

2017 Regular Session

HOUSE BILL NO. 446

BY REPRESENTATIVE MARINO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TOBACCO/TOBACCO PRODUCTS: Provides relative to confidentiality of tobacco records

1 AN ACT

2 To amend and reenact R.S. 47:1508(B)(11), relative to tobacco; to provide for the disclosure
3 of information relative to tobacco settlement enforcement; to provide for the
4 confidentiality of information shared by the state relative to the NPM Adjustment
5 Settlement Agreement; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:1508(B)(11) is hereby amended and reenacted to read as follows:

8 §1508. ~~Confidential character~~ Confidentiality of tax records

9 * * *

10 B. Nothing herein contained shall be construed to prevent:

11 * * *

12 (11) The secretary from disclosing to any person upon request the name and
13 address of any registered wholesale tobacco dealer who holds a license or permit to
14 operate within this state, but the secretary shall not disclose any tax data whatsoever
15 with respect to the wholesaler, except for information provided to the tobacco
16 settlement enforcement unit of the Louisiana Department of Justice for the
17 enforcement of Parts XIII and XIII-A of Chapter 32 of Title 13 of the Louisiana
18 Revised Statutes of 1950 or to the Louisiana Office of Alcohol and Tobacco Control
19 for the enforcement of Chapter 7 of Title 26 of the Louisiana Revised Statutes of
20 1950. Such disclosure shall include any and all data with respect to dealers, including

1 but not limited to any wholesaler or retailer, as well as manufacturer, sales entity
2 affiliate, or importer. The secretary, attorney general, and commissioner shall share
3 with each other the information received under the provisions of R.S. 13:5061 et
4 seq., 5071 et seq., R.S. 26:901 et seq., and R.S. 47:841 et seq., and may share such
5 information with other federal, state, or local taxing agencies or law enforcement
6 authorities only for purposes of enforcement of those Sections and the corresponding
7 laws of other states. The secretary, attorney general, and commissioner may share
8 information received under this Paragraph with a court, arbitrator, data
9 clearinghouse, or the professional services firm or firms retained for the purpose of
10 assessing compliance with or otherwise calculating the tobacco revenue owed to the
11 state pursuant to the Master Settlement Agreement executed on November 23, 1998,
12 as well as any subsequent agreements that may be executed pertaining to the Master
13 Settlement Agreement, including the NPM Adjustment Settlement Agreement, as
14 well as with counsel for the parties or expert witnesses in any proceedings relating
15 thereto. Any information shared or furnished shall be considered and held to be
16 confidential and privileged ~~by the professional services firm or firms.~~ The attorney
17 general, commissioner, or secretary may also disclose any information obtained
18 under this Paragraph pursuant to an order by a court of competent jurisdiction or if
19 agreed upon in writing by the registered wholesale or retail tobacco dealer, sales
20 entity affiliate, importer, or manufacturer. The disclosure of information by the
21 attorney general, commissioner, or secretary permitted by this Paragraph shall not
22 constitute a violation of any other provisions in law. Furthermore, any information
23 received by the state pursuant to the NPM Adjustment Settlement Agreement shall
24 be considered confidential and shall not be disclosed except in accordance with the
25 terms of the NPM Adjustment Settlement Agreement or pursuant to an order from
26 a court of competent jurisdiction.

27 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 446 Original

2017 Regular Session

Marino

Abstract: Requires confidentiality and prohibits disclosure of information received by the state regarding the NPM Adjustment Settlement Agreement.

Present law requires the records and files held and maintained by the secretary for the Dept. of Revenue or certain records and files maintained pursuant to a tax ordinance of any political subdivision be confidential and privileged and shall not be divulged except in the administration and enforcement of tax laws.

Present law allows the secretary for the Dept. of Revenue to disclose to any person upon request the name and address of any registered wholesale tobacco dealer, but prevents the disclosure of any tax data of the wholesaler except for the information provided to the La. Dept. of Justice's tobacco settlement enforcement unit for the enforcement of the Master Settlement Agreement or tobacco laws.

Present law also allows the sharing of information between the secretary for the Dept. of Revenue, attorney general, and the commissioner of the office of alcohol and tobacco control with professional service firms retained for calculating tobacco revenue owed to the state pursuant to the Master Settlement Agreement. Proposed law retains present law and allows for the sharing of this information with a court, arbitrator, or data clearinghouse retained for calculating tobacco revenue owed to the state pursuant to the Master Settlement Agreement, the NPM Adjustment Agreement, and counsel for parties or experts in any related proceedings.

Proposed law further provides that any information received by the state pursuant to the NPM Adjustment Settlement Agreement is confidential and shall not be disclosed except in accordance with settlement terms or by court order.

(Amends R.S. 47:1508(B)(11))