



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1209

PRINTER'S NO. 1279

PRIME SPONSOR: Twardzik

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
General Fund	\$0	See Fiscal Impact

SUMMARY:

House Bill 1209, Printer's Number 1279 would make changes to the responsibilities of nonparticipating manufacturers and their importers as it relates to its obligations in the Master Settlement Agreement.

ANALYSIS:

This bill amends the Tobacco Product Manufacturers Directory Act to make various changes to the responsibilities of nonparticipating manufacturers and importers. First, the legislation amends the definition of "units sold" to be the number of individual cigarettes sold in Pennsylvania by the applicable tobacco product manufacturer during the year in question on which the Commonwealth has authority under Federal law to collect State excise tax unless the cigarettes are exempt from State excise taxes under Federal law.

The bill also adds definitions for Importer and Nonparticipating Manufacturer Adjustment Settlement Agreement. The bill requires that nonparticipating manufacturers and their importers bear joint and several liability for deposit of all escrow and payment of other costs required under the Tobacco Settlement Agreement Act. A nonparticipating manufacturer, in their required certification to the Office of Attorney General, would be required to include a complete list of its importers into the United States who sell cigarettes into the Commonwealth and the brand families sold by the importers.

It shall be the responsibility of the nonparticipating manufacturer to ensure its importers' compliance with the law, and any noncompliance, including failure to make required escrow payments, shall constitute grounds for removal of the nonparticipating manufacturer's brand families from the directory.

In addition, the bill requires all nonparticipating manufacturers to post a bond for the benefit of the Commonwealth.

If a nonparticipating manufacturer or its importers have failed to make escrow deposits equal to the full amount due within 15 days following the due date for the certification under the Tobacco Settlement Agreement Act, the Attorney General may execute upon the bond to recover delinquent escrow, civil penalties, and costs authorized under the Tobacco Settlement Agreement Act. The recovered funds shall be deposited into the General Fund. Escrow obligations, civil penalties, costs, fees, and disgorgement of profits determined to be due above the amount collected on the bond shall remain due from the nonparticipating manufacturer and from any importer that sold cigarettes during the period of default. Any delinquent escrow recovered shall reduce the amount of escrow due from the nonparticipating manufacturer by the dollar amount collected.

Nonparticipating manufacturers or their importers that do not make timely escrow payments pursuant to the Tobacco Settlement Agreement Act shall be removed from the directory even if their bond fully covers the escrow owed or other costs.

The Office of Attorney General shall attempt to obtain consent of the participating manufacturers under the Master Settlement Agreement for the changes made in the legislation. If consent is obtained, the Office of Attorney General shall provide notice to the Secretary of Revenue and transmit notice of the consent to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. If consent is not obtained, the Office of Attorney General shall similarly notify the Secretary of Revenue and transmit notice of refusal to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

The legislation takes effect 60 days after publication of the notice of consent in the Pennsylvania Bulletin.

FISCAL IMPACT:

This legislation is not expected to have an adverse impact on Commonwealth funds. In the event that a nonparticipating manufacturer or its importer does not make required escrow payments, the Attorney General would be permitted to execute upon their bond and recoup proceeds for the General Fund.

PREPARED BY: Brittany Van Strien
House Appropriations Committee (D)

DATE: June 22, 2023

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.