

Regular Session, 2013

HOUSE BILL NO. 641

BY REPRESENTATIVE THOMPSON

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

SALES/TOBACCO DEALERS: Provides relative to tobacco enforcement

1 AN ACT

2 To amend and reenact R.S.13:5072, 5073(A)(3)(a)(v), (B)(2) through (4), 5075, 5076(A)

3 and (B), and 5077; R.S. 26:904(A), 916(H), 918(B) and 921; R.S. 39:98.7(B); and

4 R.S. 47:843(A)(2), (C)(3) and (4) and (D), 847(A) and (B), 849, 851(B), 862,

5 865(C)(3)(b) and (c), 871, 872, 876 through 878, and 1508(B)(11); to enact R.S.

6 13:5073(A)(3)(a)(vi), (4)(e) and (f), (B)(5) and (6), 5074(D), and 5078; R.S.

7 26:901(19) through (26), 902(5), 904(D), 906(H), (I), and (J), 908(D), 916(I) through

8 (N), and 918(C) and (D); R.S. 47:842(16) through (22), 843(A)(3), 847(C), and

9 851(E) and (F); and to repeal R.S. 47: 873 through 875; to provide restrictions on

10 transactions in unstamped cigarettes; to provide for definitions; to provide

11 requirements for stamping agent licenses; to provide escrow requirements for

12 nonparticipating manufacturers; to require stamping agent reporting; to require

13 manufacturer and importer reporting; to require reports on out-of-state cigarette

14 sales; to provide for the disclosure of information; to prohibit delivery sales; to

15 provide for violations and penalties; to require that nonparticipating manufacturers

16 post bond; to provide for a directory of stamping agents and exporter licensees; to

17 authorize the promulgation of rules; to provide for disclosure of information between

18 agencies relative to tobacco enforcement; to provide for appropriation of funds to the

19 Tobacco Settlement Enforcement Fund for use in enforcement of the Master

20 Settlement Agreement; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S.13:5072, 5073(A)(3)(a)(v), (B)(2) through (4), 5075, 5076(A) and
3 (B), and 5077 are hereby amended and reenacted and R.S. 13:5073(A)(3)(a)(vi), (4)(e) and
4 (f), (B)(5) and (6), 5074(D), and 5078 are hereby enacted to read as follows:

5 §5072. Definitions

6 As used in this Part, the following words and phrases shall have the following
7 meanings ascribed to them:

8 (1) "Brand family" means all styles of cigarettes sold under the same trade
9 mark and differentiated from one another by means of additional modifiers or
10 descriptors, including but not limited to "menthol", "lights", "kings", and "100s", and
11 includes any brand name (alone or in conjunction with any other word), trademark,
12 logo, symbol, motto, selling message, recognizable pattern of colors, or any other
13 indicia of product identification identical or similar to, or identifiable with, a
14 previously known brand of cigarettes.

15 (2) "Cigarette" has the same meaning as defined in R.S. 13:5062(4) and R.S.
16 47:842(2).

17 (3) "Commissioner" means the commissioner of alcohol and tobacco control.

18 (4) "Days" means calendar days unless otherwise specified.

19 ~~(3)~~ (5) "Dealer" has the same meaning as defined in R.S. 47:842(4).

20 ~~(4) "Department" means the Department of Revenue for the state of~~
21 ~~Louisiana.~~

22 (6) "Importer" means any person in the United States to whom non-tax-paid
23 cigarettes manufactured in a foreign country are shipped or consigned; any person
24 who removes cigarettes for sale or consumption in the United States from a customs
25 bonded manufacturing warehouse and any person who smuggles or otherwise
26 unlawfully brings cigarettes into the United States.

27 (7) "Manufacturer" has the same meaning as provided in R.S. 47:842.

28 ~~(5)~~ (8) "Master Settlement Agreement" has the same meaning as defined
29 provided in R.S. 13:5062(5).

1 ~~(6)~~ (9) "Nonparticipating manufacturer" means any tobacco product
2 manufacturer that is not a participating manufacturer.

3 (10) "Package" means any pack or other container on which a stamp could
4 be applied consistent with and as required by R.S. 47:841 et seq., that contains one
5 or more individual cigarettes for sale. Nothing in this Act shall alter any other
6 applicable requirement with respect to the minimum number of cigarettes that may
7 be contained in a pack or other container of cigarettes. References to "package" shall
8 not include a container of multiple packages.

9 ~~(7)~~ (11) "Participating manufacturer" has the meaning given that term in
10 section II (ii) of the Master Settlement Agreement and all amendments thereto.

11 (12) "Person" means any natural person, trustee, company, partnership,
12 corporation, or other legal entity.

13 (13) "Purchase" means acquisition in any manner, for any consideration.
14 The term shall include transporting or receiving product in connection with a
15 purchase.

16 ~~(8)~~ (14) "Qualified escrow fund" has the same meaning as defined in R.S.
17 13:5062(6).

18 (15) "Retailer" means "retail dealer" as defined in R.S. 26:901 and R.S.
19 47:842.

20 (16) "Sale" or "sell" means any transfer, exchange, or barter in any manner
21 or by any means for any consideration. The term shall include distributing or
22 shipping product in connection with a sale. References to a sale "in" or "into" a state
23 refer to the state of the destination point of the product in the sale, without regard to
24 where title was transferred. References to sale "from" a state refer to the sale of
25 cigarettes that are located in that state to the destination in question without regard
26 to where title was transferred.

27 (17) "Sales Entity Affiliate" means an entity that sells cigarettes that it
28 acquires directly from a manufacturer or importer and is affiliated with that
29 manufacturer or importer. Entities are affiliated with each other if one, directly or

1 indirectly through one or more intermediaries, controls or is controlled by or is under
2 common control with the other.

3 ~~(9)~~ (18) "Secretary" means the head of the Department of Revenue, which
4 is the agency responsible for collection of the excise tax on cigarettes.

5 ~~(10)~~ (19) "Stamping agent" means a dealer that is authorized to affix tax
6 stamps to packages or other containers of cigarettes under R.S. 47:843 et seq. or any
7 dealer that is required to pay the excise tax or tobacco tax imposed pursuant to R.S.
8 47:841 et seq. on cigarettes.

9 (20) "State directory" or "directory" means the directory compiled by the
10 attorney general under R.S. 13:5073, or, in the case of reference to another state's
11 directory, the directory compiled under the similar law in that other state.

12 ~~(11)~~ (21) "Tobacco product manufacturer" has the same meaning as defined
13 in R.S. 13:5062(9).

14 ~~(12)~~ (22) "Units sold" has the same meaning as defined in R.S. 13:5062(10)
15 and shall include cigarettes that are required to be sold in a package bearing a stamp
16 as well as roll-your-own tobacco.

17 §5073. Certifications; directory; tax stamps

18 A.

19 * * *

20 (3)(a) A nonparticipating manufacturer shall include in its certification:

21 * * *

22 (v) Any other information required under ~~R.S. 13:5075(D)~~ R.S. 13:5075(F).

23 (vi) As a condition precedent to being listed and having its brand families
24 listed on the state directory, a manufacturer must certify annually that it holds a valid
25 permit under 26 U.S.C. §5713 and provide a copy of such permit to the attorney
26 general.

27 * * *

28 (4) In the case of a nonparticipating manufacturer, such certification shall
29 further certify:

1 * * *

2 (e) Sufficient information to establish that such nonparticipating
3 manufacturer has posted the appropriate bond of cash equivalent pursuant to R.S.
4 13:5078.

5 (f) In the case of a nonparticipating manufacturer located outside of the
6 United States, the nonparticipating manufacturer shall provide a declaration from
7 each of its importers into the United States of any of its brand families to be sold in
8 this state. The declaration shall be on a form prescribed by the attorney general and
9 shall state the following:

10 (i) The importer accepts joint and several liability with the nonparticipating
11 manufacturer for all obligations to place funds into a qualified escrow fund for
12 payment of all civil penalties and for payment of all reasonable costs and expenses
13 of investigation and prosecution, including attorneys' fees.

14 (ii) The importer consents to personal jurisdiction in Louisiana for the
15 purposes of claims by the state for any obligation to place funds into a qualified
16 escrow fund for payment of any civil penalties and for payment of any reasonable
17 costs and expenses of investigation or prosecution, including attorneys' fees.

18 (iii) The importer has appointed a registered agent for service of process in
19 Louisiana according to the same requirements as established by in this part for any
20 nonresident or foreign nonparticipating manufacturer that has not yet registered to
21 do business in this state as a foreign corporation or business entity.

22 * * *

23 B. Not later than ninety days after June 25, 2004, the attorney general shall
24 develop and make available for public inspection or publish on its website a
25 directory listing all tobacco product manufacturers that have provided current and
26 accurate certifications conforming to the requirements of Subsection A and all brand
27 families, including country of origin, that are listed in such certifications (the
28 directory), except as noted below.

29 * * *

1 (2) Neither a tobacco product manufacturer nor brand family shall be
2 included or retained in the directory if the attorney general concludes, in the case of
3 a nonparticipating manufacturer, that:

4 (a) Any escrow payment required pursuant to R.S. 13:5061 et seq., ~~for any~~
5 ~~period~~ by the date due for any quarter for any brand family, whether or not listed by
6 such nonparticipating manufacturer, has not been fully paid into a qualified escrow
7 fund governed by a qualified escrow agreement that has been approved by the
8 attorney general; or

9 (b) Any outstanding final judgment, including interest thereon, for a
10 violation of R.S. 13:5061 et seq. has not been fully satisfied for such brand family
11 or such manufacturer.

12 (3) A manufacturer and its brand families may be removed from the state
13 directory if it is removed from the directory of another state based on acts or
14 omissions that would, if done in this state, be grounds for removal from the state
15 directory under this section, unless the manufacturer demonstrates that its removal
16 from the other state's directory was effected without due process. Procedure for
17 removal from the state directory shall be governed by the procedure set forth in R.S.
18 13:5077(A). A manufacturer that is removed from the state directory under this
19 subsection shall be eligible for reinstatement upon the earlier of the date on which
20 it cures the violation or is reinstated to the directory in the other state.

21 (4) Failure to submit complete and accurate reports as required pursuant to
22 R.S. 13:5075 shall result in the manufacturer and its brand families being removed
23 from the state directory under the procedure set forth in R.S. 13:5077(A).

24 ~~(3)~~ (5) The attorney general shall update the directory as necessary in order
25 to correct mistakes and to list or de-list a tobacco product manufacturer or brand
26 family to keep the directory in conformity with the requirements of this Part. Fifteen
27 days prior to the listing or de-listing of a tobacco product manufacturer or brand
28 family, the attorney general shall transmit a notification to every stamping agent.

1 equivalent stick count, that they purchased from tobacco product manufacturers
2 during the previous calendar month or otherwise paid the tax due for such cigarettes.
3 The stamping agent shall maintain and make available to the secretary and the
4 attorney general all invoices and documentation of purchases and sales of all tobacco
5 product manufacturer cigarettes and any other information relied upon in reporting
6 to the secretary and the attorney general for a period of three years.

7 B. The requirements of Subsection A of this Section shall be satisfied if the
8 stamping agent timely submits to the secretary and attorney general reports required
9 generally under R.S. 47:841 et seq and this Chapter and certifies that the reports are
10 complete and accurate.

11 C. Each manufacturer and importer that sells any cigarettes in or into the
12 state shall, within twenty days following the end of the month, file a report on a form
13 to be prescribed by the attorney general and certify that the report is complete and
14 accurate. The report shall contain the following information: the total number of
15 cigarettes sold by that manufacturer or importer in or into the state during that
16 month, and identifying by name and number of cigarettes (i) the manufacturers of
17 those cigarettes (ii) the brand families of those cigarettes and (iii) the purchasers of
18 those cigarettes. A manufacturer's or importer's report shall include cigarettes sold
19 in or into the state through its sales entity affiliate.

20 D. The requirements of Subsection B of this Section shall be satisfied and
21 no further report shall be required under this Section with respect to cigarettes if the
22 manufacturer or importer timely submits to the attorney general and secretary the
23 report or reports required to be submitted by it with respect to those cigarettes under
24 15 U.S.C. §376 to the attorney general and certifies that the reports are complete and
25 accurate.

26 E. Upon request by the attorney general, a manufacturer or importer shall
27 provide copies of reports filed in other states containing information similar to those
28 provided by Subsections A and C of this Section.

1 F. Any reports submitted to the secretary or commissioner under R.S. 47:841
2 et seq. or R.S. 26:901 et seq. also be submitted contemporaneously to the attorney
3 general.

4 G. The secretary is authorized to disclose to the attorney general any
5 information received under this Part and requested by the attorney general for
6 purposes of determining compliance with and enforcing the provisions of this Part.
7 The secretary, ~~and attorney general, and commissioner~~ shall share with each other
8 the information received under this Part and may share such information with other
9 federal, state, or local agencies only for purposes of enforcement of this Part, R.S.
10 13:5061 et seq., or corresponding laws of other states. Additionally, the sharing of
11 information by the secretary under this ~~Part~~ Chapter shall not constitute a violation
12 of R.S. 47:1508.

13 ~~E.~~ H. The attorney general may require at any time from the nonparticipating
14 manufacturer, proof from the financial institution in which such manufacturer has
15 established a qualified escrow fund for the purpose of compliance with R.S. 13:5061
16 et seq., of the amount of money in such fund, exclusive of interest, the amount and
17 date of each deposit to such fund, and the amount and date of each withdrawal from
18 such fund.

19 ~~D.~~ I. In addition to the information required to be submitted pursuant to this
20 Part and R.S. 13:5061 et seq. or R.S. 47:843 et seq., the secretary and the attorney
21 general may require a stamping agent or tobacco product manufacturer to submit any
22 additional information including but not limited to samples of the packaging or
23 labeling of each brand family, as is necessary to enable the attorney general to
24 determine whether a tobacco product manufacturer is in compliance with this Part.

25 ~~E.~~ J. ~~To promote compliance with this Part, the attorney general may require~~
26 ~~a tobacco product manufacturer subject to the requirements of R.S. 13:5073(A)(2)~~
27 ~~to make the escrow deposits required in annual, quarterly, or monthly installments~~
28 ~~during the year in which the sales covered by such deposits are made. All escrow~~
29 ~~deposits under R.S. 13:5061, et seq. shall be made on a quarterly basis, no later than~~

1 forty-five days after the end of each calendar quarter in which the sales are made.
2 Each failure to make a full quarterly installment deposit shall constitute a separate
3 violation of the state's escrow laws. The secretary and the attorney general may
4 require production of information sufficient to enable the attorney general to
5 determine the adequacy of the amount of the installment deposit. The attorney
6 general shall promptly review the amount deposited by each nonparticipating
7 manufacturer for each calendar quarter against the reports received and other
8 information, and shall invoice each nonparticipating manufacturer for which it
9 concludes that an additional deposit was owed.

10 K. Importers of any brand of families of a nonparticipating manufacturer in
11 or into the state shall be jointly and severally liable with the nonparticipating
12 manufacturer for all obligations to place funds into a qualified escrow fund for
13 payment of all civil penalties and for payment of all reasonable costs and expenses
14 of investigation and prosecution, including attorneys' fees, and consent to personal
15 jurisdiction in Louisiana for the purposes of claims by the state for payment of such
16 obligations.

17 §5076. Penalties; other remedies

18 A. In addition to or in lieu of any other civil or criminal remedy provided by
19 law, upon a determination that a stamping agent has violated R.S. 13:5073(C) or any
20 regulation adopted pursuant to this Part, the secretary may revoke or suspend the
21 license of the dealer in the manner provided by R.S. 47:844 and R.S. 26:916. Each
22 stamp affixed and each sale, offer to purchase, or offer to sell cigarettes in violation
23 of R.S. 13:5073(C) shall constitute a separate violation. For each violation hereof,
24 the secretary may also impose a civil penalty in an amount not to exceed the greater
25 of five hundred percent of the retail value of the cigarettes or five thousand dollars
26 upon a determination of violation of R.S. 13:5073(C) or any regulations adopted
27 pursuant thereto. Such penalty shall be imposed in the manner provided by R.S.
28 47:843 et seq. and R.S. 26:901, et seq.

1 ~~B: C.~~ No person shall be issued a license or granted a renewal of a license
2 to act as a stamping agent unless such person has certified in writing, under penalty
3 of perjury, that such person will comply fully with this Section.

4 ~~C: D.~~ For the year 2004, because the effective date of this Part is later than
5 April 15, 2004, the first report of stamping agents required by R.S. 13:5075(A) shall
6 be due thirty calendar days after June 25, 2004; the certifications by a tobacco
7 product manufacturer described in R.S. 13:5073(A) shall be due forty-five calendar
8 days after June 25, 2004; and the directory described in R.S. 13:5073(B) shall be
9 published or made available within ninety calendar days after June 25, 2004.

10 E. The secretary, commissioner, and attorney general shall each designate
11 employees who shall oversee the administration and enforcement of the laws and
12 regulations regarding the tobacco Master Settlement Agreement for its office and
13 who shall confer monthly to establish and monitor practices to promote ongoing
14 compliance under the Master Settlement Agreement. A tri-agency summit shall be
15 held on an annual basis for agency representatives and staff.

16 ~~D: F.~~ F. The secretary or the commissioner in conjunction with the attorney
17 general may promulgate regulations necessary to effect the purpose of this Part.

18 ~~E: G.~~ G. In any action brought by the state to enforce this Part, the attorney
19 general, the commissioner, and secretary shall be entitled to recover the costs of the
20 investigation, expert witness fees, the action, and reasonable attorney fees.

21 ~~F: H.~~ H. If a court determines that a person has violated this Part, the court shall
22 order any profits, gains, gross receipts, or other benefits from the violation to be
23 disgorged and paid to the state treasurer for deposit in the tobacco control special
24 fund, which is hereby created. The tobacco control special fund shall be used by the
25 attorney general for tobacco enforcement and control matters. Unless otherwise
26 expressly provided, the remedies or penalties provided by this Part are cumulative
27 to each other and to the remedies or penalties available under all other laws of this
28 state.

1 ~~G. I.~~ If a court of competent jurisdiction finds that the provisions of this Part
2 and of R.S. 13:5061 et seq. conflict and cannot be harmonized, then the provisions
3 in R.S. 13:5061 et seq. shall control. If any Section, Subsection, Paragraph,
4 Subparagraph, Item, sentence, clause, phrase, or word of this Part causes R.S.
5 13:5061 et seq. to no longer constitute a qualifying or model statute, as those terms
6 are defined in the Master Settlement Agreement, then that portion of this Part shall
7 not be valid. If any Section, Subsection, Paragraph, Subparagraph, Item, sentence,
8 clause, phrase, or word of this Part is for any reason held to be invalid, unlawful, or
9 unconstitutional, such decision shall not affect the validity of the remaining portions
10 of this Part.

11 § 5078. Bond

12 A. All nonparticipating manufacturers shall post a bond or its cash
13 equivalent for the benefit of the state which is subject to execution under Subsection
14 C of this Section. The bond shall be posted by corporate surety located within the
15 United States or the cash equivalent of the bond shall be posted by the
16 nonparticipating manufacturer in an account approved by the state. The bond or its
17 cash equivalent shall be posted and evidence of such posting shall be provided to the
18 attorney general at least ten days in advance of each calendar quarter as a condition
19 to the nonparticipating manufacturer and its brand families being included in the
20 directory for that quarter.

21 B. The amount of the bond shall be determined as follows:

22 (1) Unless Paragraph (3) of this Subsection is applicable, for a
23 nonparticipating manufacturer which has been listed on Louisiana's state directory
24 for at least three years, the amount of the bond required shall be fifty thousand
25 dollars or the highest amount owed for any quarter over the past three years,
26 whichever is greater;

27 (2) Unless Paragraph (3) of this Subsection is applicable, for a
28 nonparticipating manufacturer which has not been listed on Louisiana's state
29 directory for at least three years the amount of the bond required shall be determined

1 by the attorney general based on any prior history in any state, as well any other
2 considerations the attorney general deems relevant, but shall not be less than one
3 hundred thousand dollars in any event; and

4 (3) For a nonparticipating manufacturer which has failed, in the past three
5 years, to make a full and timely escrow deposit due under R.S. 13:5063, unless the
6 failure was not knowing or intentional and was promptly cured upon notice, or for
7 any nonparticipating manufacturer which was involuntarily removed from any state's
8 directory, unless the removal was determined to have been erroneous, the amount of
9 the bond required shall be the greater of (i) one hundred thousand dollars or (ii) the
10 greatest amount of escrow owed by the nonparticipating manufacturer or its
11 predecessor in any calendar year in any state within the preceding five calendar
12 years.

13 C. If a nonparticipating manufacturer that posted a bond has failed to make,
14 or have made on its behalf by an entity with joint and several liability, escrow
15 deposits equal to the full amount owed for a quarter within fifteen days following the
16 due date for the quarter under R.S. 13:5063, the state may execute upon the bond,
17 first to recover delinquent escrow, which amount shall be deposited into a qualified
18 escrow account under R.S. 13:5063, and then to recover civil penalties and costs
19 authorized under such section. Escrow obligations above the amount collected on
20 the bond remain due from that nonparticipating manufacturer and from the importers
21 that sold its cigarettes during that calender quarter.

22 * * *

23 Section 2. R.S. 26:904(A), 916(H), 918(B) and 921 are hereby amended and
24 reenacted and R.S. 26:901(19) through (26), 902(5), 904(D), 906(H), (I), and (J), 908(D),
25 916(I) through (N), and 918(C) and (D) are hereby enacted to read as follows:

26 §901. Definitions

27 * * *

28 (19) "Brand Family" has the meaning as set forth in R.S. 13:5072(1).

1 (20) "Exporter License" means the stamping agent designation as set forth
2 in R.S. 26:902(5)(b).

3 (21) "Person" means any natural person, trustee, company, partnership,
4 corporation, or other legal entity.

5 (22) "Purchase" means acquisition in any manner, for any consideration.
6 The term shall include transporting or receiving product in connection with a
7 purchase.

8 (23) "Sale" or "sell" means any transfer, exchange, or barter in any manner
9 or by any means for any consideration. The term shall include distributing or
10 shipping product in connection with a sale. References to a sale "in" or "into" a state
11 refer to the state of the destination point of the product in the sale, without regard to
12 where title was transferred. References to sale "from" a state refer to the sale of
13 cigarettes that are located in that state to the destination in question without regard
14 to where title was transferred.

15 (24) "Sales Entity Affiliate" means an entity that (i) sells cigarettes that it
16 acquires directly from a manufacturer or importer and (ii) is affiliated with that
17 manufacturer or importer. Entities are affiliated with each other if one, directly or
18 indirectly through one or more intermediaries, controls or is controlled by or is under
19 common control with the other.

20 (25) "Stamping agent" means a dealer that is authorized to affix tax stamps
21 to packages or other containers of cigarettes under R.S. 47:843 et seq. or any dealer
22 that is required to pay the excise tax or tobacco tax imposed pursuant to R.S. 47:841
23 et seq. on cigarettes.

24 (26) "State directory" or "directory" means the directory compiled by the
25 attorney general under R.S. 13:5073, or, in the case of reference to another state's
26 directory, the directory compiled under the similar law in that other state.

27 §902. Permits

1 §908. Issuance of permit

2 * * *

3 D. No exporter license may be issued to a person that violated a certification
4 it previously made under R.S. 26:906(J)(2).

5 * * *

6 §916. Suspensions or revocations

7 * * *

8 H. The designation of a stamping agent shall be subject to termination if a
9 permittee does any of the following:

10 (1) Fails to provide a report or certification as required by this Chapter, R.S.
11 13:5061 et seq., or R.S. 47:841 et seq.,

12 (2) Files an incomplete or inaccurate report and/or certification.

13 (3) Fails to pay taxes as provided in R.S. 47:841 et seq., or deposit escrow
14 as provided in R.S. 13:5061 et seq..

15 (4) Fails to sell cigarettes in or into the state pursuant to R.S. 47:843 or sells
16 unstamped cigarettes of a manufacturer or brand family that is not at the time listed
17 on the state directory, or possesses such cigarettes more than fifteen days after
18 receiving notice that the manufacturer or brand family is not on the state directory,
19 except as expressly permitted in R.S. 47:841 et seq.

20 (5) Purchases or sells cigarettes in violation of the provisions of this Chapter
21 or R.S. 47:841 et seq.

22 I. In the case of a first failure under R.S. 26:916(H)(4) and (5), the stamping
23 agent may be entitled to cure the failure within thirty days of being notified of the
24 violation. The designation of a stamping agent that fully cures the failure during the
25 prescribed period shall not be terminated on account of that failure.

26 J. The license of a stamping agent may be subject to termination if its similar
27 license is terminated in any other state based on acts or omissions that would be
28 grounds for license termination under this Section, unless the stamping agent
29 demonstrates that its license termination in the other state was terminated without

1 due process. A stamping agent whose license is terminated under this Subsection
2 shall be eligible for reinstatement upon the earlier date specified by Subsection L of
3 this Section for the omission in question or reinstatement of its license by the other
4 state.

5 K. The commissioner shall promptly remove any stamping agent whose
6 designation is terminated from the list required by R.S. 26:921(B) and shall publish
7 a notice of the termination on its website and send notice of the termination to all
8 wholesale dealers, the attorney general, and the secretary. The attorney general shall
9 send notice of the termination to all persons listed on the state directory.

10 (1) Beginning five days following the publication and sending of such
11 notice, no person may sell cigarettes nor purchase cigarettes from the stamping agent
12 whose designation has been terminated.

13 (2) A stamping agent whose designation has been terminated may, within
14 thirty days from the date of the publication, return any unaffixed stamps to the
15 secretary for a refund equal to the current value of each stamp returned. No refunds
16 shall be issued after thirty days from the date of the publication of the termination.

17 L. A stamping agent whose designation is terminated shall be removed from
18 the list required by R.S. 26:921(B).

19 (1) Any person that sells cigarettes to or purchases cigarettes from a
20 terminated stamping agent after the stamping agent has been removed from the
21 directory by R.S. 26:921(B), shall be jointly and severally liable for any taxes
22 applicable to such cigarettes under R.S. 47:841 and for any escrow due on such
23 cigarettes under R.S. 13:5063 during the period of the termination.

24 M. A stamping agent whose license is terminated shall be eligible for
25 reinstatement no less than ninety days and no more than three years following date
26 of termination.

27 N. In addition to any other causes enumerated in this Chapter, the
28 commissioner shall suspend or revoke any permit of any dealer that fails to pay taxes
29 due to the state.

1 * * *

2 §918. Civil penalties

3 * * *

4 B. In the case of a second violation pursuant to R.S. 26:916(H)(4)-(5) or of
5 a first violation of R.S. 26:916(H)(1)-(3) or (6), the stamping agent shall be subject
6 to a civil penalty of up to one thousand dollars.

7 C. In the case of a third or subsequent violation under R.S. 26:916(H)(4)-(5)
8 or of a second or subsequent violation of R.S. 26:916(H)(1)-(3) or (6), the stamping
9 agent shall be subject to a civil penalty of up to five thousand dollars per violation.
10 In the case of R.S. 26:916(H)(4)-(6), each sale shall constitute a separate offense.

11 D. Any fine imposed upon any permittee or the revocation or suspension of
12 a permit is in addition to and is not in lieu of or a limitation upon any other penalty
13 imposed by law and not contained in this Chapter.

14 * * *

15 §921. Public records

16 A. The commissioner shall maintain a list of all wholesale and retail dealers
17 who hold a permit in this state. Nothing contained in this Chapter shall be construed
18 to prevent the commissioner from disclosing to any person upon request the name
19 and address of any dealer who holds a permit, but the commissioner shall not
20 disclose any tax information the disclosure of which is otherwise prohibited by law.

21 B. The commissioner shall provide on its website the list of all persons
22 licensed as stamping agents pursuant to R.S. 26:902(5)(a).

23 C. The commissioner shall provide on its website the list of all persons
24 holding an exporter license pursuant to R.S. 26:902(5)(b).

25 * * *

26 Section 3. R.S. 39:98.7(B) is hereby amended and reenacted to read as follows:

27 § 98.7. Tobacco Settlement Enforcement Fund

28 * * *

1 cigarettes in or into the state, cause the same to have the requisite denominations and
2 amount of stamp or stamps to represent the tax affixed as stated herein. The
3 stamping of the unstamped cigarettes shall actually begin as soon as practicable after
4 receipt of the cigarettes in the premises of the tobacco dealer and shall be continued
5 with reasonable diligence by the dealer until all of the unstamped cigarettes have
6 been stamped as provided by law.

7 B. Stamping agents may sell cigarettes in or into the state, may purchase
8 cigarettes for resale in or into the state and may affix a stamp required by this
9 Chapter only if the manufacturer and brand family of the cigarettes are listed on the
10 state directory at the time of stamping and the stamping agent purchased the
11 cigarettes directly from the manufacturer or importer of the cigarettes.

12 C. Unstamped cigarettes. If and whenever any of the cigarettes taxed in this
13 Chapter are found in the place of business of any tobacco dealer or any other person,
14 except bonded interstate tobacco dealers, without the stamps affixed as herein
15 provided, the prima facie presumption shall arise that such cigarettes are kept therein
16 in violation of the provisions of this Chapter.

17 (1) A manufacturer or importer may, in accordance with R.S. 47:862,
18 possess, transports, or cause to be transported unstamped cigarettes that it
19 manufactures or imports. A manufacturer or importer may sell its unstamped
20 cigarettes in or into the state to a stamping agent under any of the following
21 circumstances:

22 (a) The manufacturer and brand family of the cigarettes are at the time of
23 sale listed on the state directory.

24 (b) The manufacturer and brand family of cigarettes are not at the time of
25 sales listed on the state directory, but any of following conditions apply:

26 (i) The stamping agent is authorized to affix the stamp or, where permitted
27 by Paragraph (2) of this Subsection, pays the taxes imposed by another state on
28 whose directory the manufacturer and brand family of the cigarettes are listed at the
29 time of the sales.

1 manufacturers and brand families of the packages to which it affixed each respective
2 type of tax stamp;

3 (c) In the case of a stamping agent that is an importer, reports under
4 Subparagraph (a) of this Paragraph shall not include cigarettes it sold to a stamping
5 agent as permitted under R.S. 26:902(5)(a) and that it separately reports pursuant to
6 R.S. 13:5075.

7 (2) Any person that during a month acquired, purchased, sold, possessed,
8 transferred, transported or caused to be transported in or into the state cigarettes of
9 a manufacturer or brand family that were not on the state directory at the time shall
10 file, not later than the twentieth day of the month following the end of the previous
11 calendar month, a report on a form provided by the secretary and certify that the
12 report is complete and accurate. The report shall contain, in addition to any further
13 information that the secretary or the attorney general may reasonably require, the
14 following information:

15 (a) The total number of those cigarettes, in each case identifying by name
16 and number of cigarettes (i) the manufacturer of those cigarettes, (ii) the brand
17 families of those cigarettes, (iii) in the case of a sale or transfer, the name and
18 address of the recipient of those cigarettes, (iv) in the case of an acquisition or
19 purchase, the name and address of the seller or sender of those cigarettes, and (v) the
20 other state(s) on whose directory the manufacturer and brand family of those
21 cigarettes were listed at the time and whose stamps the person is authorized to affix,
22 or where permitted under this Chapter whose taxes the person is authorized to pay.

23 (b) In the case of acquisition, purchase, or possession, the detail of the
24 person's subsequent sale or transfer of those cigarettes, identifying by name and
25 number of cigarettes (i) the brand families of those cigarettes, (ii) the date of the sale
26 or transfer, (iii) the name and address of the recipient, (iii) the number of stamps of
27 each other state that the person affixed to the packages containing those cigarettes
28 during that month, (iv) the total number of cigarettes contained in the packages to
29 which it affixed respective other state's stamp, (v) by name and number of cigarettes

1 that manufacturers and brand families of the packages to which it affixed each
2 respective other state's stamp and (vi) a certification that it reported each sale or
3 transfer to the taxing authority of the other state not later than the twentieth day of
4 the month following the end of the previous calendar month.

5 (3) The secretary may share the information reported under this Section with
6 the taxing or law enforcement authorities of this state or other states.

7 ~~(2)~~(4)(a) Every registered tobacco dealer receiving and handling cigars and
8 smoking tobaccos in Louisiana upon which the tax has not been previously paid
9 shall, within twenty days after the expiration of each calendar month, file with the
10 secretary a report, under oath, of the total amount of such cigars and smoking
11 tobaccos received and handled during the preceding month, and shall pay the taxes
12 due thereon, and all out of state Louisiana registered tobacco dealers shall file a
13 report, under oath, disclosing all sales of cigars and smoking tobaccos in Louisiana
14 during the preceding calendar month, and shall pay the taxes due thereon. This
15 report shall be made on forms prescribed and furnished by the secretary and shall
16 show such other information as the secretary may require so that the taxes levied in
17 R.S. 47:841 can be reported and computed.

18 (b) A six percent discount is allowable for timely and accurately filing such
19 report only on those purchases made by registered tobacco dealers in Louisiana who
20 have a direct purchasing contract with a manufacturer. The secretary shall allow
21 wholesale tobacco dealers of other states serving a trade area of retail dealers in this
22 state who have a direct purchasing contract with a manufacturer to sell in this state
23 with the benefit of the discount provided, however, in no instance shall the discount
24 be greater than that which is received by such wholesale tobacco dealers in their state
25 of domicile and further provided that regardless of the discount extended by other
26 states, such discount shall not exceed six percent, provided said dealers meet the
27 requirements of a wholesale dealer as set forth in R.S. 47:842(5). The transfer or
28 disposal by a qualified dealer of any benefit herein conferred is prohibited except in
29 the case of the original recipient.

1 For purposes of this Chapter:

2 ~~(1) "Adult" means a person who is at least the legal minimum purchase age.~~

3 ~~(2) (1) "Consumer" means an individual who is not licensed as a cigarette~~
4 ~~wholesale dealer or cigarette retail dealer as defined in R.S. 47:842.~~

5 ~~(3) (2) "Delivery sale" means any sale of cigarettes to a consumer in this~~
6 ~~state where either (a) the purchaser submits the order for such sale by means of a~~
7 ~~telephonic or other method of voice transmission, the mails or any other delivery~~
8 ~~service, or the Internet or other online service, or (b) the cigarettes are delivered by~~
9 ~~use of the mails or of a delivery service. A sale of cigarettes shall be a delivery sale~~
10 ~~regardless of whether the seller is located within or without this state. A sale of~~
11 ~~cigarettes not for personal consumption to a person who is a cigarette wholesale~~
12 ~~dealer or a cigarette retail dealer shall not be a delivery sale.~~

13 ~~(4) (3) "Delivery service" means any person who is engaged in the~~
14 ~~commercial delivery of letters, packages, or other containers.~~

15 ~~(5) (4) "Secretary" means the secretary of the Department of Revenue for the~~
16 ~~state of Louisiana or his duly authorized representatives.~~

17 ~~(6) "Legal minimum purchase age" is the minimum age at which an~~
18 ~~individual may legally purchase cigarettes in this state as provided in R.S.~~
19 ~~26:911(A)(1).~~

20 ~~(7) (5) "Mails" or "mailing" means the shipment of cigarettes through the~~
21 ~~United States Postal Office.~~

22 ~~(8) (6) "Person" means the same as that term is defined in R.S. 1:10, except~~
23 ~~that a delivery service that is a motor carrier of property registered with the U.S.~~
24 ~~Department of Transportation and/or an air carrier certified by the U.S. Department~~
25 ~~of Transportation to provide all-cargo air transportation, when engaged in the~~
26 ~~business of the commercial delivery of letters, packages, or other containers, is not~~
27 ~~a person for purposes of this Chapter. any natural person, trustee, company,~~
28 ~~partnership, corporation or other legal entity.~~

1 § 876. Collection of Taxes

2 A. Each person ~~accepting~~ placing a purchase order for a delivery sale shall
3 ~~collect and~~ remit to the secretary all ~~cigarette~~ taxes imposed by this state with respect
4 to such delivery sale, except that such collection and remission shall not be required
5 to the extent such person has obtained proof, in the form of the presence of
6 applicable tax stamps or otherwise, that such taxes already have been paid to the
7 state.

8 B. In addition to the obligations to pay any taxes above, the person placing
9 a purchase order for delivery sale shall also be obligated to pay any interest, costs,
10 and attorneys' fees incurred in obtaining payment of the taxes imposed by this state
11 as well as any penalties assessed under this Chapter.

12 § 877. Penalties

13 A. Except as otherwise provided in this Section, a first violation of any
14 provision of ~~this Chapter~~ R.S. 47:872 shall be punishable by a fine of one thousand
15 dollars or five times the retail value of the ~~cigarettes~~ tobacco products involved,
16 whichever is greater. A second or subsequent violation of ~~this Chapter~~ R.S. 47:872
17 shall be punishable by a fine of five thousand dollars or five times the retail value of
18 the ~~cigarettes~~ tobacco products involved, whichever is greater.

19 B. Any person who knowingly violates any provision of ~~this Chapter~~ R.S.
20 47:872, shall for each such offense be fined ten thousand dollars or five times the
21 retail value of the ~~cigarettes~~ tobacco products involved, whichever is greater, or
22 imprisoned not more than five years, or both.

23 ~~C.~~ ~~Any person failing to collect or remit to the secretary any tax required in~~
24 ~~connection with a delivery sale shall be assessed, in addition to any other penalty, a~~
25 ~~penalty of five times the retail value of the cigarettes involved.~~

26 D. Forfeiture

27 (1) Any ~~cigarettes~~ tobacco products sold or attempted to be sold in a delivery
28 sale ~~that do not meet requirements of this Chapter~~ shall be forfeited to the state and
29 destroyed.

1 attorney general, and commissioner shall share with each other the information
2 received under the provisions of R.S. 13:5061 et seq., R.S. 13:5071 et seq., RS.
3 26:901 et seq., and R.S. 47:841 et seq. and may share such information with other
4 federal, state, or local agencies only for purposes of enforcement of those sections
5 and the corresponding laws of other states.

6 * * *

7 Section 5. R.S. 47:873 through 875 are hereby repealed in their entirety.

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)]

Thompson

HB No. 641

Abstract: Relative to tobacco enforcement, includes restrictions on transactions of unstamped cigarettes, adds requirements for manufacturers not participating in the tobacco Master Settlement Agreement, and increases the dedication into the Tobacco Settlement Enforcement.

TITLE 13 PROVISIONS

Present law (R.S. 13:5071, et. seq.) establishes procedural enhancements to prevent violations and aid in the enforcement of the Master Settlement Agreement between the state and leading United States tobacco product manufacturers.

Proposed law adds the following new definitions: commissioner, importer, package, person, sales, retailer, sale in or into, and sales entity affiliate. Removes “Department” as a definition for Revenue. Retains “secretary” as the sole definition under Title 13 which parallels reference to the agency in Titles 26 and 47.

Proposed law expands the requirements for Nonparticipating Manufacturers (“NPMs”) which will now include: proof that the NPM holds a valid permit under 26 U.S.C. 5713; sufficient information that it has posted an appropriate bond; and, a declaration from importers – wherein the NPM is a foreign company, consenting to the personal jurisdiction of Louisiana, accepting joint and several liability with the NPM, and appointing a registered agent for service of process within the State of Louisiana.

Under proposed law, the enumerated list of reasons a tobacco product manufacturer shall not be included on the Attorney General state directory shall now include: any violation of 13:5061 et seq. (which are now included as only quarterly whereas present law allowed it as annual, monthly, or quarterly); and, reciprocity to other states’ laws allowing LA to remove a manufacturer should its conduct in another state be cause for removal in this state; failure to submit (new) reports to the attorney general (monthly reports of the manufacturer’s sales under 13:5075).

Proposed law requires that all reports due under Titles 13, 26, and 47 by stamping agents be submitted to the secretary, commissioner, and attorney general and shall be complete and accurate stamping agent to be considered in full compliance.

Proposed law mandates that both manufacturers and importers that sell into the state submit monthly reports of total quantity of cigarettes and roll-your-own sold into the state, including manufacturer and brand names. Also, manufacturers and importers shall be required to submit timely reports and certify that the reports are complete and accurate. This section also includes reciprocity – the attorney general may request copies of reports from manufacturers or importers that they have filed in other states which include sales information (quantity, manufacturer, and brand). This language is entirely new as present law does not encompass manufacturer and importers in the reporting requirements.

Proposed law gives general authority for the attorney general to receive copies of any reports received by the commissioner. Present law does not include that general authority to receive all duplicate copies of reports submitted to the commissioner.

Present law allows for the secretary to share information received with the attorney general, without violating any taxpayer confidentiality laws (pursuant to 47:1508).

Proposed law now adds the commissioner of alcohol and tobacco control.

Present law authorizes the attorney general under to allow for annual, quarterly, or monthly escrow installments.

Proposed law mandates escrow payments on a quarterly basis.

Proposed law requires the attorney general to compare reports received from NPMs against the escrow deposits received and invoice the companies when it concludes additional escrow is owed.

Proposed law mandates that any person that sells cigarettes (including roll-your-own) from this state into another state shall file a report to the secretary and attorney general.

Proposed law specifies the procedures for notifying a manufacturer prior to the manufacturer's removal from the state directory by requiring a 30 day notice letter from the attorney general to the manufacturer; a manufacturer can attempt to fully cure such violation or refute the removal and detailed reasons for such removal during the 30 day notice period; allows the attorney general to recuperate reasonable costs and attorneys' fees for an unsuccessful challenge of a decision to not include or remove from the directory of a brand family or manufacturer; and, each person may provide a specific name/address for such notices to be sent.

Proposed law mandates that NonParticipating Manufacturers (NPMs) post a bond or cash equivalent for the benefit of the state; evidence of such bond shall be provided to the attorney general at least ten days prior to each calendar quarter as a condition to the NPM and its brand families' inclusion on the state directory.

Proposed law includes bond amounts as follows: NPMs or its affiliated which have been listed on Louisiana's directory for at least three years, it shall be \$50,000; for NPMs which have been listed on Louisiana's directory less than three years, it shall be \$100,000; and, for NPMs which have failed, in the past 3 years, to make its full escrow deposits, the bond shall be no less than \$100,000.

Proposed law allows the state to execute upon the bond, after the NPM fails to deposit escrow and the appropriate due date for escrow due that quarter has passed; the state shall execute the bond first, to receive delinquent escrow and then second, to receive civil penalties and costs. Any escrow obligations above that collected amount shall be due from the NPMs and its importers that sold cigarettes (or roll-your-own) that quarter.

TITLE 26 PROVISIONS

Present law (R.S. 26:901 et seq) provides for the regulation of tobacco products and the issuance of permits by the commissioner of alcohol and tobacco control.

Proposed law adds the following new definitions: brand family, person, purchase, sale or sell, sale in or into, sales entity affiliate, stamping agent, and state directory.

Proposed law adds a new permit designation, a stamping agent designation (as a particular permit other than a general wholesale dealer) to dealers that engage in the business of purchasing unstamped or non-tax paid cigarettes (or roll-your-own). In addition, a second new designation is created and classified as an exporter permit for any person/dealer that intends to carry and possess tobacco products not listed as approved on the attorney general directory.

Proposed law codifies current practices and expands detailing what stamping agents shall certify and submit to the commissioner; such certification shall include an enumerated list of obligations including providing accurate reports under present and proposed law, paying all state taxes, complying generally with Title 47, consenting to the jurisdiction of the state to enforce this Act, and waiver of sovereign immunity and confidentiality laws, allowing this state to share obtained information with other states.

Proposed law requires stamping agents located outside of the state to appoint an agent for service of process.

Proposed law codifies current practices and details the steps for the removal of a stamping agent; lists the enumerated reasons a stamping agent's license to be subject to termination.

Proposed law encompasses reciprocity of a stamping agent's conduct in another state, so that any Louisiana licensed stamping agent's license could be subject to termination if its actions in another state, if done in this state, would be subject termination of its stamping agent designation under proposed law.

Proposed law states that the commissioner shall publish on its website a notice of the removal of any stamping agent, after prompt removal; in addition, it requires that the attorney general send notice of such removal to all manufacturers on the state directory.

Proposed law codifies current practices not previously detailed and states the enumerated timeline for eligibility of stamping agent status for any stamping agent whose license has been terminated under this section, including reinstatement timeline of no less than 90 days and no more than three years following the termination date.

Proposed law establishes new civil penalties of up to \$1,000 for a first violation and \$5,000 for a third or subsequent violation for a second violation under 26:916(H)(4)-(5) or 26:916(H)(1)-(3) or (6).

TITLE 39 PROVISIONS

Present law (R.S. 39:98.7) establishes the Tobacco Settlement Enforcement Fund (the fund). Provides that the state treasurer shall transfer \$400,000 out of the state general fund into the fund to be used by the Dept. of Justice for enforcement of the Master Settlement Agreement.

Proposed law increases the amount deposited into the fund each year out of the state general fund from \$400,000 to \$1,485,000.

TITLE 47 PROVISIONS

Present law (R.S. 47:841 et seq.) provides for levy of tobacco taxes R.S. 47:871 et seq provides for the delivery sales of cigarettes.

Proposed law adds the following new definitions: brand family, person, purchase, sale or sell, sale in or into, sales entity affiliate, stamping agent, and state directory.

Present law states that individual packages of cigarettes shall not be sold or distributed in individual packages; proposed law retains that and add that such individual packages shall not be sold or distributed in, into, or from the state – regardless of destination (interstate, etc.), - thus possession of such individual packages would be prohibited.

Proposed law presumes that all packages of cigarettes sold in or into the State shall bear a tax stamp as required under Title 47 and that transporting or possession of unstamped cigarettes in the state is prohibited unless otherwise provided in law. Proposed law does not prohibit the possession of unstamped product unless it is encompassed by specific exemptions or provisions of (proposed) law.

Proposed law amends the language relating to the affixing of tax stamps, stating that a no person other than a dealer holding a valid stamping agent license under 26:902 may affix a tax stamp. Present law requires that only dealers affix a tax stamp on cigarettes; proposed law has added the stamping agent designation as a subset of wholesale dealer (which subsequently also requires a permit designation under Title 26), specifically for those wholesale dealers that may affix tax stamp on cigarettes.

Present law requires that all dealers shall immediately, upon receipt of unstamped cigarettes, affix a tax stamp on such product.

Proposed law specifies that only stamping agents shall be required to affix tax stamps, rather than all wholesale dealers. In addition proposed law clarifies that the affixing of tax stamps shall occur prior to the selling of cigarettes in or into the state.

Proposed law states that stamping agents may sell cigarettes in or into the state and subsequently affix a tax stamp if the manufacturers and brand family of the cigarettes are listed on the attorney general directory and the stamping agent purchased the cigarettes directly from the importer of cigarettes.

Proposed law allows manufacturer or importers to, in accordance with 47:862, possess, transport, or cause to be transported unstamped cigarettes if the product is on the attorney general directory or if not listed on the attorney general directory, under specific, enumerated circumstances, including but not limited to giving notice to the commissioner and attorney general 5 days prior to the cigarettes being transferred.

Proposed law requires that only dealers holding an exporter permit under Title 26 be allowed to sell cigarettes from this state into another state, if it first affixes a tax stamp required by the other state or if the law of the other state does not require tax stamps, to first pay the excise tax of the other state. In addition proposed law specifies that a dealer may not purchase or possess unstamped cigarettes in this state for sale into another state if the brand and manufacturer are not at the time listed on the other state's directory, and that a person may not sell cigarettes into another state if such a sale would violate the laws of the other state.

Proposed law adds stamping agents to the designation of registered tobacco dealers, including the requirement to file monthly reports with the Department of Revenue of monthly purchases, receipt and sale of unstamped taxable cigarettes and the purchase and use of cigarette tax stamps.

Proposed law requires that dealers and stamping agents to certify to the state that such reports are complete and accurate; proposed law codifies present practice whereby dealers certify on their monthly reports that such report are accurate.

Proposed law enumerates what the commissioner or attorney general may reasonably require dealers or stamping agents provide on such monthly reports, including the total number of stamps affixed that month and identifying the manufacturers/brands of cigarettes.

Proposed law adds importers to the requirement of submitting monthly reports of sales and purchases.

Proposed law requires any person that acquires, purchases, sold, possessed, transferred, transported, or caused to be transported in any month to submit monthly reports to the secretary.

Proposed law allows the secretary to share information reported under present and proposed law with taxing and law enforcement of this state or other states.

Proposed law requires that any person that sells cigarettes from this state into another state shall file a monthly report, by the 20th of the month following the month in which sales were made, and shall provide duplicate copies of such reports to the attorney general. Proposed law requires the following on the monthly report: number of stamps of each other state the dealer affixed to the packages, including the other state, and breakdown of brands/manufacturers; and, if such sales into another state are unstamped, then the total number of cigarettes contained in such packages by name/brands, the dealer's basis for belief that such state permits the sale of such cigarettes and the amount of excise or similar tax imposed.

Proposed law allows a common carrier to possess and transport unstamped cigarettes if the common carrier has in its possession documents establishing the title of the unstamped product remains with the manufacturer, importer, or stamping agent or bills of lading or other shipping documents establishing it is delivering the cigarettes on behalf of authorized on under this chapter to sell or transfer unstamped product.

Proposed law requires any person or dealer transporting tobacco under this paragraph to report the brand and quantity of cigarette to the secretary monthly.

Proposed law exempts the possession of up to 600 cigarettes bearing the stamp of another state for consumption by that person or that person's family if the cigarettes are physically brought into the state.

Present law provides for the seizure of cigarettes and their destruction..

Proposed law adds that seized product may also be dedicate to be used for law enforcement purposes and then destroyed.

Proposed law expands the definition of contraband to any cigarettes in violation of Titles 47 or 13.

Present law details that delivery sales shall be allowed if the person accepting such product is of legal age and such person must comply with a list of requirements.

Proposed law deletes present law.

Present law requires that any person placing a purchase order (the consumer) shall remit to the secretary all applicable taxes imposed by the state on such sale. In addition, there is the proposed obligation on the consumer to pay interest, costs, and attorneys' fees incurred in obtaining payment of the taxes imposed by this state as well as any penalties assessed.

Proposed law bans delivery sales, however, it continues to require that the applicable taxes be paid, in addition to such penalties and costs should a delivery sale occur.

Present law relative to penalties for violations of delivery sales, references cigarettes. Proposed law replaces cigarettes with tobacco products.

Proposed law requires the commissioner or his designee to bring an action for any violation of present law regarding delivery sales.

Present law does not permit the secretary to disclose any tax data of any tobacco dealer who holds a license or permit to operate in this state, except for information provided to the tobacco settlement unit of the attorney general's office (Department of Justice).

Proposed law expands disclosure to the attorney general to encompass but not be limited to any and all data with respect to any dealer, wholesaler, retailers, manufacturer, sales entity affiliate, or importer. Further permits disclosure to the commissioner.

Proposed law states that the secretary, commissioner, and attorney shall share with each other information received under each respective title and may share such information with other federal, state, or local agencies for enforcement purposes.

(Amends R.S. 13:5072, 5073(A)(3)(a)(v), (B)(2) through (4), 5075, 5076(A) and (B), and 5077; R.S. 26:904(A), 916(H), 918(B), and 921; R.S. 39:98.7(B); and R.S. 47:843(A)(2), (C)(3) and (4) and (D), 847(A) and (B), 849, 851(B), 862, 865(C)(3)(b) and (c), 871, 872, 876 through 878, and 1508(B)(11); adds R.S. 13:5073(A)(3)(a)(vi), (4)(e) and (f), (B)(5) and (6), 5074(D), and 5078; R.S. 26:901(19) - (26), 902(5), 904(D), 906(H), (I), and (J), 908(D), 916(I) through (N), and 918(C) and (D); R.S. 47:842(16)-(22), 843(A)(3), 847(C), and 851(E) and (F); and to repeal R.S. 47: 873 through 875)