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State, tobacco group set to fight

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Associated Press

TALLAHASSEE — The legal battle has begun over Florida's tough new anti-tobacco law.

State officials said Tuesday that they plan to file suit soon against cigarette makers, using the new law. It's designed to make it easier for the state to recover the costs of treating Medicaid patients who suffer from smoking-related illnesses.

The law, considered the nation's strongest against tobacco, already has attracted its first challenge.

Philip Morris Inc., Publix Supermarkets Inc. and a group of businesses said Tuesday that they filed suit last week in Leon County Circuit Court to try to overturn the law because Gov. Lawton Chiles has refused to seek its repeal.

Chiles helped push the measure through the Legislature in the waning days of the regular session with no public discussion or debate. Many lawmakers said they weren't aware of its impact. The law went into effect Friday.

Businesses said the law does not mention tobacco and could apply to many industries other than cigarette makers. They said it strips away legal tools companies have used to defend themselves against liability claims and presents a financial windfall to lawyers looking for someone to sue.

"This act makes what is already an adverse business climate in the state even worse," Philip Morris said in a statement.

The state, meanwhile, is preparing its own lawsuit seeking \$1.2-billion from tobacco companies. That's the estimated cost to taxpayers over the past five years for treating Medicaid patients with diseases linked with tobacco use.

Gov. Chiles intends to defend against this challenge even as Florida prepares to pursue its own lawsuit," said Ron Sachs, the governor's spokesman. "The governor said he intends to use this strong law against one industry — tobacco."

The state's suit could be filed as early as this month, said Harold Lewis, general counsel for the state Agency for Health Care Administration.

Florida will join Mississippi and a handful of private plaintiffs in California, Louisiana and Dade County who have engaged tobacco producers in court.

Known as the "Medicaid Third-Party Liability Act," the law allows the state to file class-action lawsuits against tobacco companies and holds them individually and collectively liable for smoking-related health care costs borne by Florida taxpayers.

It also allows courts to impose judgments against cigarette makers based on their market share and not their percentage of fault. It will allow the use of statistical evidence to prove the state's claims.

Tobacco companies will not be allowed to argue that some of the blame rests with the smoker.

The governor has said he might support a revision of the law to narrow it only to tobacco to allay the fears of businesses if he could get the Legislature to pass his health care reforms.

But business groups said they want the law repealed.

"We feel this is basically an un-American type of law. You don't take somebody's defenses totally away and then haul them into court," said Jon Shebel, president of Associated Industries of Florida. "You don't rearrange the laws of this nation so that you can ensure a guilty verdict."

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