

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H3/12/13

# A Bill

HOUSE BILL 1618

5 By: Representative Baine  
6

## For An Act To Be Entitled

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

14 TO REQUIRE WHOLESALERS TO REPORT CERTAIN  
15 INFORMATION TO THE ARKANSAS TOBACCO  
16 CONTROL BOARD; AND TO PROTECT INFORMATION  
17 IN THE REQUIRED REPORT FROM DISCLOSURE.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 26, Chapter 57, Subchapter 2, is  
24 amended to add an additional section to read as follows:

25 26-57-265. Reports by wholesalers to Arkansas Tobacco Control.

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

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

33 (1) The name of each retailer or wholesaler;

34 (2) The address of each retailer or wholesaler to which the  
35 wholesaler delivered cigarettes, cigars, or other tobacco products;

36 (3) The address of each retailer or wholesaler that *obtained*



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

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

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

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

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

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

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

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

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

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

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

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

1 under this section may be transmitted or otherwise provided to:

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

4 (ii) A requesting law enforcement agency; and

5 (iii) The Attorney General.

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

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

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

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

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

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

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

24 (c) ~~If a manufacturer or importer timely submits to the Attorney~~  
25 ~~General the required reports with respect to cigarettes under 15 U.S.C. §~~  
26 ~~376, as it existed on January 1, 2011, and certifies to the state that the~~  
27 ~~reports are complete and accurate, then the requirements of subsection (a) of~~  
28 ~~this section are satisfied and no~~ No further report is required under this  
29 section with respect to cigarettes if:

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

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

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

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

*/s/Baine*