

54:50-9

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 358
NJSA: 54:50-9 (Tobacco Settlement Agreement: Inspection of tax records)
BILL NO: A3263

SPONSOR(S): Bagger and Vandervalk

DATE INTRODUCED: March 1, 2001

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 3, 2002
SENATE: December 17, 2001

DATE OF APPROVAL: January 6, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

A3263

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

ASSEMBLY, No. 3263

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 1, 2001

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

SYNOPSIS

Permits inspection of certain tax records by the Attorney General to facilitate the administration of the Tobacco Master Settlement Agreement.

CURRENT VERSION OF TEXT

As introduced.



A3263 BAGGER

2

1 AN ACT concerning inspection of certain records to facilitate the
2 administration of the Tobacco Master Settlement Agreement,
3 amending R.S.54:50-9.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. R.S.54:50-9 is amended to read as follows:

9 54:50-9. Nothing herein contained shall be construed to prevent:

10 a. The delivery to a taxpayer or **[his]** the taxpayer's duly
11 authorized representative of a copy of any report or any other paper
12 filed by **[him]** the taxpayer pursuant to the provisions of this subtitle
13 or of any such State tax law;

14 b. The publication of statistics so classified as to prevent the
15 identification of a particular report and the items thereof;

16 c. The **[commissioner]** director, in **[his]** the director's discretion
17 and subject to reasonable conditions imposed by **[him]** the director,
18 from disclosing the name and address of any licensee under any State
19 tax law, unless expressly prohibited by such State tax law;

20 d. The inspection by the Attorney General or other legal
21 representative of this State of the reports or files relating to the claim
22 of any taxpayer who shall bring an action to review or set aside any
23 tax imposed under any State tax law or against whom an action or
24 proceeding has been instituted in accordance with the provisions
25 thereof or of the reports or files of any taxpayer related to the purpose
26 of facilitating the administration of the provisions of P.L.1999, c.148
27 (C.52:4D-1 et seq.);

28 e. The examination of said records and files by the Comptroller,
29 State Auditor or State Commissioner of Finance, or by their respective
30 duly authorized agents;

31 f. The furnishing, at the discretion of the **[commissioner]**
32 director, of any information contained in tax reports or returns or any
33 audit thereof or the report of any investigation made with respect
34 thereto, filed pursuant to the tax laws, to the taxing officials of any
35 other state, the District of Columbia, the United States and the
36 territories thereof, providing said jurisdictions grant like privileges to
37 this State and providing such information is to be used for tax
38 purposes only;

39 g. The furnishing, at the discretion of the **[commissioner]**
40 director, of any material information disclosed by the records or files
41 to any law enforcing authority of this State who shall be charged with

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the investigation or prosecution of any violation of the criminal
2 provisions of this subtitle or of any State tax law;

3 h. The furnishing by the director [of the Division of Taxation] to
4 the State agency responsible for administering the Child Support
5 Enforcement program pursuant to Title IV-D of the federal Social
6 Security Act, Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names,
7 home addresses, social security numbers and sources of income and
8 assets of all absent parents who are certified by that agency as being
9 required to pay child support, upon request by the State agency and
10 pursuant to procedures and in a form prescribed by the director.

11 i. The furnishing by the director [of the Division of Taxation] to
12 the Board of Public Utilities any information contained in tax
13 information statements, reports or returns or any audit thereof or a
14 report of any investigation made with respect thereto, as may be
15 necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6
16 et al.).

17 j. The furnishing by the director [of the Division of Taxation] to
18 the Director of the Division of Alcoholic Beverage Control in the
19 Department of Law and Public Safety any information contained in tax
20 information statements, reports or returns or any audit thereof or a
21 report of any investigation made with respect thereto, as may be
22 relevant, in the discretion of the director, in any proceeding conducted
23 for the issuance, suspension or revocation of any license authorized
24 pursuant to Title 33 of the Revised Statutes.
25 (cf: P.L.1995, c.322, s.3.)
26

27 2. This act shall take effect immediately.
28
29

30 STATEMENT
31

32 This bill adds an exemption to the taxpayer information
33 confidentiality provisions of the State Tax Uniform Procedure Law to
34 permit inspection by the Attorney General or the Attorney General's
35 representatives of certain tax records, including those related to
36 tobacco sales, for the purpose of facilitating the administration of the
37 Tobacco Master Settlement Agreement.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3263

STATE OF NEW JERSEY

DATED: MARCH 22, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3263.

Assembly Bill No. 3263 adds an exemption to the taxpayer information confidentiality provisions of the State Tax Uniform Procedure Law to permit inspection by the Attorney General or the Attorney General's representatives of certain tax records, including those related to tobacco sales, for the purpose of facilitating the administration of the Tobacco Master Settlement Agreement.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

As part of the Tobacco Master Settlement Agreement, each state was required to enact the "Model Statute." New Jersey enacted the Model Statute as P.L.1999, c.148 (C.52:4D-1 et seq.). Under the Tobacco Master Settlement Agreement there will be an annual analysis of the market share of the tobacco manufacturers participating in the agreement. If in any year market share decreases by more than 2 percent and the decrease is found to be a result of the agreement, payments to states may be reduced on the basis of that loss. However, this reduction will not be imposed for a state that has enacted the Model Statute.

The Model Statute requires a tobacco manufacturer that did not enter into the agreement to make payments into an escrow arrangement based on the number of cigarettes the non-participating manufacturer sells in New Jersey. Those contributions prevent the non-participating manufacturer from gaining a pricing advantage over the manufacturers that entered the agreement.

This bill allows the Attorney General access to data required for the Attorney General to fulfill the General's enforcement duties under the Model Statute. While the amount of moneys the State will actually receive through the agreement cannot be determined at this time, by making the Model Statute administrable, the bill protects the State from losing principal payment amounts through market share decrease adjustments.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3263

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3263.

This bill adds an exemption to the taxpayer information confidentiality provisions of the State Tax Uniform Procedure Law to permit inspection by the Attorney General or the Attorney General's representatives of the reports or files of any tobacco product manufacturer for any period in which the manufacturer was not or is not in compliance with the law governing the administration of the Tobacco Master Settlement Agreement.

COMMITTEE AMENDMENTS

Committee amendments to the bill clarify that, while the records to which official access is authorized under the bill are tax records, the purpose for the exercise of such access would be to facilitate the administration of the Master Settlement Agreement; the access need not relate to the conduct of a tax dispute with a taxpayer.

FISCAL IMPACT

This bill was not certified as requiring a fiscal note.

As part of the Tobacco Master Settlement Agreement, each state was required to enact the "Model Statute." New Jersey enacted the Model Statute as P.L.1999, c.148 (C.52:4D-1 et seq.). Under the Tobacco Master Settlement Agreement there will be an annual analysis of the market share of the tobacco manufacturers participating in the agreement. If in any year market share decreases by more than 2 percent and the decrease is found to be a result of the agreement, payments to states may be reduced on the basis of that loss. However, this reduction will not be imposed for a state that has enacted the Model Statute.

The Model Statute requires a tobacco manufacturer that did not enter into the agreement to make payments into an escrow arrangement based on the number of cigarettes the non-participating manufacturer sells in New Jersey. Those contributions prevent the non-participating manufacturer from gaining a pricing advantage over the manufacturers that entered the agreement.

This bill allows the Attorney General access to data required for the Attorney General to fulfill the General's enforcement duties under the Model Statute. While the amount of moneys the State will actually receive through the agreement cannot be determined at this time, by making the Model Statute administrable, the bill protects the State from losing principal payment amounts through market share decrease adjustments.

[First Reprint]

ASSEMBLY, No. 3263

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 1, 2001

Sponsored by:

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

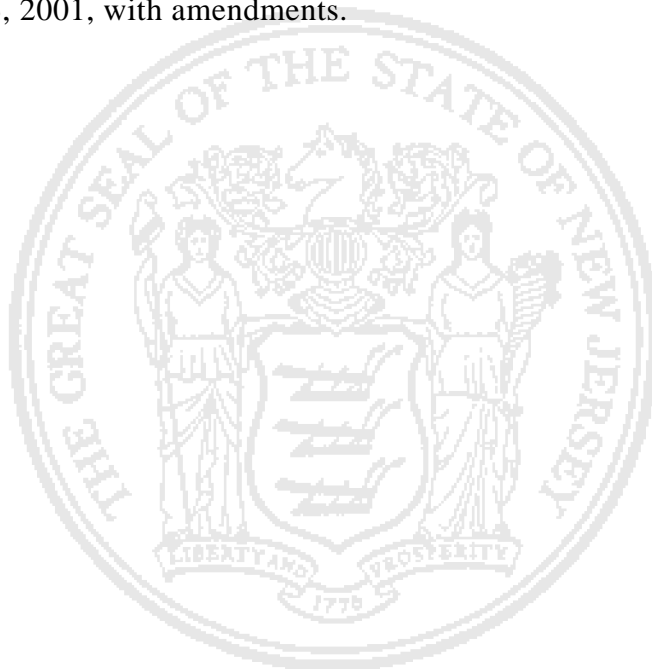
Assemblywoman Vandervalk

SYNOPSIS

Permits inspection of certain tax records by the Attorney General to facilitate the administration of the Tobacco Master Settlement Agreement.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 13, 2001, with amendments.



(Sponsorship Updated As Of: 1/4/2002)

1 AN ACT concerning inspection of certain records to facilitate the
2 administration of the Tobacco Master Settlement Agreement,
3 amending R.S.54:50-9.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.54:50-9 is amended to read as follows:
9 54:50-9. Nothing herein contained shall be construed to prevent:

10 a. The delivery to a taxpayer or **[his]** the taxpayer's duly
11 authorized representative of a copy of any report or any other paper
12 filed by **[him]** the taxpayer pursuant to the provisions of this subtitle
13 or of any such State tax law;

14 b. The publication of statistics so classified as to prevent the
15 identification of a particular report and the items thereof;

16 c. The **[commissioner]** director, in **[his]** the director's discretion
17 and subject to reasonable conditions imposed by **[him]** the director,
18 from disclosing the name and address of any licensee under any State
19 tax law, unless expressly prohibited by such State tax law;

20 d. The inspection by the Attorney General or other legal
21 representative of this State of the reports or files relating to the claim
22 of any taxpayer who shall bring an action to review or set aside any
23 tax imposed under any State tax law or against whom an action or
24 proceeding has been instituted in accordance with the provisions
25 thereof ¹[or of the reports or files of any taxpayer related to the
26 purpose of facilitating the administration of the provisions of
27 P.L.1999, c.148 (C.52:4D-1 et seq.)]¹;

28 e. The examination of said records and files by the Comptroller,
29 State Auditor or State Commissioner of Finance, or by their respective
30 duly authorized agents;

31 f. The furnishing, at the discretion of the **[commissioner]** director,
32 of any information contained in tax reports or returns or any audit
33 thereof or the report of any investigation made with respect thereto,
34 filed pursuant to the tax laws, to the taxing officials of any other state,
35 the District of Columbia, the United States and the territories thereof,
36 providing said jurisdictions grant like privileges to this State and
37 providing such information is to be used for tax purposes only;

38 g. The furnishing, at the discretion of the **[commissioner]** director,
39 of any material information disclosed by the records or files to any law
40 enforcing authority of this State who shall be charged with
41 the investigation or prosecution of any violation of the criminal

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 13, 2001.

1 provisions of this subtitle or of any State tax law;

2 h. The furnishing by the director [of the Division of Taxation] to
3 the State agency responsible for administering the Child Support
4 Enforcement program pursuant to Title IV-D of the federal Social
5 Security Act, Pub. L.93-647 (42 U.S.C.s.51 et seq.), with the names,
6 home addresses, social security numbers and sources of income and
7 assets of all absent parents who are certified by that agency as being
8 required to pay child support, upon request by the State agency and
9 pursuant to procedures and in a form prescribed by the director.

10 i. The furnishing by the director [of the Division of Taxation] to
11 the Board of Public Utilities any information contained in tax
12 information statements, reports or returns or any audit thereof or a
13 report of any investigation made with respect thereto, as may be
14 necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6
15 et al.).

16 j. The furnishing by the director [of the Division of Taxation] to
17 the Director of the Division of Alcoholic Beverage Control in the
18 Department of Law and Public Safety any information contained in tax
19 information statements, reports or returns or any audit thereof or a
20 report of any investigation made with respect thereto, as may be
21 relevant, in the discretion of the director, in any proceeding conducted
22 for the issuance, suspension or revocation of any license authorized
23 pursuant to Title 33 of the Revised Statutes.

24 ¹k. The inspection by the Attorney General or other legal
25 representative of this State of the reports or files of any tobacco
26 product manufacturer, as defined in section 2 of P.L.1999, c.148
27 (C.52:4D-2), for any period in which that tobacco product
28 manufacturer was not or is not in compliance with subsection a. of
29 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
30 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
31 for the purpose of facilitating the administration of the provisions of
32 P.L.1999, c. 148 (C.52:4D-1 et seq.).¹

33 (cf: P.L.1995, c.322, s.3.)

34

35 2. This act shall take effect immediately.

P.L. 2001, CHAPTER 358, *approved January 6, 2002*
Assembly, No. 3263 (*First Reprint*)

1 AN ACT concerning inspection of certain records to facilitate the
2 administration of the Tobacco Master Settlement Agreement,
3 amending R.S.54:50-9.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. R.S.54:50-9 is amended to read as follows:

9 54:50-9. Nothing herein contained shall be construed to prevent:

10 a. The delivery to a taxpayer or **[his]** the taxpayer's duly
11 authorized representative of a copy of any report or any other paper
12 filed by **[him]** the taxpayer pursuant to the provisions of this subtitle
13 or of any such State tax law;

14 b. The publication of statistics so classified as to prevent the
15 identification of a particular report and the items thereof;

16 c. The **[commissioner]** director, in **[his]** the director's discretion
17 and subject to reasonable conditions imposed by **[him]** the director,
18 from disclosing the name and address of any licensee under any State
19 tax law, unless expressly prohibited by such State tax law;

20 d. The inspection by the Attorney General or other legal
21 representative of this State of the reports or files relating to the claim
22 of any taxpayer who shall bring an action to review or set aside any
23 tax imposed under any State tax law or against whom an action or
24 proceeding has been instituted in accordance with the provisions
25 thereof ¹[or of the reports or files of any taxpayer related to the
26 purpose of facilitating the administration of the provisions of
27 P.L.1999, c.148 (C.52:4D-1 et seq.)]¹;

28 e. The examination of said records and files by the Comptroller,
29 State Auditor or State Commissioner of Finance, or by their respective
30 duly authorized agents;

31 f. The furnishing, at the discretion of the **[commissioner]** director,
32 of any information contained in tax reports or returns or any audit
33 thereof or the report of any investigation made with respect thereto,
34 filed pursuant to the tax laws, to the taxing officials of any other state,
35 the District of Columbia, the United States and the territories thereof,
36 providing said jurisdictions grant like privileges to this State and
37 providing such information is to be used for tax purposes only;

38 g. The furnishing, at the discretion of the **[commissioner]** director,
39 of any material information disclosed by the records or files to any law
40 enforcing authority of this State who shall be charged with

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 13, 2001.

1 the investigation or prosecution of any violation of the criminal
2 provisions of this subtitle or of any State tax law;

3 h. The furnishing by the director [of the Division of Taxation] to
4 the State agency responsible for administering the Child Support
5 Enforcement program pursuant to Title IV-D of the federal Social
6 Security Act, Pub. L.93-647 (42 U.S.C.s.51 et seq.), with the names,
7 home addresses, social security numbers and sources of income and
8 assets of all absent parents who are certified by that agency as being
9 required to pay child support, upon request by the State agency and
10 pursuant to procedures and in a form prescribed by the director.

11 i. The furnishing by the director [of the Division of Taxation] to
12 the Board of Public Utilities any information contained in tax
13 information statements, reports or returns or any audit thereof or a
14 report of any investigation made with respect thereto, as may be
15 necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6
16 et al.).

17 j. The furnishing by the director [of the Division of Taxation] to
18 the Director of the Division of Alcoholic Beverage Control in the
19 Department of Law and Public Safety any information contained in tax
20 information statements, reports or returns or any audit thereof or a
21 report of any investigation made with respect thereto, as may be
22 relevant, in the discretion of the director, in any proceeding conducted
23 for the issuance, suspension or revocation of any license authorized
24 pursuant to Title 33 of the Revised Statutes.

25 ¹k. The inspection by the Attorney General or other legal
26 representative of this State of the reports or files of any tobacco
27 product manufacturer, as defined in section 2 of P.L.1999, c.148
28 (C.52:4D-2), for any period in which that tobacco product
29 manufacturer was not or is not in compliance with subsection a. of
30 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
31 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
32 for the purpose of facilitating the administration of the provisions of
33 P.L.1999, c. 148 (C.52:4D-1 et seq.).¹
34 (cf: P.L.1995, c.322, s.3.)

35
36 2. This act shall take effect immediately.

37

38

39

40

41 _____
42 Permits inspection of certain tax records by the Attorney General to
43 facilitate the administration of the Tobacco Master Settlement
Agreement.

CHAPTER 358

AN ACT concerning inspection of certain records to facilitate the administration of the Tobacco Master Settlement Agreement, amending R.S.54:50-9.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

- a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;
- b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;
- c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;
- d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;
- e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;
- f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;
- g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;
- h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub. L.93-647 (42 U.S.C.s.51 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;
- i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.);
- j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;
- k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c. 148 (C.52:4D-1 et seq.).

2. This act shall take effect immediately.

Approved January 6, 2002.