

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/12/13
A Bill

HOUSE BILL 1618

By: Representative Baine

For An Act To Be Entitled

AN ACT TO REQUIRE WHOLESALERS TO REPORT CERTAIN INFORMATION TO THE ARKANSAS TOBACCO CONTROL BOARD; TO PROTECT INFORMATION IN THE REQUIRED REPORT FROM DISCLOSURE; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE WHOLESALERS TO REPORT CERTAIN INFORMATION TO THE ARKANSAS TOBACCO CONTROL BOARD; AND TO PROTECT INFORMATION IN THE REQUIRED REPORT FROM DISCLOSURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 26, Chapter 57, Subchapter 2, is amended to add an additional section to read as follows:

26-57-265. Reports by wholesalers to Arkansas Tobacco Control.

(a) Each wholesaler shall file with the Director of Arkansas Tobacco Control a monthly report of the wholesaler's *deliveries* to retailers and other wholesalers in this state and the wholesaler's *deliveries* from within this state to retailers and other wholesalers outside of this state.

(b) The report required under subsection (a) of this section shall contain the following information for the preceding calendar month's *deliveries*:

- (1) The name of each retailer or wholesaler;
- (2) The address of each retailer or wholesaler to which the wholesaler delivered cigarettes, cigars, or other tobacco products;
- (3) The address of each retailer or wholesaler that *obtained*



cigarettes, cigars, or other tobacco products from the wholesaler at the wholesaler's location;

(4) The Arkansas permit number of each retailer or wholesaler or the equivalent permit number if the retailer or wholesaler resides outside of the state; and

(5) The monthly net *deliveries* made to each retailer or wholesaler, including without limitation:

(A) The quantity, units, and brand styles of the cigarettes in stamped and unstamped packages that were *delivered* to each retailer or wholesaler; and

(B) The quantity, units, and brand styles of the cigars and other tobacco products *delivered* to the retailer or wholesaler.

(c) A wholesaler shall file the report required under subsection (a) of this section on or before the tenth day of each month.

(d)(1) Except as provided under this section, a wholesaler shall electronically file the report required under subsection (a) of this section with the director.

(2) The director may establish procedures for allowing an alternative method of filing for a wholesaler that demonstrates to the director that *it is not reasonably feasible to comply with the primary electronic reporting method adopted.*

(3) If the director determines that another method of filing the report is more efficient than electronic filing, the director may promulgate rules requiring the use of another method by wholesalers.

(e)(1)(A) Except for information that has been submitted as evidence in a concluded investigation resulting in an administrative violation or criminal charge, information contained in a report required to be filed under this section is confidential and not subject to release.

(B) Before information contained in a report required to be filed under this section is disclosed or transmitted in a manner in which the information may become available to the public or a competitor of the reporting wholesaler, including in an administrative violation or criminal charge, the director shall provide sufficient advance notice to the reporting wholesaler to allow the reporting wholesaler to seek an order protecting any confidentially sensitive information.

(2)(A) Information contained in a report required to be filed

under this section may be transmitted or otherwise provided to:

(i) The appropriate taxing authority in a state to which deliveries shown on the report were made;

(ii) A requesting law enforcement agency; and

(iii) The Attorney General.

(B) The person or entity receiving information under subdivision (e)(2)(A) of this section shall agree to maintain the confidentiality of the information before the information may be transmitted to the person or entity.

(C) Information provided to a taxing authority or law enforcement agency under subdivision (e)(2)(A) of this section shall remain confidential and not subject to release.

(f) The director may promulgate rules to implement this section.

(g) The report required to be filed under this section shall fulfill the reporting required to the state under the Prevent All Cigarette Trafficking Act of 2009, Pub. L. No. 111-154.

(h)(1) The director shall provide the information reported under this section to the Arkansas Attorney General.

(2) The director's action under subdivision (h)(1) of this section satisfies the wholesaler's reporting obligations under § 26-57-1406.

SECTION 2. Arkansas Code § 26-57-1406(c), concerning manufacturer and importer reports, is amended to read as follows:

~~(c) If a manufacturer or importer timely submits to the Attorney General the required reports with respect to cigarettes under 15 U.S.C. § 376, as it existed on January 1, 2011, and certifies to the state that the reports are complete and accurate, then the requirements of subsection (a) of this section are satisfied and no~~ No further report is required under this section with respect to cigarettes ~~if:~~

(1) In the case of a manufacturer or importer, the manufacturer or importer timely submits to the Arkansas Attorney General the required reports with respect to cigarettes under Prevent All Cigarette Trafficking Act of 2009, Pub. L. No. 111-154, and certifies to the state that the reports are complete and accurate; or

(2) In the case of a wholesaler, the wholesaler timely submits the report required by § 26-57-265 to the Director of Arkansas Tobacco

Control and the report separately lists the deliveries to retailers and other wholesalers in this state by cigarettes, roll-your-own, and other tobacco products.

SECTION 3. EFFECTIVE DATE. This act shall be effective on and after September 1, 2013.

/s/Baine