

# **Bob Butterworth, P.A.**

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The Honorable Jeff Atwater  
Senate President  
404 South Monroe Street  
The Capitol, Room 409  
Tallahassee, FL 32399-1100

Dear President Atwater:

I am writing to respectfully request that you schedule an up-or-down vote for Senate Bill 2344 by Sen. Altman, Relating to Cigarette Products of Nonsettling Manufacturers.

In 1994, the State of Florida sued under the state's Medicaid Third-Party Liability Act to recoup billions of dollars in health care costs imposed on state taxpayers by Big Tobacco. In its 1997 settlement victory, Florida forced tobacco manufacturers to make payments of about 45 cents a pack to reimburse taxpayers for the Medicaid costs caused by tobacco.

This settlement has produced billions of dollars that have helped reduce the tax burden on Floridians for paying tobacco-related health care costs. Over the past 13 years, however, cigarette companies that were left out of the tobacco settlement because of their small size have grown and now sell 22 percent of Florida's cigarettes. As a result, payments to Florida's tobacco settlement fund last year were \$58.5 million lower than expected.

It bears repeating that these non-settling manufacturers, whose growth is responsible for the overall decline in state settlement payments, were let go from the lawsuit not because of any finding of fact regarding their business practices but simply because of their insignificant market share.

When we were ready to execute a settlement with 98 percent of Florida's cigarette market, Gov. Lawton Chiles and I seized that opportunity, as we did not want companies with insignificant market share to delay a final agreement. In fact, the case against some non-settling manufacturers – including Dosal Tobacco – was dismissed without prejudice, meaning that Florida could bring a new lawsuit against them in the future if it chose. However, I believe the proposal advocated by Sen. Altman offers a quicker and better solution than litigation.

Florida faces extraordinary fiscal challenges in weathering this devastating economic recession, and you and the members of the Florida Senate deserve thanks for the hard work you have done to reduce state spending while protecting core public priorities.

Senate Bill 2344 could help make this task easier by raising up to \$200 million in new revenues if funds raised by an NPM equity assessment were applied to health services that draw down federal matching funds. These funds could prove an invaluable aid to the Florida Senate in balancing Florida's budget while protecting critical health priorities.

I have been monitoring the public debate regarding this proposal for some time, and I feel obliged to correct some misinformation put forth by opponents of this policy.

Contrary to claims by the company, Dosal Tobacco is not a "small, family-owned South-Florida company." It is in fact, the 3<sup>rd</sup> largest cigarette manufacturer in the state. It has clearly become "Big Tobacco."

In fact, aided by the loophole in Florida's tobacco policy that leaves it exempt from making the health care payments, Dosal Tobacco sells its cigarettes for as little as \$3.50 a pack, compared to more than \$6 for other cigarette manufacturers. This loophole has provided Dosal with a huge competitive advantage that will not go away even if Dosal is forced to pay its fair share.

Dosal has said that if they are forced to pay an equity assessment on their cigarettes, they will no longer be able to compete. Yet, public records indicate that Dosal currently sells millions of cigarettes in the state of Mississippi, which requires non-participating manufacturers to pay such an equity fee. If Dosal can afford to pay their fair share for the health costs of tobacco users in Mississippi, why shouldn't they pay the same to Florida?

Non-participating manufacturers such as Dosal should be making payments to defray the health costs their products impose on Florida taxpayers. Tobacco-related illnesses are responsible for an estimated 28,607 Florida deaths each year, according to the American Lung Association, and the economic cost due to smoking in Florida is more than \$12.5 billion.

Dosal Tobacco sells nearly 20 percent of Florida's cigarettes, and these cigarettes have the same negative impact on health as those manufactured by companies now making settlement payments. It is time for the Florida Legislature to take action to deliver justice for Florida taxpayers and treat cigarettes produced by non-settling manufacturers the same way we treat all other cigarettes.

Senate Bill 2344 is the best tool at hand to accomplish this goal. I sincerely hope that you will work to help get this good bill a hearing and an up-or-down vote before the close of this Legislative session.

With your help, we can finish the job Florida started in 1997 and make all of Big Tobacco pay.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Butterworth". The signature is written in a cursive style and is positioned below the word "Sincerely,". A long, thin horizontal line extends from the end of the signature across the page.

**Bob Butterworth, P.A.**