



General Assembly

February Session, 2014

Raised Bill No. 390

LCO No. 2231



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING CHANGES TO CIGARETTE REGULATION TO IMPLEMENT THE NONPARTICIPATING MANUFACTURER ADJUSTMENT SETTLEMENT AGREEMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-28h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2015*):

3 As used in sections 4-28h to 4-28j, inclusive, as amended by this act:

4 (1) "Adjusted for inflation" means increased in accordance with the
5 formula for inflation adjustment set forth in Exhibit C to the Master
6 Settlement Agreement;

7 (2) "Affiliate" means a person who directly or indirectly owns or
8 controls, is owned or controlled by, or is under common ownership or
9 control with, another person. The terms "owns", "is owned" and
10 "ownership" mean ownership of an equity interest, or the equivalent
11 thereof, of ten per cent or more. The term "person" means an
12 individual, partnership, committee, association, corporation or any

13 other organization or group of persons;

14 (3) "Allocable share" means allocable share as that term is defined in
15 the Master Settlement Agreement;

16 (4) "Cigarette" means any product that contains nicotine, is intended
17 to be burned or heated under ordinary conditions of use, and consists
18 of or contains (A) any roll of tobacco wrapped in paper or in any
19 substance not containing tobacco; or (B) tobacco, in any form, that is
20 functional in the product, which, because of its appearance, the type of
21 tobacco used in the filler, or its packaging and labeling, is likely to be
22 offered to, or purchased by, consumers as a cigarette; and (C) any roll
23 of tobacco wrapped in any substance containing tobacco which,
24 because of its appearance, the type of tobacco used in the filler, or its
25 packaging and labeling, is likely to be offered to, or purchased by,
26 consumers as a cigarette described in subparagraph (A) of this
27 subdivision. The term "cigarette" includes roll-your-own tobacco,
28 meaning any tobacco which, because of its appearance, type,
29 packaging or labeling is suitable for use and likely to be offered to, or
30 purchased by, consumers as tobacco for making cigarettes. For
31 purposes of this definition of "cigarette", 0.09 ounces of roll-your-own
32 tobacco shall constitute one individual "cigarette";

33 (5) "Importer" means any person in the United States to whom
34 cigarettes manufactured in a foreign country are shipped or consigned,
35 any person who removes cigarettes for sale or consumption in the
36 United States from a customs bonded manufacturing warehouse, or
37 any person who unlawfully brings cigarettes into the United States;

38 [(5)] (6) "Master Settlement Agreement" means the settlement
39 agreement executed November 23, 1998, by the state of Connecticut
40 and leading tobacco product manufacturers, entitled "State of
41 Connecticut v. Philip Morris, et al.";

42 (7) "Nonparticipating Manufacturer Adjustment Settlement
43 Agreement" means the settlement agreement between the state of

44 Connecticut and the participating manufacturers, as preliminarily set
45 forth in the term sheet executed by the state of Connecticut and the
46 participating manufacturers on May 24, 2013;

47 [(6)] (8) "Qualified escrow fund" means an escrow arrangement with
48 a federally or state-chartered financial institution having no affiliation
49 with any tobacco product manufacturer and having assets of at least
50 one billion dollars where such arrangement requires that such financial
51 institution hold the escrowed funds' principal for the benefit of
52 releasing parties and prohibits the tobacco product manufacturer
53 placing the funds into escrow from using, accessing or directing the
54 use of the funds' principal except as consistent with the provisions of
55 subsection (b) of section 4-28i;

56 [(7)] (9) "Released claims" means released claims as that term is
57 defined in the Master Settlement Agreement;

58 [(8)] (10) "Releasing parties" means releasing parties as that term is
59 defined in the Master Settlement Agreement;

60 [(9)] (11) "Tobacco product manufacturer" means an entity, or its
61 successor, that, after July 1, 2000, directly and not exclusively through
62 an affiliate (A) manufactures cigarettes anywhere which the
63 manufacturer intends to be sold in the United States, including
64 cigarettes intended to be sold in the United States through an importer,
65 provided that an entity that manufactures cigarettes that it intends to
66 be sold in the United States shall not be considered to be a tobacco
67 product manufacturer under this subparagraph (A) if (i) such
68 cigarettes are sold in the United States exclusively through an importer
69 that is an original participating manufacturer, as that term is defined in
70 the Master Settlement Agreement, that will be responsible for
71 payments under the Master Settlement Agreement with respect to such
72 cigarettes as a result of the provisions of subsection II(mm) of the
73 Master Settlement Agreement and that pays the taxes specified in
74 subsection II(z) of the Master Settlement Agreement, and (ii) the

75 manufacturer of such cigarettes does not market or advertise such
76 cigarettes in the United States; or (B) is the first purchaser anywhere
77 for resale in the United States of cigarettes manufactured anywhere
78 that the manufacturer does not intend to be sold in the United States.
79 A tobacco product manufacturer shall not include an affiliate of a
80 tobacco product manufacturer unless such affiliate itself meets the
81 criteria specified in subparagraph (A) or (B) of this subdivision;

82 [(10)] (12) "Units sold" means the number of individual cigarettes
83 sold in this state by the applicable tobacco product manufacturer,
84 whether directly or through a distributor, dealer or similar
85 intermediary or intermediaries during the year in question, [as
86 measured by excise taxes collected by this state on packs, or on "roll-
87 your-own" tobacco containers, bearing the excise tax stamp of the
88 state] in packs required to bear a stamp pursuant to chapter 214 or, in
89 the case of roll-your-own tobacco, on which a tax is due pursuant to
90 chapter 214a. "Units sold" shall not include cigarettes sold on federal
91 military installations, sold by a Native American tribe to a member of
92 such tribe on such tribe's land, or that are otherwise exempt from state
93 excise tax pursuant to federal law. The Department of Revenue
94 Services shall adopt such regulations, in accordance with the
95 provisions of chapter 54, as are necessary to ascertain the amount of
96 state excise tax paid or required to be paid on the cigarettes of such
97 tobacco product manufacturer for each year.

98 Sec. 2. Subsection (a) of section 4-28i of the general statutes is
99 repealed and the following is substituted in lieu thereof (*Effective*
100 *January 1, 2015*):

101 (a) (1) Any tobacco product manufacturer selling cigarettes to
102 consumers within this state, whether directly or through a distributor,
103 dealer or similar intermediary or intermediaries, after July 1, 2000,
104 shall [(1)] (A) become a participating manufacturer, as the term is
105 defined in section II(jj) of the Master Settlement Agreement, and
106 generally perform its financial obligations under the Master Settlement

107 Agreement; or [(2)] (B) place into a qualified escrow fund not later than
108 April fifteenth of the year following the year in question the following
109 amounts, as adjusted for inflation: For calendar year 2000, \$.0104712
110 per unit sold after July 1, 2000; for each of calendar years 2001 and
111 2002, \$.0136125 per unit sold; for each of calendar years 2003 through
112 2006, \$.0167539 per unit sold; for calendar year 2007 and for each
113 calendar year thereafter, \$.0188482 per unit sold.

114 (2) For calendar years ending on or before December 31, 2014, a
115 tobacco product manufacturer electing to place funds into escrow shall
116 place the amount required pursuant to subparagraph (B) of
117 subdivision (1) of this subsection into a qualified escrow fund on an
118 annual basis not later than April fifteenth of the year following the
119 year in which the sales covered by such deposit are made.

120 (3) For calendar years commencing on and after January 1, 2015, a
121 tobacco product manufacturer electing to place funds into escrow shall
122 place an amount equal to \$.0188482 per unit sold, as adjusted for
123 inflation, into a qualified escrow fund on a quarterly basis not later
124 than thirty days after the end of the quarter in which the sales covered
125 by such deposit are made.

126 Sec. 3. Section 4-28j of the general statutes is repealed and the
127 following is substituted in lieu thereof (*Effective January 1, 2015*):

128 (a) Each tobacco product manufacturer that elects to place funds
129 into escrow pursuant to section 4-28i, as amended by this act, shall
130 [annually] certify to the Attorney General that it is in compliance with
131 said section 4-28i. Such certification shall be made annually for
132 calendar years ending on or before December 31, 2014, and quarterly
133 for calendar years commencing on and after January 1, 2015.

134 (b) The Attorney General may bring a civil action on behalf of the
135 state against any tobacco product manufacturer that fails to place into
136 escrow the funds required under section 4-28i, as amended by this act.
137 Any tobacco product manufacturer that fails [in any year] to place into

138 escrow the funds required under section 4-28i, as amended by this act,
139 shall (1) be required within fifteen days to place such funds into
140 escrow as shall bring it into compliance with section 4-28i, as amended
141 by this act. The court, upon a finding of a violation of this subsection,
142 may impose a civil penalty in an amount not to exceed five per cent of
143 the amount improperly withheld from escrow per day of the violation
144 and in a total amount not to exceed one hundred per cent of the
145 original amount improperly withheld from escrow; (2) in the case of a
146 knowing violation, be required within fifteen days to place such funds
147 into escrow as shall bring it into compliance with section 4-28i, as
148 amended by this act. The court, upon a finding of a knowing violation
149 of this subsection, may impose a civil penalty in an amount not to
150 exceed fifteen per cent of the amount improperly withheld from
151 escrow per day of the violation and in a total amount not to exceed
152 three hundred per cent of the original amount improperly withheld
153 from escrow; and (3) in the case of a second knowing violation, be
154 prohibited from selling cigarettes to consumers within the state,
155 whether directly or through a distributor, dealer or similar
156 intermediary, for a period not to exceed two years. All costs, fees and
157 expenses in connection with such action shall be assessed as damages
158 against the tobacco product manufacturer together with reasonable
159 attorney's fees.

160 (c) Each failure to make [an annual] a deposit required under
161 section 4-28i, as amended by this act, shall constitute a separate
162 violation.

163 (d) For any nonparticipating manufacturer located outside the
164 United States, each importer of such nonparticipating manufacturer's
165 cigarettes shall have joint and several liability with such
166 nonparticipating manufacturer for the deposit of all escrow amounts
167 due under section 4-28i, as amended by this act, and the payment of all
168 penalties imposed under subsection (b) of this section for the units sold
169 in this state.

170 Sec. 4. Section 4-28k of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective January 1, 2015*):

172 As used in sections 4-28k to 4-28r, inclusive:

173 (1) "Brand family" means all styles of cigarettes sold under the same
174 trade mark and differentiated from one another by means of additional
175 modifiers or descriptors, including, but not limited to, menthol, lights,
176 kings and 100's, and includes any use of a brand name, alone or in
177 conjunction with any other word, trademark, logo, symbol, motto,
178 selling message, recognizable pattern of colors, or any other indicia of
179 product identification identical or similar to, or identifiable with, a
180 previously known brand of cigarettes;

181 (2) "Cigarette" has the same meaning as provided in section 4-28h,
182 as amended by this act;

183 (3) "Commissioner" means the Commissioner of Revenue Services;

184 (4) "Importer" has the same meaning as provided in section 4-28h, as
185 amended by this act;

186 (5) "Master Settlement Agreement" has the same meaning as
187 provided in section 4-28h, as amended by this act;

188 [(4)] (6) "Nonparticipating manufacturer" means any tobacco
189 product manufacturer that is not a participating manufacturer;

190 (7) "Nonparticipating Manufacturer Adjustment Settlement
191 Agreement" has the same meaning as provided in section 4-28h, as
192 amended by this act;

193 [(5)] (8) "Participating manufacturer" has the meaning as provided
194 in section II(jj) of the Master Settlement Agreement [, as defined in
195 section 4-28h,] and all amendments thereto;

196 [(6)] (9) "Qualified escrow fund" has the same meaning as provided

197 in section 4-28h, as amended by this act;

198 [(7)] (10) "Stamper" means, in the case of cigarettes other than roll-
199 your-own tobacco, a person that under chapter 214 may lawfully
200 purchase unstamped packages of cigarettes and affix Connecticut
201 cigarette tax stamps to such packages, and, in the case of roll-your-own
202 tobacco, a person licensed as a distributor under chapter 214a and
203 required to pay the tax due on such tobacco under said chapter 214a;

204 [(8)] (11) "Tobacco product manufacturer" has the same meaning as
205 provided in section 4-28h, as amended by this act; and

206 [(9)] (12) "Units sold" has the same meaning as provided in section
207 4-28h, as amended by this act.

208 Sec. 5. Section 4-28l of the general statutes is repealed and the
209 following is substituted in lieu thereof (*Effective January 1, 2015*):

210 (a) Any tobacco product manufacturer whose cigarettes are sold in
211 this state, whether directly or through a distributor, retailer or similar
212 intermediary or intermediaries, shall execute a certification annually
213 on a form prescribed by the commissioner, certifying under penalty of
214 law for false statement that, as of the date of such certification, such
215 tobacco product manufacturer is either a participating manufacturer in
216 full compliance with subdivision (1) of subsection (a) of section 4-28i,
217 as amended by this act, or is a nonparticipating manufacturer in full
218 compliance with the provisions of sections 4-28h to 4-28j, inclusive, as
219 amended by this act. Such tobacco product manufacturer shall deliver
220 such certificate to the commissioner and Attorney General no later
221 than April thirtieth of each year. Each tobacco product manufacturer
222 shall maintain all invoices and documentation of sales and other such
223 information relied upon for such certification for a period of five years
224 unless otherwise required by law to maintain them for a longer period
225 of time.

226 (b) If a tobacco product manufacturer is a participating

227 manufacturer, such manufacturer shall include in its certification a list
228 of its brand families. The participating manufacturer shall update such
229 list thirty days prior to any addition to, or modification of, its brand
230 families by executing and delivering a supplemental certification to the
231 Attorney General and the commissioner.

232 (c) If the tobacco product manufacturer is a nonparticipating
233 manufacturer, such manufacturer shall include in its certification: (1) A
234 list of all of its brand families and the number of units of each brand
235 family that were sold in the state during the preceding calendar year;
236 (2) a list of all of its brand families that have been sold in the state at
237 any time during the current calendar year; (3) an indication, by an
238 asterisk, of any brand family sold in the state during the preceding
239 calendar year that is no longer being sold in the state as of the date of
240 such certification; and (4) the name and address of any other
241 manufacturer of such brand families in the preceding or current
242 calendar year. Each nonparticipating manufacturer shall update such
243 list thirty days prior to any addition to, or modification of, its brand
244 families by executing and delivering a supplemental certification to the
245 Attorney General and the commissioner.

246 (d) If the tobacco product manufacturer is a nonparticipating
247 manufacturer, such manufacturer shall further (1) certify that such
248 nonparticipating manufacturer is registered to do business in this state
249 pursuant to title 33 or 34 as a foreign corporation or business entity or
250 has appointed an agent for service of process and provided notice
251 thereof as required by section 4-28n, as amended by this act, (2) certify
252 that such nonparticipating manufacturer has established and continues
253 to maintain a qualified escrow fund and has executed a qualified
254 escrow agreement that governs the qualified escrow fund, (3) certify
255 that such nonparticipating manufacturer is in full compliance with the
256 provisions of sections 4-28h to 4-28r, inclusive, as amended by this act,
257 and any regulations adopted under sections 4-28h to 4-28r, inclusive,
258 as amended by this act, [and] (4) provide (A) the name, address and
259 telephone number of the financial institution where the

260 nonparticipating manufacturer has established such qualified escrow
261 fund required pursuant to the provisions of sections 4-28h to 4-28j,
262 inclusive, as amended by this act, and all regulations adopted under
263 sections 4-28h to 4-28j, inclusive, as amended by this act; (B) the
264 account number of such qualified escrow fund and subaccount
265 number for the state of Connecticut; (C) the amount that such
266 nonparticipating manufacturer placed in such fund for cigarettes sold
267 in the state during the preceding calendar year, the date and amount of
268 each such deposit, and such evidence or verification as may be deemed
269 necessary by the commissioner or the Attorney General, to confirm the
270 foregoing; and (D) the amounts of and dates of any withdrawal or
271 transfer of funds the nonparticipating manufacturer made at any time
272 from such fund or from any other qualified escrow fund into which it
273 ever made escrow payments pursuant to the provisions of sections 4-
274 28h to 4-28j, inclusive, as amended by this act, and all regulations
275 adopted under sections 4-28h to 4-28j, inclusive, as amended by this
276 act, and (5) provide proof that such nonparticipating manufacturer has
277 posted the bond required under subsection (e) of section 4-28n, as
278 amended by this act.

279 (e) A tobacco product manufacturer may not include in its
280 certification a brand family unless (1) in the case of a participating
281 manufacturer, the participating manufacturer affirms that the brand
282 family is to be deemed to be its cigarettes for purposes of calculating
283 its payments under the Master Settlement Agreement for the relevant
284 year, in the volume and shares determined pursuant to the Master
285 Settlement Agreement; and (2) in the case of a nonparticipating
286 manufacturer, such nonparticipating manufacturer affirms that the
287 brand family is to be deemed to be its cigarettes for purposes of
288 sections 4-28h to 4-28j, inclusive, as amended by this act. Nothing in
289 this section shall be construed as limiting or otherwise affecting the
290 state's right to maintain that a brand family constitutes cigarettes of a
291 different tobacco product manufacturer for purposes of calculating
292 payments under the Master Settlement Agreement or for purposes of

293 sections 4-28h to 4-28j, inclusive, as amended by this act.

294 (f) A tobacco product manufacturer shall also (1) certify annually
295 that such manufacturer or its importer holds a valid permit under 26
296 USC 5713, as from time to time amended, and provide a copy of such
297 permit to the commissioner, and (2) certify that it is in compliance with
298 all reporting and registration requirements of 15 USC 375 et seq., as
299 from time to time amended.

300 (g) No tobacco product manufacturer shall submit a certification
301 required by this section that contains any material representation that
302 the manufacturer knows to be false or inaccurate.

303 Sec. 6. Subdivision (3) of subsection (a) of section 4-28m of the
304 general statutes is repealed and the following is substituted in lieu
305 thereof (*Effective January 1, 2015*):

306 (3) The commissioner shall not include or retain in the directory any
307 brand family of a nonparticipating manufacturer if the commissioner
308 concludes: (A) All escrow payments required pursuant to the
309 provisions of sections 4-28h to 4-28j, inclusive, as amended by this act,
310 for any period for any brand family, whether or not listed by such
311 nonparticipating manufacturer, have not been fully paid into a
312 qualified escrow fund governed by a qualified escrow agreement that
313 has been approved by the Attorney General, [or] (B) any outstanding
314 final judgment, including interest thereon, for a violation of sections 4-
315 28h to 4-28j, inclusive, as amended by this act, has not been fully
316 satisfied for such brand family and such manufacturer; or (C) a
317 nonparticipating manufacturer's total nation-wide reported sales of
318 cigarettes on which federal excise tax is paid exceeds the sum of (i) its
319 nation-wide reports under 15 USC 375 et seq., as from time to time
320 amended, or those made by its importer, and (ii) any intrastate sales
321 reports under 15 USC 375 et seq., as from time to time amended, by
322 more than five per cent of its total nation-wide sales or one million
323 cigarettes, whichever is less, during any calendar year, unless the

324 nonparticipating manufacturer cures or satisfactorily explains the
325 discrepancy not later than ten days after receiving notice of the
326 discrepancy.

327 Sec. 7. Section 4-28n of the general statutes is repealed and the
328 following is substituted in lieu thereof (*Effective January 1, 2015*):

329 (a) Any nonparticipating manufacturer that has not registered to do
330 business in this state, pursuant to title 33 or 34, as a foreign corporation
331 or business entity shall, as a condition precedent to having its brand
332 families listed or retained in the directory maintained pursuant to
333 section 4-28m, as amended by this act, appoint and continually engage
334 without interruption the services of an agent in this state to act as
335 agent for the service of process on whom all process and any action or
336 proceeding against it concerning or arising out of the enforcement of
337 the provisions of sections 4-28h to 4-28r, inclusive, as amended by this
338 act, may be served in any manner authorized by law. Such service
339 shall constitute legal and valid service of process on the
340 nonparticipating manufacturer. The nonparticipating manufacturer
341 shall provide the name, address, telephone number and proof of the
342 appointment and availability of such agent to, and to the satisfaction
343 of, the commissioner and the Attorney General.

344 (b) A nonparticipating manufacturer shall provide notice to the
345 commissioner and the Attorney General at least thirty calendar days
346 prior to termination of the authority of an agent and shall further
347 provide proof, to the satisfaction of the commissioner and the Attorney
348 General, of the appointment of a new agent no less than five calendar
349 days prior to the termination of an existing agent appointment. In the
350 event an agent terminates an agency, the nonparticipating
351 manufacturer shall notify the commissioner and the Attorney General
352 of such termination not later than five calendar days after such
353 termination and shall include proof, to the satisfaction of the
354 commissioner and the Attorney General, of the appointment of a new
355 agent.

356 (c) Any nonparticipating manufacturer whose products are sold in
357 this state without appointing or designating an agent as required in
358 this section shall be deemed to have appointed the Secretary of the
359 State as such agent and may be proceeded against in courts of this state
360 by service of process upon the Secretary of the State, except that the
361 appointment of the Secretary of the State as such agent shall not satisfy
362 the condition precedent to having the brand families of the
363 nonparticipating manufacturer listed or retained in the directory.

364 (d) A nonparticipating manufacturer located outside of the United
365 States shall cause each of its importers into the United States of each of
366 its brand families to be sold in the state to appoint and maintain the
367 services of an agent in the state, and shall provide notification to the
368 commissioner and the Attorney General regarding the agents of its
369 importers in the manner prescribed in subsections (a) to (c), inclusive,
370 of this section. Each importer of a nonparticipating manufacturer's
371 cigarettes that are sold in the state who does not appoint or designate
372 an agent as required in this section shall be deemed to have appointed
373 the Secretary of the State as such agent and may be proceeded against
374 in courts of this state by service of process upon the Secretary of the
375 State, except that the appointment of the Secretary of the State as such
376 agent shall not satisfy the condition precedent to having the brand
377 families of the nonparticipating manufacturer listed or retained in the
378 directory.

379 (e) (1) At least ten days prior to the first day of each calendar
380 quarter, as a condition precedent to having its brand families listed or
381 retained in the directory, each nonparticipating manufacturer shall file
382 with the commissioner a surety bond, the form of which shall be
383 approved by the Attorney General, that is issued by a bonding
384 company or insurance company authorized to do business in this state.
385 The bond shall be in favor of the commissioner and be in the principal
386 sum of the greater of (A) twenty-five thousand dollars, or (B) the
387 greatest amount of the total escrow payments owed in any of the five
388 calendar years preceding the filing of such bond.

389 (2) If the nonparticipating manufacturer that posted a bond has
390 failed to make, or have made on its behalf, escrow deposits equal to
391 the full amount owed for a quarter not later than fifteen days following
392 the due date for the quarter under section 4-28i, as amended by this
393 act, the commissioner may execute on the bond, to (A) recover the
394 delinquent escrow, which amount shall be deposited into a qualified
395 escrow account as defined in section 4-28h, as amended by this act, or
396 a reasonable alternative account as determined by the commissioner,
397 and (B) recover civil penalties and costs authorized under section 4-28j,
398 as amended by this act. Escrow amounts above the amount collected
399 on the bond shall remain due from the nonparticipating manufacturer
400 and, as provided in subsection (d) of section 4-28j, as amended by this
401 act, from the importers that sold such nonparticipating manufacturer's
402 cigarettes in this state during such calendar quarter.

403 Sec. 8. Section 4-28o of the general statutes is repealed and the
404 following is substituted in lieu thereof (*Effective January 1, 2015*):

405 (a) Not later than twenty-five days after the end of each month, and
406 more frequently if so directed by the commissioner, each stamper shall
407 submit such information as the commissioner requires to facilitate
408 compliance with sections 4-28k to 4-28r, inclusive, as amended by this
409 act, including, but not limited to, a list by brand family of the total
410 number of cigarettes, or in the case of roll-your-own tobacco, the
411 equivalent stick count, for which the stamper affixed stamps during
412 the previous month. The stamper shall maintain, and make available to
413 the commissioner for a period of five years, all invoices and
414 documentation of purchases and sales of all nonparticipating
415 manufacturer cigarettes and any other information relied upon in
416 reporting to the commissioner. Each stamper shall provide and update
417 as necessary an electronic mail address to the commissioner.

418 (b) (1) The commissioner may disclose to the Attorney General any
419 information received under sections 4-28k to 4-28r, inclusive, as
420 amended by this act, and requested by the Attorney General for

421 purposes of determining compliance with and enforcing the provisions
422 of sections 4-28k to 4-28r, inclusive, as amended by this act. The
423 commissioner and the Attorney General shall share with each other the
424 information received under sections 4-28k to 4-28r, inclusive, as
425 amended by this act, and may share such information with other
426 federal, state or local agencies [only] for purposes of law enforcement,
427 [of the provisions of sections 4-28h to 4-28r, inclusive, or
428 corresponding laws of other states.]

429 (2) Notwithstanding the provisions of section 12-15, the
430 commissioner may disclose to the Attorney General any returns or
431 return information, as defined in section 12-15, received pursuant to
432 this chapter or chapter 214 or 214a, when such returns or return
433 information is relevant to any arbitration or other dispute resolution
434 proceeding to which the state is a party, created or authorized under
435 the terms of the Master Settlement Agreement, as defined in section 4-
436 28h, as amended by this act, or any amendments to said agreement.
437 The Attorney General may further disclose such returns or return
438 information in such arbitration or other dispute resolution proceeding.

439 (3) Notwithstanding the provisions of section 12-15, the
440 commissioner may disclose to the Attorney General any returns or
441 return information, as defined in section 12-15, received pursuant to
442 this chapter or chapter 214 or 214a, when such returns or return
443 information is directly related to the state's implementation of the
444 Master Settlement Agreement or the Nonparticipating Manufacturer
445 Adjustment Settlement Agreement. The Attorney General may further
446 disclose (A) such returns or return information pursuant to an
447 agreement with an entity designated to serve as a data clearinghouse
448 in accordance with the terms of the Nonparticipating Manufacturer
449 Adjustment Settlement Agreement, or (B) returns or return
450 information of a distributor licensed under the provisions of chapter
451 214 or chapter 214a, to a tobacco product manufacturer that places
452 funds into escrow pursuant to the provisions of subsection (a) of
453 section 4-28i, as amended by this act, provided the information

454 disclosed is limited to information relating to such manufacturer's
455 sales to consumers within this state, whether directly or through a
456 distributor, dealer or similar intermediary or intermediaries, of
457 cigarettes, as defined in section 4-28h, as amended by this act.

458 (c) The Attorney General may require at any time from a
459 nonparticipating manufacturer proof of the amount of money in the
460 qualified escrow fund maintained by such manufacturer for the
461 purpose of compliance with provisions of sections 4-28h to 4-28j,
462 inclusive, as amended by this act. Such proof shall be provided to such
463 manufacturer by the financial institution in which such manufacturer
464 has established such fund. Such proof shall include the amount of
465 money in such fund, exclusive of interest, the amount and date of each
466 deposit to such fund and the amount and date of each withdrawal
467 from such fund.

468 (d) In addition to the information requested to be submitted
469 pursuant to subsection (a) of this section and section 4-28l, as amended
470 by this act, the commissioner may require a stamper or tobacco
471 product manufacturer to submit any additional information including,
472 but not limited to, samples of the packaging or labeling of each brand
473 family, as is necessary to enable the Attorney General to determine
474 whether a tobacco product manufacturer is in compliance with the
475 provisions of sections 4-28k to 4-28r, inclusive, as amended by this act.

476 (e) [To promote compliance with the provisions of sections 4-28k to
477 4-28r, inclusive, the commissioner may adopt regulations, in
478 accordance with the provisions of chapter 54, requiring a tobacco
479 product manufacturer subject to the requirements of subsection (c) of
480 section 4-28l to make the escrow deposits required in quarterly
481 installments during the year in which the sales covered by such
482 deposits are made.] The commissioner may require production of
483 information from a tobacco product manufacturer, importer or
484 stamper sufficient to enable the [commissioner] Attorney General to
485 determine the adequacy of the amount of [the installment deposit] a

486 quarterly escrow deposit under subsection (a) of section 4-28i, as
487 amended by this act.

488 (f) (1) Each manufacturer and importer that sells cigarettes in or into
489 the state shall, not later than fifteen days following the end of the
490 month, file a report on a form and in the manner prescribed by the
491 commissioner and certify that the report is complete and accurate.

492 (2) The report shall contain the following information: The total
493 number of cigarettes sold by such manufacturer or importer in or into
494 the state during that month and identifying by name and number of
495 cigarettes, (A) the manufacturers of such cigarettes, (B) the brand
496 families of such cigarettes, and (C) the purchasers of such cigarettes. A
497 manufacturer's or importer's report shall include cigarettes sold in or
498 into the state through an affiliate.

499 (3) The requirements of subdivisions (1) and (2) of this subsection
500 shall be satisfied and no further report shall be required under
501 subdivisions (1) and (2) of this subsection with respect to cigarettes if
502 the manufacturer or importer timely submits to the commissioner the
503 report or reports required to be submitted by it with respect to
504 cigarettes under 15 USC 375 et seq., as from time to time amended, to
505 the commissioner and certifies that the reports are complete and
506 accurate.

507 (4) Upon request by the commissioner or Attorney General, a
508 manufacturer or importer shall provide copies of all sales reports
509 required to be submitted under 15 USC 375 et seq., as from time to
510 time amended, that such manufacturer or importer filed in other states.

511 (5) Each manufacturer or importer that sells cigarettes in or into the
512 state shall either (A) submit its federal excise tax returns and all
513 monthly operational reports on Alcohol and Tobacco Tax and Trade
514 Bureau Form 5210.5 or any subsequent corresponding form, and all
515 adjustments, changes and amendments to such reports to the
516 commissioner not later than thirty days after the returns are filed, or

517 (B) submit to the United States Treasury a valid request or consent
 518 under Section 6103(c) of the Internal Revenue Code of 1986, or any
 519 subsequent corresponding internal revenue code of the United States,
 520 as from time to time amended, authorizing the federal Alcohol and
 521 Tobacco Tax and Trade Bureau and, in the case of a foreign
 522 manufacturer or importer, the United States Customs Service, to
 523 disclose the manufacturer's or importer's federal excise tax returns to
 524 the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2015</i>	4-28h
Sec. 2	<i>January 1, 2015</i>	4-28i(a)
Sec. 3	<i>January 1, 2015</i>	4-28j
Sec. 4	<i>January 1, 2015</i>	4-28k
Sec. 5	<i>January 1, 2015</i>	4-28l
Sec. 6	<i>January 1, 2015</i>	4-28m(a)(3)
Sec. 7	<i>January 1, 2015</i>	4-28n
Sec. 8	<i>January 1, 2015</i>	4-28o

Statement of Purpose:

To implement the Nonparticipating Manufacturer Adjustment Settlement Agreement.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]