event, concert, competition, ex- hibit, etc. 	Same provisions <i>Industry successfully appealed (Greenboro)</i>			No	No such restriction in Canada. <ul style="list-style-type: none"> Bill C-42 (pending) would ban all events after 2003. 	
Tobacco Brand Paraphernalia prohibited. <ul style="list-style-type: none"> Beginning July 1, 1999, bans distribution and sale of apparel and merchandise with brand name logos (caps, t-shirts, backpacks, etc) 	<ul style="list-style-type: none"> Tobacco brands can no longer be promoted on T-shirts, clothing, lighters or any other promotional merchandise 	Same provisions <i>Industry successfully appealed (Greenboro)</i>	Branded merchandise and all branded promotional items are banned.		Yes and No	Some restrictions in Canada (Tobacco Act, 1997, s. 27)) <ul style="list-style-type: none"> Cigarette brand lighters and matches are expressly allowed Cigarette brand clothing is expressly forbidden; but no enforcement action is taken against clothing and para- phernalia with sponsorship promotion (i.e. Players Racing jackets) 	YES

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Promotional gifts banned Bans gifts without proof of age	<ul style="list-style-type: none"> Tobacco companies will be prohibited from providing prizes or gifts (premiums) for tobacco purchases (i.e. "Camel Cash") 	[check]	<ul style="list-style-type: none"> Ban on marketing to kids 		Yes	Banned in Canada (Tobacco Act, 1997, s 29)	YES
Vending Machines banned	<ul style="list-style-type: none"> A nationwide ban on tobacco sales by vending machines will be imposed 	<ul style="list-style-type: none"> Restricts vending machines to adult areas. <p><i>Under appeal by industry</i></p>		<ul style="list-style-type: none"> Bans vending machines except in adult-only facilities 	Mostly yes	Vending machines restricted (Tobacco Act, 1997, s. 12) [Check B.C. legislation] <ul style="list-style-type: none"> Permitted only in places where public does not have access (i.e. restaurant kitchen). Locked vending machines are allowed in places where children do not have access, or where allowed by regulation 	NO
No self-service sales	<ul style="list-style-type: none"> All tobacco products will be moved behind the counters, where a clerk must select them and hand deliver them to a buyer 	Same provisions. <i>Under appeal by industry</i>		<ul style="list-style-type: none"> Bans self-service displays, except in adult-only facilities 	Mostly yes	Some restrictions (Tobacco Act, 1997, s. 11) <ul style="list-style-type: none"> Self-service displays are banned but products do not have to be moved behind the counter. Displays which do not allow customers to "handle" the product are allowed 	NO
New Warning Labels	<ul style="list-style-type: none"> Cigarette packages would gain new, bold warning labels – on the package front – occupying 25% of the surface – black label with bold white letters. Warnings would be explicit, i.e. "Smoking can kill you" 	Not addressed		<ul style="list-style-type: none"> New explicit warning labels in bold type. Allows FDA to update warnings at any time based on science 	Yes	Similar provisions (Tobacco Act, 1997, s. 15, 17)) <ul style="list-style-type: none"> The U.S. warnings are modeled on those currently on Canadian packages. <i>Note: warnings on Canadian packages are on a voluntary basis at the moment, as regulations requiring them have not been brought into force</i> 	NO
Label as nicotine delivery device.	Label as nicotine delivery device.	FDA authority is broader than that in the agreement. <i>Under appeal by industry</i>			No	No such provision in Canada.	
<ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> All advertisements for cigarettes and smokeless tobacco will carry a statement that the product is intended for use as a nicotine delivery device. A similar statement would be required on all packages 						

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No internet advertising <ul style="list-style-type: none"> not addressed 	No internet advertising <ul style="list-style-type: none"> Internet advertising of tobacco products will be banned 	Not addressed			Not really	Ambiguous restriction in Canada (Tobacco Act, 1997, s. 19, 31) <ul style="list-style-type: none"> Direct advertisements for tobacco products may only be through (a) direct mail, (b) publications with adult readership over 85% and (c) in places where children are not allowed by law. Internet Sponsorship promotion current exists (i.e. Player's Racing and Craven A county web-sites) 	YES
No product placement in movies, TV <ul style="list-style-type: none"> Bans payments to promote tobacco products in movies, television shows, theatre productions or live performances, live or recorded music performances, videos and video games 	<ul style="list-style-type: none"> Tobacco companies would no longer pay or provide incentives to movie and TV producers to place their brands in movies or TV shows 	Not addressed	<ul style="list-style-type: none"> No product placement NATIONWIDE Tobacco companies agree to stop paying producers to feature cigarettes and smoking in films. 		Yes (but not fully effective)	Ambiguous restriction in Canada (Tobacco Act, 1997, s. 15, 19) <ul style="list-style-type: none"> Act permits cigarettes and smoking in movies and books, as long as there is no payment involved. Tobacco companies may pay broadcasters to carry tobacco sponsored events or programming 	YES
Single cigarette sale and mini-packs prohibited. <ul style="list-style-type: none"> Limits minimum pack size to 20 cigarettes through December 31, 2001 Tobacco companies prohibited from opposing state legislation which bans the manufacture and sale of packs containing fewer than 20 cigarettes. 	<ul style="list-style-type: none"> Minimum package size at 20 cigarettes 	Same provisions. Under appeal by industry			Yes	Similar provisions (Tobacco Act, 1997, s. 10)	NO

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Ban free samples <ul style="list-style-type: none"> Free samples cannot be distributed in a facility or enclosed area where the operator ensures no underage person is present. 	<ul style="list-style-type: none"> Distribution of free samples of tobacco products would be prohibited. 	Same provisions. <i>Under appeal by industry</i>	<ul style="list-style-type: none"> Industry agrees not to challenge state law 		Yes	Similar provisions (Tobacco Act, 1997, s. 29)	YES
Ban mail distribution of tobacco not addressed <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Distribution of tobacco products by the mail, including redemption of coupons, would be prohibited 			<ul style="list-style-type: none"> Permits mail-order sales, subject to FDA review 	Yes	Similar provisions (Tobacco Act, 1997, s. 13)	NO
No false health claims or implications <ul style="list-style-type: none"> Prohibits industry from making any material misrepresentations regarding the health consequences of smoking 	<ul style="list-style-type: none"> The tobacco companies would be prohibited from stating or implying that a particular brand is safer, unless that claim is proven to the satisfaction of the FDA. Any statement such as "light" or "low tar" must include a prominent disclaimer that the product is not safer than any other product 				Yes, but not as extensive	Ambiguous restriction in Canada (Tobacco Act, 1997, s. 20, s. 15) <ul style="list-style-type: none"> Canadian law forbids false or misleading promotion, but allows unfettered use of "low-tar" or "mild" on cigarette packages (although the Act might allow restrictions through regulations) Tobacco Act allows sponsorship promotion of events, like tennis, which could be interpreted as a false association between tobacco brands and health. 	YES

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OTHER HEALTH PROVISIONS							
Tobacco industry admissions <ul style="list-style-type: none"> not addressed 	Tobacco industry admissions <ul style="list-style-type: none"> Tobacco companies will admit that nicotine is addictive and that tobacco use causes a wide range of diseases 	Not addressed	<ul style="list-style-type: none"> Tobacco companies are prohibited from making any material misrepresentation of fact about the health consequences of using any tobacco product. This means they cannot say, for example, that nicotine has not been proven to be addictive, or that smoking has not been proven to cause disease. 		No	No formal admission in Canada, although public statements have been made by industry representatives which acknowledge health risks.	
Food and Drug Administration controls <ul style="list-style-type: none"> not addressed 	<ul style="list-style-type: none"> Tobacco companies will accept US FDA control over nicotine. FDA can regulate nicotine, but cannot ban it for at least 12 years. FDA also will approve all new and existing chemical additives to tobacco products. Tobacco industry will pay for FDA's enforcement costs 	Similar provisions		<ul style="list-style-type: none"> Gives FDA broad authority over tobacco, including advertising, youth access and new products Establish separate chapter of the FDA authorizing FDA authority over tobacco Provides that any ban on nicotine, retail sales or other category of tobacco products would require presidential notification to Congress and 2 year waiting period to act. 	Yes. Canadian law broader	Similar provisions in Canada not yet in effect (Tobacco Act, 1997, s. 5) <ul style="list-style-type: none"> Federal government has asserted right to regulate the manufacture of cigarettes, but has taken no regulatory action in this direction. No industry payments for enforcement costs. 	NO
Disclosure of cigarette ingredients <ul style="list-style-type: none"> not addressed 	<ul style="list-style-type: none"> Tobacco companies will fully disclose all ingredients in cigarettes and other tobacco products 		<ul style="list-style-type: none"> Industry agrees not to challenge state law. "Secret Formulas" turned over to the FDA. 		Yes (pending)	Similar provisions in Canada not yet in effect (Tobacco Act, 1997, s. 7). <ul style="list-style-type: none"> Federal government has right to require reporting, and has circulated an information letter outlining its intention to demand reporting after January 1, 2001. Similar provisions in British Columbia, effective September 15, 1997. 	NO

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Research <ul style="list-style-type: none"> Prohibits manufacturers from jointly contracting or conspiring to: Limit information about the health hazards from the use of their products Limit or suppress research into smoking and health Limit or suppress research into the marketing or development of new products 				<ul style="list-style-type: none"> 			
Disclosure of tobacco company records <ul style="list-style-type: none"> Tobacco companies will open a website which includes all documents produced in state and other smoking and health related lawsuits Requires the industry to maintain the site for ten years in a user-friendly and searchable format Requires the industry to add all documents produced in future civil actions 	<ul style="list-style-type: none"> Tobacco companies will establish a public library with all of their previously "secret" documents on health research, addiction, marketing strategies, etc. Strict civil penalties of up to \$10 million per occurrence for failing to disclose required information 	Document disclosure depends on litigation process	<ul style="list-style-type: none"> 39,000 documents and 33 million pages released 	<ul style="list-style-type: none"> Creates the National Tobacco Document Depository Expands availability of documents in public depository. Requires manufacturers to deposit a specified list of depositions, interrogatories, research and indexes. 	No	No such provision in Canada <ul style="list-style-type: none"> Tobacco Act, 1997 (s. 7) could require reporting of some marketing reports through regulations (not yet in force). Draft regulations under Tobacco Act do not require disclosure of historic documents, health research or marketing studies. 	
Clean Indoor Air Laws. <ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> Smoking will be banned in public places and workplaces, unless there are separately ventilated smoking areas. Restaurants (except fast food restaurants), bars, casinos and bingo parlours may have some exemptions 	Not addressed	<ul style="list-style-type: none"> Industry agrees not to challenge state law 	<ul style="list-style-type: none"> Restricts smoking in public facilities to enclosed areas Specifies that employees may not be required to enter smoking areas Exempts restaurants (other than fast food) Allows states 2 years to opt out Authorizes an incentive grant program for states. 	Yes and No	Widely varying provisions in Canada. <ul style="list-style-type: none"> Federal law protects most federally-regulated workers, but provincial matters have usually been delegated to municipal decision. British Columbia Worker Compensation Board regulations are the most extensive in Canada, and come fully into force on January 1, 2000. 	

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<p>Payments for Education and Enforcement</p> <ul style="list-style-type: none"> Industry pays \$25 million each year for ten years to fund a charitable foundation to support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use. The foundation will: <ul style="list-style-type: none"> Carry out a nationwide, sustained advertising and education program to counter youth tobacco use and educate consumers about the cause and prevention of diseases associated with tobacco use Develop, disseminate and test the effectiveness of counter advertising campaigns Commission studies, fund research and publish reports on factors that influence youth smoking and substance abuse Track and monitor youth smoking and substance abuse with a focus on reasons for increases or failures to decrease tobacco and substance abuse rates Creates an industry-funded \$1.45 billion national public education fund for tobacco control The fund is established to carry out a nationwide sustained advertising and education program to counter youth tobacco use and educate consumers about tobacco-related diseases. 	<ul style="list-style-type: none"> Tobacco companies would pay at least \$10 billion for anti-smoking education and prevention programs, public service announcements, and to fund “sting operations” using undercover minors to enforce the laws against underage sales of tobacco products. 	<p>Not addressed</p>	<ul style="list-style-type: none"> Creation of a non-profit foundation to develop programs to reduce teen smoking. Over \$850 million put in permanent endowment (includes \$102 million for cessation). Interest to pay for programming. 	<ul style="list-style-type: none"> Authorizes the following programs: National Community Action Program National Tobacco Free Public Education Program Tobacco Use and Cessation Board 	<p><i>Pending in B.C.</i></p>	<p>Ambiguous provision in Canada.</p> <ul style="list-style-type: none"> Federal government receives \$50 million from tobacco companies in health promotion surtax, but spends \$20 million on all tobacco reduction initiatives. B.C. is the only province to impose cost-recovery for anti-smoking programs. B.C. license fee of \$20 million expected to be in force later in 1998. (BC’s fee does not allow costs to be passed on to smokers) 	<p>A</p>

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<p>Payments for “assist model” community programs.</p> <ul style="list-style-type: none"> • Not directly addressed 	<ul style="list-style-type: none"> • Tobacco industry will pay \$75 million to \$125 million to fund state and local community-based efforts based on the Assist Model” 	<p>Not addressed</p>	<ul style="list-style-type: none"> • Subsidized stop-smoking opportunity for every Minnesota smoker who wants to quit. • \$102 million earmarked for smoking-cessation fund. 	<ul style="list-style-type: none"> • Authorizes the following programs: National Cessation Research Program National Smoking Cessation Program Tobacco Use and Cessation Board 	<p><i>Not yet (but possibly pending in B.C. through Tobacco Fee Act)</i></p>	<p>Ambiguous provision in Canada.</p> <ul style="list-style-type: none"> • Federal government receives \$50 million from tobacco companies in health promotion surtax, but spends \$20 million on all tobacco reduction initiatives. • B.C. is the only province to impose cost-recovery for anti-smoking programs. B.C. license fee of \$20 million expected to be in force later in 1998. (BC’s fee does not allow costs to be passed on to smokers) 	

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Financial Aid for smoking cessa- tion <ul style="list-style-type: none"> not directly addressed 	<ul style="list-style-type: none"> Tobacco companies will pay for smoking cessation programs, nicotine patches, etc. for smokers who are addicted 	Not addressed			No	No such provision in Canada	
Restrictions on Lobbying <ul style="list-style-type: none"> Tobacco companies prohibited from opposing proposed state or local laws or administrative rules which are intended to limit youth access to and consumption of tobacco products. The industry must require its lobbyists to certify in writing they have reviewed and will fully comply with settlement terms including disclosure of financial contributions regarding lobbying activities and new corporate culture principles Prohibits lobbyists from supporting or opposing state, federal or local laws or actions without authorization of the companies. 	Restrictions on Lobbying <ul style="list-style-type: none"> Tobacco companies would agree to significant restrictions on lobbying, including a requirement that no lobbying be done by them or on their behalf to weaken the terms set forth in this settlement 	Not addressed	<ul style="list-style-type: none"> Disclosure of Lobbying fees Industry must reveal amounts paid to lobbyists, to other associations, and to third parties to testify in hearings and report on the use of controlled foundations to make gifts that benefit Minnesota officials. 	<ul style="list-style-type: none"> Requires lobbyists to comply with the act and agree not to support or oppose any federal state legislation without the consent of manufacturers 	No	No such provision in Canada.	
Disbanding of trade association <ul style="list-style-type: none"> Disbands the Council for Tobacco research, the Tobacco Institute, and the Council for Indoor Air Research. Require all records of these organizations that relate to any lawsuit to be preserved Provides regulation and oversight of new trade organizations. 	<ul style="list-style-type: none"> Requires trade associations to be disbanded and any new ones subject to oversight 	Not addressed	<ul style="list-style-type: none"> The Council for Tobacco Research (CTR) is disbanded. 	<ul style="list-style-type: none"> Disbands the Tobacco Institute and the Council for Tobacco Research 			
No preemption of state authority. <ul style="list-style-type: none"> Not directly addressed 	<ul style="list-style-type: none"> States would be free to impose legal restrictions that exceed those set at the federal level. 	FDA rules would preempt state and local regulation, but local governments can seek a waiver		Allows state and local governments to impose any additional tobacco product control measures that are not inconsistent with the provision of the act.	Yes	No formal pre-emption in Canada, but constitutional constraints may exist.	
FINANCIAL PROVISIONS							

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<p>Compensatory damages Tobacco companies to pay \$300 billion over the next 25 years to compensate states and individual smokers for injuries caused by smoking. After 25 years, they will pay at least an additional \$15 billion per year, forever. Up to \$4 billion per year available to pay damages from individual smoker lawsuits, if they are successful. If lawsuit damages do not exhaust this fund, money will be available for education, prevention and cessation programs.</p> <p>Punitive damages Tobacco companies will pay another \$50 billion as "punishment" for their long history of deception and wanton misconduct. About \$35 billion of that penalty will be used to pay for health insurance for children not now insured. The remaining \$25 billion will fund a trust fund for other health related programs to be determined by a Presidential Commission.</p> <p>Schedule of payments (inflation protected and volume adjusted, tax deductible)</p> <table border="1" data-bbox="497 1193 908 1469"> <thead> <tr> <th>Year</th> <th>Total</th> <th>Base</th> <th>Health Trust</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>\$8.5</td> <td>\$6 B</td> <td>\$2.5 B</td> </tr> <tr> <td>2</td> <td>\$9.5</td> <td>\$7 B</td> <td>\$2.5 B</td> </tr> <tr> <td>3</td> <td>\$11.5</td> <td>\$8 B</td> <td>\$3.5 B</td> </tr> <tr> <td>4</td> <td>\$14B</td> <td>\$10 B</td> <td>\$4 B</td> </tr> <tr> <td>5</td> <td>\$15B</td> <td>\$10 B</td> <td>\$5 B</td> </tr> <tr> <td>6-8</td> <td>\$15B</td> <td>\$12.5 B</td> <td>\$2.5 B</td> </tr> <tr> <td>9... and on</td> <td>\$15B</td> <td>\$15 B</td> <td></td> </tr> </tbody> </table>	Year	Total	Base	Health Trust	1	\$8.5	\$6 B	\$2.5 B	2	\$9.5	\$7 B	\$2.5 B	3	\$11.5	\$8 B	\$3.5 B	4	\$14B	\$10 B	\$4 B	5	\$15B	\$10 B	\$5 B	6-8	\$15B	\$12.5 B	\$2.5 B	9... and on	\$15B	\$15 B			<ul style="list-style-type: none"> \$6.6 billion over 25 years; state's payments in perpetuity thereafter. <p>Jun 98 - \$10 million Sep 98 - \$240 million Dec 98 - 102 million Jan 99- 220.8 million Jun 99 - 10 million Dec 99 - 114.75 million Jan 00 - \$242.5 million Jun 00 - 10 million Dec 00 - 127.5 million Jan 01 - 242.5 million Jun 01 - \$10 million Dec 01 - 165.75 million Jan 02 - \$242.5 million Jun 02 - 10 million Dec 02 - \$165.75 million Jan 03 - \$121.5 million Every June from 2003 - 2007 - \$10 million Every December from 2003-2023 - \$204 million Every December thereafter \$204 million</p>	<ul style="list-style-type: none"> Establishes a national tobacco settlement trust fund. Requires industry to pay \$10 billion up front Establishes a per pack licensing fee according to the following schedule: 1999 - 65 cents per pack 2000 - 70 cents per pack 2001 - 80 cents per pack 2002 - \$1 per pack 2003 - \$1.10 per pack Yearly payments required of the industry: 1999 - \$14.4 billion 2000 - \$15.4 billion 2001 - \$17.6 billion 2002 - \$21.2 billion 2003 - \$23.6 billion 2004 - 2006 - yearly \$23.6 billion in dollars beginning in 2004 (real) and adjusted to inflation. Payments are volume adjusted, increased if consumption volume increases and decreased if volume decreases from 2004 levels Total industry payment exposure of 25 years (minus look back penalties) - \$506 billion (real) not volume adjusted or \$89 billion (real) if volume reductions are achieved. <p>These payments are tax deductible.</p>		
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<p>Pass Through Payments “In order to promote maximum reduction in youth smoking, the statute would provide for the annual payments to be reflected in the prices manufacturers charge for tobacco products.”</p>				<ul style="list-style-type: none"> Establishes a limited anti-trust exemption to permit industry to comply with the requirement that they pass-through payments to cigarette prices and to adopt an industry plan to comply with law and protocol 	NO	B.C. has differing approach with Tobacco Fee Act, which ensures that licensing fee costs are not past through to consumers	
<p>Funding Priorities</p>				<ul style="list-style-type: none"> Resolution that funds raised by the Act are to be used for: <ul style="list-style-type: none"> Tobacco use prevention and cessation Tobacco related health research Assistance to tobacco farmers and to tobacco dependent communities Reimburse public health care financing programs for tobacco-related costs, including Medicare; Settle with and reimburse states for tobacco-related health care costs and damages, including Medicaid; Establishment of a Tobacco Asbestos Trust fund to assist asbestos workers Funding for the black lung program Funds to compensate veterans for service-related smoking claims; and Assistance for vending machine companies affected by lost sales resulting from vending machine ban. 	IN B.C.	<p>B.C. is the only Canadian jurisdiction to have statutory direction on the expenditure of revenues from Tobacco Companies (Tobacco Fee Act)</p> <p>The Federal government collects approximately \$50 million from tobacco in a health promotion surtax, which is spent through a Tobacco Reduction Initiative currently under negotiation with Treasury Board. There is no parliamentary oversight or guiding legislation.</p>	

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<p>In addition to revenues from the settlement, the following tax structure is in place: All amounts are in US \$</p> <p>U.S. 1996 federal, state and local tobacco taxes (\$US) (source: Tax burden on tobacco, Tobacco Institute, 1997)</p> <p>Tax Revenue (1996)</p> <p>Federal excise tax: \$ 5,795,042,000 State excise taxes: \$ 7,608,869,000 Local excise: \$ 181,460,000 Total: \$13,586,371,000</p> <p>Tax Rate (per package of 20 cigarettes)</p> <p>Federal Excise Tax - \$0.24 State Excise Tax – range from low of \$0.025 to \$0.815. Weighted average statecigarette tax \$0.317</p> <p>Retail Price (per package of 20 cigarettes)</p> <p>Retail price of cigarettes ranges from low of \$1.56 (Kentucky) to \$2.75 (Washington)</p> <p>Average Retail price is \$1.85</p>																																																																									
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<p>In the absence of a settlement, the following tax structure is in place:</p> <p>(Source: NSRA, June 1997. All amounts in \$ Cdn) NEEDS UPDATING</p>																																																																									
Tax Revenue (1994-95)																																																																									
<p>Federal government \$1,914,350,618 Provincial governments \$1,647,038,618 Total governments: \$3,651,389,236</p>																																																																									
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<p>Ranges from \$2.99 in Ontario to \$5.87 in Newfoundland (\$5.14 in British Columbia).</p>																																																																									

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LAWSUITS AGAINST TOBACCO INDUSTRY							
State lawsuits to end							
<ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> All state lawsuits against the tobacco industry would be settled, and would end forever 	Not addressed		<ul style="list-style-type: none"> Prohibits federal recoupment of any state tobacco settlement funds attributable to Medicaid, both prospectively and retrospectively. 	No	No restrictions on state and sub-national lawsuits	

November 16, 1998	June 20, 1997 Settlement	1996)	Minnesota Settlement	(S.1415) McCain Bill (not passed)	Canada ?	Canadian/B.C. provisions (A = whether they are under challenge in Canada)	A
Class action lawsuits to end <ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> All class action lawsuits against the tobacco industry would be settled, and would end forever 	Not addressed		<ul style="list-style-type: none"> Caps liability at \$6.5 billion a year. No limit on class action lawsuits or punitive damages 	No	No restrictions on class action lawsuits (B.C. includes specific provisions for lawsuits)	
Individual lawsuits could continue <ul style="list-style-type: none"> Not addressed 	<ul style="list-style-type: none"> Individual smokers could continue to sue for compensatory damages. Their current lawsuits would continue. If they collect it would be paid from the fund established for that purpose 	Not addressed		<ul style="list-style-type: none"> Caps liability at \$6.5 billion a year. No limit on punitive damages 	Yes	No restrictions on individual lawsuits	
OTHER PROVISIONS							
Immunity <ul style="list-style-type: none"> not addressed 	No immunity for criminal charges <ul style="list-style-type: none"> Tobacco industry executive sand others who face possible criminal charges of perjury and other crimes do not get immunity 	Not addressed			Yes	No immunity exists in Canada	
Protection for whistleblowers <ul style="list-style-type: none"> not addressed 	Protection for whistleblowers <ul style="list-style-type: none"> Former tobacco industry employees who provided secrete company information used against the companies in the lawsuits and media campaigns are given full protection. Company lawsuits against them are dropped. 	Not addressed		<ul style="list-style-type: none"> Protects industry whistleblowers 	No	No such provision in Canada	
Military <ul style="list-style-type: none"> not addressed 	Applies all provisions of agreement to US military and other federal properties	Not addressed			No.	<ul style="list-style-type: none"> Little scrutiny of practice in Canadian embassies (in theory, events where Embassy staff are present should be smoke-free) 	
Indian Lands <ul style="list-style-type: none"> Not addressed 	Applies all provisions of agreement to Indian Lands	Not addressed		<ul style="list-style-type: none"> Provides that the requirements of the Act relating to manufacture, distribution and sale of tobacco products apply on tribal lands; Provides that the federal government would collect state taxes on cigarettes sold on tribal lands Considers tribes as states for the purposes of eligibility for public health funding. 	No	<ul style="list-style-type: none"> Indian lands are currently exempt from some Canadian tobacco laws, i.e. taxation. 	

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<p>Constitutional claims and legal agreements</p> <p>not addressed</p>			<ul style="list-style-type: none"> Protection of Legislative Process Industry prohibited from bringing any legal or constitutional challenge to Minnesota's existing laws against: selling tobacco to minors, Clean Indoor Air Act, distribution of free tobacco samples, new ingredient disclosure law. 	<ul style="list-style-type: none"> Provides for manufacturers and states to enter into consent decrees that include many of the provisions of the Act, and a waiver of Constitutional claims. Requires each manufacturer to enter into a legally binding and enforceable contract on both the state and federal levels, within 6 months of enactment 	NO	<ul style="list-style-type: none"> Canadian tobacco companies are currently challenging federal tobacco law (Tobacco Act), and have threatened to challenge new B.C. law. 	
International Issues				<ul style="list-style-type: none"> Creates a non-profit corporation and provides funds for international tobacco control programs Prohibits use of federal funds to promote US tobacco exports or seek to remove nondiscriminatory restrictions on tobacco products by foreign countries Prohibits US employees of tobacco companies from marketing to children overseas Requires tobacco product exports to carry warning labels 	NO	<ul style="list-style-type: none"> There is no formal Canadian policy on promotion of tobacco or tobacco products by Canadian officials or employees of Canadian companies There is federal support for international tobacco control initiatives, both through Health Canada and through CIDA and IDRC (International Development Research Council) . 	
			<ul style="list-style-type: none"> Minnesota to receive the benefit of any health gains or other non-monetary terms achieved in any future settlements with other states 		Not applicable		