ACT #2014-341

HB449

158719-4

By Representative Clouse

RFD: Ways and Means General Fund

First Read: 11-FEB-14

GOVERNOR'S OFFICE

1

2 ENROLLED, An Act,

3 To amend Sections 6-12-2, 6-12-3, 6-12A-2, 6-12A-3,
4 and 6-12A-5 of the Code of Alabama 1975, to define an importer
5 of tobacco products, to further define "units sold" to include
6 cigarettes sold to certain consumers without payment of the
7 cigarette excise tax and exclusion of certain cigarettes made
8 in certain tax-exempt transactions, to make the importer
9 jointly and severally liable with the tobacco products
10 manufacturer of cigarettes for escrow deposit obligations, to
11 provide for seizure and forfeiture of cigarettes for failure
12 to deposit funds into escrow, to require both the
13 non-participating manufacturer and importer or importers of
14 cigarettes to appoint agents for service of process, to
15 require the non-participating manufacturer to hold a valid
16 permit under 26 U.S.C. Section 5713, to provide for
17 non-participating manufacturer bond requirements, and to
18 further provide for disclosure of information.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 6-12-2, 6-12-3, 6-12A-2,
21 6-12A-3, and 6-12A-5, Code of Alabama 1975 are hereby amended
22 as follows:

23 §6-12-2

24 Definitions.

1 As used in this chapter, the following terms shall
2 have the following meanings:
3 (1) ADJUSTED FOR INFLATION. Increased in accordance
4 with the formula for inflation adjustment set forth in Exhibit
5 C to the Master Settlement Agreement.
6 (2) AFFILIATE. A person who directly or indirectly
7 owns or controls, is owned or controlled by, or is under
8 common ownership or control with, another person. Solely for
9 purposes of this definition, the terms "owns," "is owned" and
10 "ownership" mean ownership of an equity interest, or the
11 equivalent thereof, of ten percent or more, and the term
12 "person" means an individual, partnership, committee,
13 association, corporation, or any other organization or group
14 of persons.
15 (3) ALLOCABLE SHARE. Allocable share as that term is
16 defined in the Master Settlement Agreement.
17 (4) CIGARETTE. Any product that contains nicotine,
18 is intended to be burned or heated under ordinary conditions
19 of use, and consists of or contains (i) any roll of tobacco
20 wrapped in paper or in any substance not containing tobacco;
21 or (ii) tobacco, in any form, that is functional in the
22 product, which, because of its appearance, the type of tobacco
23 used in the filler, or its packaging and labeling, is likely
24 to be offered to, or purchased by, consumers as a cigarette;
25 or (iii) any roll of tobacco wrapped in any substance

1 containing tobacco which, because of its appearance, the type
2 of tobacco used in the filler, or its packaging and labeling,
3 is likely to be offered to, or purchased by, consumers as a
4 cigarette described in item (i). The term "cigarette" includes
5 "roll-your-own", i.e. any tobacco which, because of its
6 appearance, type, packaging, or labeling is suitable for use
7 and likely to be offered to, or purchased by, consumers as
8 tobacco for making cigarettes. For purposes of this definition
9 of cigarette, 0.09 ounces of roll-your-own tobacco shall
10 constitute one individual cigarette.
11 (5) IMPORTER. Any person in the United States to
12 whom non-tax paid tobacco products or cigarette papers or
13 tubes, or any processed tobacco, manufactured in a foreign
14 country, Puerto Rico, the Virgin Islands, or a possession of
15 the United States are shipped or consigned; any person who
16 removes cigars or cigarettes for sale or consumption in the
17 United States from a customs bonded manufacturing warehouse;
18 and any person who smuggles or otherwise unlawfully brings
19 tobacco products or cigarette papers or tubes, or any
20 processed tobacco, into the United States. Federal judicial
21 and administrative determinations and precedents of 26 U.S.C.
22 § 5702(k), as it exists from time to time, may be considered
23 in interpreting this term.
24 ~~(5)~~(6) MASTER SETTLEMENT AGREEMENT. The settlement
25 agreement, and related documents, entered into on November 23,

1998, by the state and leading United States tobacco product manufacturers.

~~(6)~~(7) QUALIFIED ESCROW FUND. An escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000), where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (2) of Section 6-12-3.

~~(7)~~(8) RELEASED CLAIMS. Released claims as that term is defined in the Master Settlement Agreement.

~~(8)~~(9) RELEASING PARTIES. Releasing parties as that term is defined in the Master Settlement Agreement.

~~(9)~~(10) TOBACCO PRODUCT MANUFACTURER. An entity that, after June 9, 1999, directly, and not exclusively through any affiliate:

a. Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for the

payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

b. Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

c. Becomes a successor of an entity described in paragraph a. or b.

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of a., b., or c. above.

~~(10)~~(11) UNITS SOLD. The number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs, or roll-your-own tobacco containers, bearing the excise tax stamp of the state. In addition to and without limiting the foregoing, the term "units sold" shall also include the number of individual cigarettes sold in the

1 state by the tobacco product manufacturer, whether directly or
2 through a distributor, retailer, or similar intermediary or
3 intermediaries, during the year in question, as to which the
4 state had power to under federal law, but did not, impose
5 and/or collect excise tax. Without limiting the foregoing,
6 this term specifically includes the following cigarettes,
7 provided such cigarettes were not sold in a transaction that
8 is exempted from Alabama taxation by federal statute or
9 constitution: (i) cigarettes sold to a consumer without
10 payment of the cigarette excise tax on the reservation lands
11 of a federally-recognized Native American tribe, (ii)
12 cigarettes sold for retail sale in Alabama which were exempted
13 from taxation pursuant to Chapter 9, Article 1 of Title 40
14 and/or any rule or regulation promulgated pursuant thereto,
15 and (iii) cigarettes sold by a seller located outside of
16 Alabama directly to a consumer in this state, without payment
17 of the cigarette excise tax, via mail order, telephone,
18 internet, or other remote means. The Department of Revenue
19 shall promulgate such regulations as are necessary to
20 ascertain the amount of state excise tax paid on the
21 cigarettes of such tobacco product manufacturer for each year.
22 §6-12-3
23 Election between settlement and escrow fund.
24 (a) Any tobacco product manufacturer selling
25 cigarettes to consumers within the state, whether directly or

1 through a distributor, retailer, or similar intermediary or
2 intermediaries, after June 9, 1999, shall do one of the
3 following:
4 (1) Become a participating manufacturer, as that
5 term is defined in Section II(jj) of the Master Settlement
6 Agreement, and generally perform its financial obligations
7 under the Master Settlement Agreement; or
8 (2) a. Place into a qualified escrow fund, by April
9 15 of the year following the year in question, the following
10 amounts, as such amounts are adjusted for inflation:
11 1999: $.0094241 per unit sold after June 9, 1999;
12 2000: $.0104712 per unit sold;
13 For each of 2001 and 2002: $.0136125 per unit sold;
14 For each of 2003 through 2006: $.0167539 per unit
15 sold;
16 For each of 2007 and each year thereafter: $.0188482
17 per unit sold.
18 b. A tobacco product manufacturer that places funds
19 into escrow pursuant to paragraph a. shall receive the
20 interest or other appreciation on such funds as earned. Such
21 funds themselves shall be released from escrow only under one
22 of the following circumstances:
23 1. To pay a judgment or settlement on any released
24 claim brought against such tobacco product manufacturer by the
25 state or any releasing party located or residing in the state.

1 Funds shall be released from escrow under this subparagraph
2 (i) in the order in which they were placed into escrow and
3 (ii) only to the extent and at the time necessary to make
4 payments required under such judgment or settlement;
5 2. To the extent that a tobacco product manufacturer
6 establishes that the amount it was required to place into
7 escrow on account of units sold in the state in a particular
8 year was greater than the Master Settlement Agreement
9 payments, as determined pursuant to Section IX(i) of that
10 agreement, including, after final determination of all
11 adjustments, that such manufacturer would have been required
12 to make on account of such units sold had it been a
13 participating manufacturer, the excess shall be released from
14 escrow and revert back to such tobacco product manufacturer;
15 or
16 3. To the extent not released from escrow under
17 subparagraphs 1. or 2., funds shall be released from escrow
18 and revert back to such tobacco product manufacturer 25 years
19 after the date on which they were placed into escrow.
20 c. Each tobacco product manufacturer that elects to
21 place funds into escrow pursuant to this section shall
22 annually certify to the Commissioner of the Department of
23 Revenue that it is in compliance with this section. The
24 Attorney General may bring a civil action on behalf of the
25 state against any tobacco product manufacturer that fails to

place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

1. Be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this section, may impose a civil penalty to be paid to the General Fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

2. In the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this section, may impose a civil penalty to be paid to the General Fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

3. In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed 2 years.

1 Each failure to make an annual deposit required
2 under this section shall constitute a separate violation.
3 (b) In the case of units sold which are cigarettes
4 manufactured outside the United States and imported into the
5 United States by an importer:
6 (1) Importers of the cigarettes shall be jointly and
7 severally liable with the tobacco product manufacturer of the
8 cigarettes for the escrow deposits required under subsection
9 (a)(2) of this section;
10 (2) Importers of the cigarettes may be sued under
11 subsection (a)(2)c. of this section to the same extent as the
12 tobacco product manufacturer, and shall be subject to all of
13 the same civil penalties, remedies, or other relief that may
14 be awarded against the tobacco product manufacturer of the
15 cigarettes as provided in that subsection; and
16 (3) If the importer of the cigarettes fails or
17 refuses within 15 days of the Alabama Revenue Commissioner's
18 or the Attorney General's written demand to deposit the funds
19 into escrow for which it is jointly and severally liable under
20 subsection (b)(1) of this section, all cigarettes imported
21 into the United States by the importer shall constitute
22 contraband in the State of Alabama as provided in Section 6(b)
23 of Chapter 12A, Title 6, and shall be subject to seizure and
24 forfeiture as provided under that Section.
25 §6-12A-2

1 Definitions.

2 For the purposes of this chapter, unless otherwise
3 indicated, the following terms shall have the meanings
4 respectively ascribed to them by this section:

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

14 (2) CIGARETTE. As defined under subdivision (4) of
15 Section 6-12-2.

16 (3) COMMISSIONER. The Commissioner for the
17 Department of Revenue for the State of Alabama.

18 (4) DISTRIBUTOR. A person, wherever resident or
19 located, who purchases non-tax-paid cigarettes and stores,
20 sells, or otherwise disposes of the cigarettes.

21 (5) IMPORTER. As defined under subdivision (5) of
22 Section 6-12-2.

23 ~~(5)~~ (6) MASTER SETTLEMENT AGREEMENT. The tobacco
24 Master Settlement Agreement as defined under subdivision (5)
25 of Section 6-12-2.

1 ~~(6)~~(7) NON-PARTICIPATING MANUFACTURER. Any tobacco
2 product manufacturer that is not a participating manufacturer.
3 ~~(7)~~(8) PARTICIPATING MANUFACTURER. As defined in
4 Section II(jj) of the Master Settlement Agreement, and all
5 amendments thereto.
6 ~~(8)~~(9) QUALIFIED ESCROW FUND. As defined in
7 subdivision (6) of Section 6-12-2.
8 ~~(9)~~(10) TOBACCO PRODUCT MANUFACTURER. As defined in
9 subdivision (9) of Section 6-12-2.
10 ~~(10)~~(11) UNITS SOLD. As defined in subdivision (10)
11 of Section 6-12-2.
12 ~~(11)~~(12) WHOLESALER. A person, firm, corporation,
13 club, or association that is authorized to affix tax stamps to
14 packages or other containers of cigarettes under Chapter 25 of
15 Title 40.
16 §6-12A-3
17 Tobacco product manufacturer certification;
18 directory; stamping, sale, or import of cigarettes not in
19 directory.
20 (a) Certification. Every tobacco product
21 manufacturer whose cigarettes are sold in this state whether
22 directly or through a distributor, retailer, or similar
23 intermediary or intermediaries shall execute and deliver on a
24 form prescribed by the commissioner, a certification to the
25 commissioner no later than the thirtieth day of April each

year, certifying that, as of the date of the certification, the tobacco product manufacturer either: Is a participating manufacturer or is in full compliance with Section 6-12-3, including all quarterly installment payments required by subsection (e) of Section 6-12A-5.

(1) Each participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update its list 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the commissioner.

(2) Each non-participating manufacturer shall include in its certification:

a. A complete list of all of its brand families.

b. A separate listing containing the names of the brand families of cigarettes and the number of units sold for each brand family in the state during the preceding calendar year.

c. A separate listing containing the names of its brand families that have been sold in the state at any time during the current calendar year.

d. An indication by an asterisk of the names of any brand family sold in the state during the preceding calendar year that are no longer being sold in the state as of the date of the certification.

1 e. An identification by name and address of any
2 other manufacturer of any of the listed brand families in the
3 preceding or current calendar year.
4 f. In the case of cigarettes, brands, or brand
5 families imported into the United States by one or more
6 importers, an identification by name and address of any and
7 all importers of the cigarettes.
8 Each non-participating manufacturer shall update
9 its list at least 30 days prior to any addition or
10 modification to its list of brand families by executing and
11 delivering a supplemental certification to the commissioner.
12 (3) Additionally, each non-participating
13 manufacturer shall further certify in its certification:
14 a. That both the non-participating manufacturer,
15 and, if applicable, the importer of the cigarettes, are ~~it is~~
16 registered to do business in the state or has appointed an
17 agent for service of process and provided notice thereof as
18 required by Section 6-12A-4.
19 b. That it has:
20 1. Established and continues to maintain a qualified
21 escrow fund.
22 2. Executed a qualified escrow agreement that has
23 been reviewed and approved by the commissioner and that
24 governs the qualified escrow fund.

1 c. That it is in full compliance with Section 6-12-3
2 and this chapter, and any regulations promulgated pursuant
3 thereto.
4 d.1. The name, address, and telephone number of the
5 financial institution where it has established the qualified
6 escrow fund required pursuant to Section 6-12-3 and all
7 regulations promulgated thereto.
8 2. The account number of the qualified escrow fund
9 and any sub-account number for the State of Alabama.
10 3. The amount the non-participating manufacturer
11 placed in the qualified escrow fund for cigarettes sold in the
12 state during the preceding calendar year, the date and amount
13 of each deposit, and any evidence or verification as may be
14 deemed necessary by the commissioner to confirm the foregoing.
15 4. The amount and date of any withdrawal or transfer
16 of funds the non-participating manufacturer made at any time
17 from the qualified escrow fund or from any other qualified
18 escrow fund into which escrow payments were ever made pursuant
19 to Section 6-12-3 and all regulations promulgated thereto.
20 5. That it and, if applicable, the importer of the
21 cigarettes, holds a current and valid permit under 26 U.S.C. §
22 5713.
23 (4) A participating manufacturer may not include a
24 brand family in its certification unless it affirms that the
25 brand family is to be deemed to be its cigarettes for purposes

1 of calculating its payments under the Master Settlement
2 Agreement for the relevant year, in the volume and shares
3 determined pursuant to the Master Settlement Agreement.
4 (5) A non-participating manufacturer may not include
5 a brand family in its certification unless it affirms that the
6 brand family is to be deemed to be its cigarettes for purposes
7 of Section 6-12-3.
8 (6) Nothing in this section shall be construed as
9 limiting or otherwise affecting the state's right to maintain
10 that a brand family constitutes cigarettes of a different
11 tobacco product manufacturer for purposes of calculating
12 payments under the Master Settlement Agreement or for purposes
13 of Section 6-12-3.
14 (7) The tobacco product manufacturers shall maintain
15 all invoices and documentation of sales and any other
16 information relied upon for certification for a period of five
17 years, unless otherwise required by law to maintain them for a
18 greater period of time.
19 (b) Directory of cigarettes approved for stamping
20 and sale. Not later than 90 days after August 1, 2003, the
21 commissioner shall compile and make available for public
22 inspection a directory listing all tobacco product
23 manufacturers that have provided current and accurate
24 certifications conforming to the requirements of subsection

(a), and all brand families that are listed in the certifications, except as noted below.

(1) The commissioner shall not include or retain in the directory the name or brand families of any non-participating manufacturer that fails or has failed to provide the required certification or whose certification the commissioner determines is not in compliance with subdivisions (2) and (3) of subsection (a), unless the commissioner has determined that each violation has been cured.

(2) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the commissioner concludes either of the following:

a. Any escrow payment required pursuant to Section 6-12-3, for any period for any brand family, whether or not listed by the non-participating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the commissioner.

b. Any outstanding final judgment, including interest thereon, for a violation of Section 6-12-3, has not been fully satisfied for the brand family or the manufacturer.

<u>c. That the non-participating manufacturer has not provided a bond in strict compliance with subsection (f) of Section 6-12A-5 and the regulations relating thereto.</u>

1 d. That the non-participating manufacturer has
2 failed or refused to provide the documents or information
3 requested by the commissioner in order to promote compliance
4 with the requirements of this chapter.
5 (3) The commissioner shall update the directory as
6 necessary in order to correct mistakes and to add or remove a
7 tobacco product manufacturer or brand family to keep the
8 directory in conformity with the requirements of this chapter.
9 The commissioner, in addition to any notice requirements in
10 Section 40-2A-8, shall transmit by electronic mail or other
11 practicable means to each wholesaler, stamping agent, or
12 distributor notice of any addition to or removal from the
13 directory of any tobacco product manufacturer or brand family.
14 The wholesaler, stamping agent, or distributor shall have 30
15 days from receipt of notice from the department regarding the
16 change in the directory to sell the brand family that is
17 delisted. No delisted brand family may be sold after the 30
18 day period.
19 (4) Every wholesaler and distributor shall provide
20 and update as necessary an electronic mail address to the
21 commissioner for the purpose of receiving any notifications as
22 may be required by this chapter.
23 (c) Prohibition against stamping, sale, or import of
24 cigarettes not in the directory. It shall be unlawful for any
25 person to do either of the following:

1 (1) Affix a stamp to a package or other container of
2 cigarettes of a tobacco product manufacturer or brand family
3 not included in the directory.
4 (2) Sell, offer, or possess for sale in this state,
5 or import for personal consumption in this state, cigarettes
6 of a tobacco product manufacturer or brand family not included
7 in the directory.
8 §6-12A-5
9 Reporting to commissioner; disclosure; escrow fund.
10 (a) Reporting by wholesalers and distributors. Not
11 later than 20 days after the end of each month, and more
12 frequently if so directed by the commissioner, each wholesaler
13 and distributor shall submit all the information the
14 commissioner requires to facilitate compliance with this
15 chapter, including, but not limited to, a list by brand family
16 of the total number of cigarettes or in the case of roll your
17 own, the equivalent stick count for which the wholesalers and
18 distributors affixed stamps during the previous month or
19 otherwise paid the tax due for any cigarettes. The wholesaler
20 or distributor shall maintain, and make available to the
21 commissioner, all invoices and documentation of sales of all
22 non-participating manufacturer cigarettes and any other
23 information relied upon in reporting to the commissioner for a
24 period of five years.

(b) Disclosure of information. Notwithstanding any other law or regulation including Section 10 of Chapter 2A, Title 40, the commissioner is hereby authorized to disclose, in the commissioner's discretion, any information received under this chapter, Chapter 12 of this Title, or Chapter 25 of Title 40, for purposes of the proper administration of any matter administered by the Department of Revenue, including but not limited to determining compliance with and enforcing this chapter, Chapter 12 of this Title and Chapter 25 of Title 40, and in determining the proper amount of any payment, offset, adjustment, or refund pursuant to the Master Settlement Agreement or any agreement related thereto. ~~The commissioner is authorized to disclose any information received under this chapter for purposes of determining compliance with and enforcing this chapter. The commissioner may share the information received under this chapter with other federal, state, or local agencies only for purposes of enforcement of this chapter, Chapter 12, or corresponding laws of other states.~~

(c) Verification of qualified escrow fund. The commissioner may require at any time from the non-participating manufacturer proof, from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with Section 6-12-3, of the amount of money in the fund, exclusive

of interest, the amount and date of each deposit, and the amount and date of each withdrawal from the fund.

(d) Requests for additional information. In addition to the information required to be submitted herein, the commissioner may require a wholesaler or distributor or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family, as is necessary to determine whether a tobacco product manufacturer is in compliance with this chapter.

(e) Quarterly escrow installments. To promote compliance with this chapter, the commissioner may promulgate regulations requiring a tobacco product manufacturer subject to the requirements of subdivision (2) of subsection (a) of Section 6-12A-3, to make the escrow deposits required in quarterly installments during the year in which the sales covered by the deposits are made. The commissioner may require production of information sufficient to determine the adequacy of the amount of the installment deposit.

(f)(1) A non-participating manufacturer shall post a bond for the benefit of the commissioner, in accordance with the provisions of this section, which is conditioned that the non-participating manufacturer shall fully comply with the escrow obligations of this chapter.

1 (2) The bond shall be posted at least 10 days in
2 advance of each calendar quarter as a condition to the
3 non-participating manufacturer and its brand families being
4 included in the state directory for that quarter. The amount
5 of the bond shall be the greater of (i) the greatest required
6 escrow amount due from the non-participating manufacturer or
7 its predecessor for any of the 12 preceding calendar quarters
8 or (ii) $25,000.
9 (3) If a non-participating manufacturer that posted
10 a bond has failed to make or have made on its behalf deposits
11 equal to the full amount owed for a quarter within 15 days
12 following the due date for the quarter under subsection (e) of
13 Section 6-12A-5, the commissioner may execute upon the bond in
14 the amount equal to any remaining amount of the escrow due
15 including any applicable penalties or other charges allowable
16 by law. Amounts the commissioner or the State collects on a
17 bond shall be deposited into the general fund for the benefit
18 of the State and shall reduce the amount of escrow due from
19 that non-participating manufacturer in the dollar amount
20 collected. Escrow obligations above the amount collected on
21 the bond remain due from that non-participating manufacturer
22 and any importer liable as provided in subsection (b) of
23 Section 6-12-3.
24 (4) The bond required under this subsection must be
25 a good and sufficient bond executed by a surety company

1 licensed and authorized to do business in Alabama and shall be
2 conditioned to pay the escrow requirements as well as any
3 penalties or other charges under this chapter.
4 (5) The commissioner may promulgate rules and
5 regulations necessary to implement this subsection including
6 acceptable forms and types of bonds.
7 Section 2. The provisions of this act are severable.
8 If any part of this act is declared invalid or
9 unconstitutional, such declaration shall not affect the part
10 which remains.
11 Section 3. All laws or parts of laws which conflict
12 with this act are hereby repealed.
13 Section 4. This act shall become effective
14 immediately upon its passage and approval by the Governor, or
15 upon its otherwise becoming law. However, provisions relating
16 to the bond requirement of section 6-12-5(f) will not be
17 effective until 10 days before the beginning of the first
18 quarter of 2015.

1
2
3 _____
4 Speaker of the House of Representatives

5 Kay Ivey
6 President and Presiding Officer of the Senate

7 House of Representatives
8 I hereby certify that the within Act originated in
9 and was passed by the House 26-FEB-14, as amended.
10
11 Jeff Woodard
12 Clerk
13

14 _____
15
16 Senate 01-APR-14 Passed
17

APPROVED April 8, 2014
TIME 3:25 p.m.
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2014-341
Bill Num...: H-449

Recv'd 04/09/14 09:01amSLF

Clouse

O-SPONSORS

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 449

YEAS 101 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

_____

SENATE ACTION

DATE: 2-26 20 1

RD 1 RFD F+TG

This Bill was referred to the Standing Committee of the Senate on F+TG and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) ____ w/sub ____ by a vote of yeas 8 nays 0 abstain 1 this 5th day of March 2014

_____, Chairperson

DATE: 3-5 20 14

RF FAV RD 2 CAL

DATE: 20__

RE-REFERRED ☐ RE-COMMITTED ☐

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 449

YEAS 25 NAYS 1

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)