



# State of Tennessee

## PUBLIC CHAPTER NO. 907

### HOUSE BILL NO. 2579

By Representatives McCormick, Matlock, Kevin Brooks, Casada, Clemmons, Mark White, Shaw

Substituted for: Senate Bill No. 2570

By Senators Norris, Bell, Bowling, Briggs

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 6, Part 4, relative to retail accountability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-410(a), is amended by deleting subdivision (1) and substituting instead the following language:

(1) The commissioner is authorized to require persons selling beer, as defined in § 57-5-101, and persons selling tobacco products, as defined in § 67-4-1001, to retailers of such products to file an information report of such sales with the department. Nothing shall prevent a seller from including in its report sales of tangible personal property that are not otherwise required by this section.

SECTION 2. Tennessee Code Annotated, Section 67-6-410(a), is further amended by adding the following language as a new subdivision:

(3)

(A) The commissioner is authorized to require persons selling food, candy, or non-alcoholic beverages, including bottled soft drinks, to retailers of such products to file an information report of such net sales with the department. For purposes of this subdivision (a)(3):

(i) "Bottled soft drinks" has the same meaning as defined in § 67-4-402;

(ii) "Candy" has the same meaning as defined in § 67-6-102;

(iii) "Food" and "non-alcoholic beverages" includes the items described in the definition of "food and food ingredients" in § 67-6-102 except for the following, which shall not be required for purposes of this section: perishable grocery items such as fruits, vegetables, deli meat, deli cheese, deli salads, and other deli products; fresh meats; refrigerated meats; frozen meats; frozen dinners, entrees, and meals; frozen pizza; or other frozen foods; and

(iv) "Net sales" means the aggregate amount for which the reported products were sold during the reporting period, less any discounts, on-invoice adjustments, credit for returned merchandise, or other similar reductions in the amount charged to the retailer for the products covered by the report.

(B)

(i) Nothing in this section prevents a seller from including in its report net sales of tangible personal property that are not otherwise required by this section.

(ii) Nothing in this section prevents a seller from reporting on a more detailed basis than required by this section.

(C) This subdivision (a)(3) is deleted on July 1, 2019.

SECTION 3. Tennessee Code Annotated, Section 67-6-410(b), is amended by deleting subdivisions (4), (5), and (7) and substituting instead the following language:

(4) The general type of product sold; provided, that all candy, food, and non-alcoholic beverages, including bottled soft drinks, may be treated as a single type of product;

(5) The dates each type of product was sold; provided, for all candy, food, and non-alcoholic beverage sales, including bottled soft drinks, the date can reflect the last day of the period covered by the report;

(7) The monthly or quarterly sales total, in dollars, of each type of product sold; and

SECTION 4. Tennessee Code Annotated, Section 67-6-410, is amended by deleting subsection (c) and substituting instead the following:

(c) The information report shall be filed electronically in a format specified by the commissioner; provided, however, that electronic submission shall not be required from any wholesaler that does not keep records electronically in the ordinary course of business.

SECTION 5. Tennessee Code Annotated, Section 67-6-410(e), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The information report shall be filed for each calendar quarter and shall be due no later than the twenty-fifth day of the month immediately following the end of such period; provided, however, that nothing in this section prevents the seller from filing on a monthly basis.

SECTION 6. Tennessee Code Annotated, Section 67-6-410, is further amended by adding the following new subsections:

(g) The commissioner shall not issue any assessment under § 67-1-1438, including a notice of proposed assessment, to any retailer based solely on the information report submitted pursuant to this section unless the department first issues to the retailer an inquiry letter setting forth the information that led the department to its conclusion and providing an opportunity for the retailer to explain the inconsistencies between its purchases and reported sales. Nothing in this section prohibits a jeopardy assessment under § 67-1-1431.

(h)

(1) Any wholesaler making sales of candy, food, and non-alcoholic beverages, including bottled soft drinks, in an amount less than five hundred thousand dollars (\$500,000) during the prior calendar year shall not be required to include such sales of candy, food, and non-alcoholic beverage products, including bottled soft drinks, in the information report required under subsection (a).

(2) Any wholesaler making sales of candy, food, or non-alcoholic beverages, including bottled soft drinks, to an affiliate shall not be required to include sales of candy, food, or non-alcoholic beverages, including bottled soft drinks, to any affiliates in the information report required under subsection (a). For purposes of this section, "affiliate" has the same meaning as provided in chapter 4, part 20 of this title.

(3) Any wholesaler making sales of candy, food, or non-alcoholic beverages, including bottled soft drinks, to a retailer under the following

circumstances shall not be required to include such sales in the information report required by subsection (a):

(A) The retailer buys at least fifty percent (50%) of its candy, food, and non-alcoholic beverages, including bottled soft drinks, from an affiliate that falls within the exemption provided by subdivision (h)(2) and the retailer notifies the wholesaler in writing that this requirement is met; and

(B) The wholesaler shall retain the retailer's written notification and provide a copy to the department upon reasonable request.

(4) Any wholesaler making sales of candy, food, or non-alcoholic beverages, including bottled soft drinks, shall be allowed to submit the information required by this section in the format in which the seller ordinarily maintains such information.

(5) This subsection (h) is deleted on July 1, 2019.

(i) Nothing in this section limits the provisions of § 67-6-523.

(j) Any notice of proposed assessment sent to a taxpayer based on the information report submitted pursuant to this section shall clearly state in bold face type the following language:

As a taxpayer of Tennessee, you have a right to dispute any proposed assessment by filing a timely request for an informal conference.

(k) The department shall provide an assessment calculation for each type of product required to be reported under this section. The assessment calculation shall be posted on the web site of the department.

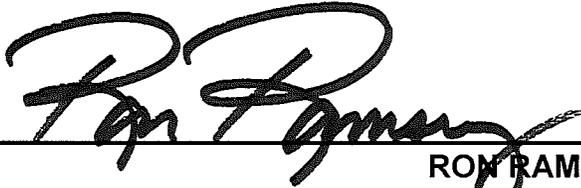
SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 2579

PASSED: April 19, 2016



BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES



RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 20<sup>th</sup> day of April 2016



BILL HASLAM, GOVERNOR