



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 473 (as introduced 9-10-15)
Sponsor: Senator Peter MacGregor
Committee: Commerce

Date Completed: 10-27-15

CONTENT

The bill would amend the Tobacco Products Tax Act to require the Department of Treasury, upon request, to disclose to the Attorney General information relevant to the enforcement of a statute that requires certain tobacco product manufacturers to deposit funds in escrow accounts; and permit the Department and the Attorney General to disclose otherwise-confidential information under certain circumstances.

Specifically, Public Act 244 of 1999 requires a tobacco product manufacturer selling cigarettes to consumers within the State to either 1) become a participating manufacturer and generally perform its financial obligations under the master settlement agreement; or 2) place into a qualified escrow account an amount based on units (individual cigarettes) sold. ("Participating manufacturer" means that term as defined in the master settlement agreement, which Michigan and 45 other states entered into with the U.S. tobacco industry in 1998.)

Under the bill, notwithstanding any law to the contrary, the Department of Treasury, upon request, would have to disclose to the Attorney General, or his or her designee, information obtained by the Department that was relevant to the enforcement of Public Act 244 of 1999. With regard to information received pursuant to any tax agreement entered into between this State and any Indian tribe, however, the information would be consolidated to include all agreements with Indian tribes' information so a person could not ascertain any one tribe's information.

The Department and the Attorney General, or his or her designee, would be permitted to disclose information under these provisions that could otherwise be confidential, under one or more of the following circumstances:

- In the discharge of the duty to enforce or defend the Tobacco Products Tax Act or Public Act 244 of 1999.
- In the course of any litigation, arbitration, or proceeding related to Public Act 244, the master settlement agreement, or the NPM (nonparticipating manufacturer) adjustment settlement agreement.
- In compliance with provisions in the NPM adjustment settlement agreement related to a data clearinghouse.

Tobacco product sales data provided by another state, a manufacturer, or another person or entity to a data clearinghouse pursuant to the NPM adjustment settlement agreement that also was provided to the Department under that agreement would have to be treated as confidential tax information subject to Section 28 of the revenue Act. This provision would apply only to information the Department received solely as a result of the NPM adjustment settlement agreement.

(Except as otherwise provided, Section 28 of the revenue Act prohibits a current or former employee or authorized representative of the Treasury Department, or anyone connected with the Department, from divulging any facts or information obtained in connection with the administration of a tax administered by the Department.)

Proposed MCL 205.426e

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Cory Savino

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