

BILL SUMMARY
2nd Session of the 54th Legislature

Bill No.:	HB2363
Version:	CCR A
Request Number:	10977
Author:	Rep. Doug Cox
Date:	5/20/2014
Impact:	Not Required

Research Analysis

HB2363 modifies the bonding and reporting requirements for nonparticipating manufacturers (NPMs) under the Master Settlement Agreement Complementary Act (MSACA). The measure requires all NPMs to post a bond for the exclusive benefit of the state if:

- the NPM was not listed in the Oklahoma Tobacco Directory during the 4 consecutive calendar quarters prior to the manufacturer's application to be on the directory;
- the NPM was involuntarily removed or denied recertification for noncompliance with the MSACA or the Prevention of Youth Access to Tobacco Act; or
- the Attorney General determines that the NPM poses an elevated risk for noncompliance.

The bond amount is the greater of \$50,000 or 50% of the required escrow when the NPM was previously listed. The manufacturer or importer must post a bond for three consecutive years or longer if the AG determines that the manufacturer or importers poses an elevated risk at the end of the three-year period.

Elevated risk of noncompliance by an NPM or an affiliate may be determined under the following circumstances:

- the NPM or its affiliates has been removed from the tobacco directory of another state or placed on a list of noncompliant companies;
- any state or the federal government has filed litigation against or has an unsatisfied judgment against the manufacturer for unsatisfied payments of a tobacco trust or escrow account; or
- the manufacturer or its affiliate has been charged, entered a plea or has been convicted of violating the Contraband Cigarette Trafficking Act, the Jenkins Act or the PACT Act.

The measure also requires wholesalers to report information on tobacco sales to the Attorney General when requested. The report would be due each month and must include the name and address of the outlet location of each retailer and wholesaler and monthly sale figures. Because the report is similar to the report required pursuant to Section 360.6 of Title 68, timely filing of the report to the AG will also be considered as meeting the reporting requirements required by the Oklahoma Tax Commission.

Lastly, to ensure compliance with statutes related to contraband tobacco sales, the AG may inspect all premises and records related to the manufacture, production, storage, transportation, sale or exchange of cigarettes and tobacco products located in the state of Oklahoma, located out of state and licensed by the Oklahoma Tax Commission or those which are on the AG's Directory of Tobacco Product Manufacturers.

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Fiscal Analysis

Not required.

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Other Considerations

None.

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