

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE McLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

(410) 576-7036

WRITER'S DIRECT DIAL NO.

(410) 260-7412

February 27, 2023

**TO:** The Honorable C.T. Wilson  
Chair, Economic Matters Committee

**FROM:** Anna MacCormack  
Assistant Attorney General, Office of the Attorney General

**RE:** HB 777

---

The Office of Attorney General urges this Committee to report favorably on the Office of the Attorney General's HB 777.

HB 777 will close a gap in the current law governing the reporting obligations of tobacco and other tobacco product (OTP) wholesalers. Closing this gap will provide the Office of the Attorney General with important additional tools to maximize the State's financial recovery under the Master Settlement Agreement (MSA). HB 777 will accomplish this goal by amending Business Regulation § 16-506(a), making it a violation of that subsection for wholesalers to submit inaccurate or incomplete Form 608-3 reports.

Under current law, tobacco and OTP wholesalers must submit Form 608-3 each month to report on the manufacturers, brands, and amounts of cigarettes and roll-your-own tobacco that they sell. The 608-3 report is used by the Office of the Attorney General's Tobacco Enforcement Unit (TEU) to determine how much escrow non-participating manufacturers—manufacturers that have not joined the MSA and thus make no settlement payments to Maryland—must deposit to comply with Maryland's Escrow Act, Business Regulation § 16-401 *et seq.* Maryland's diligence enforcing the Escrow Act determines whether a significant downward adjustment is applied to Maryland's share of the annual payments made by tobacco products manufacturers pursuant to the MSA, which total approximately \$140 million each year.

Tobacco and OTP wholesalers sometimes miscalculate the number of cigarettes or roll-your-own tobacco sold or incorrectly list the names of the brands they sell. Currently, there is no provision in the law that makes such errors a violation of the law. These mistakes are generally not

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or [sbrantley@oag.state.md.us](mailto:sbrantley@oag.state.md.us).

egregious, but they require significant time and effort from Comptroller and TEU employees to correct. Ultimately, and most importantly, inaccurate 608-3 reports also complicate or threaten the ability to defend Maryland's diligent enforcement of its Escrow Act because such reports indicate that Maryland's wholesalers do not take seriously their obligations to submit correct information. The information required by 608-3 reports is the primary information collected and is needed for TEU to ensure correct amounts are deposited in escrow so that Maryland can defend its record on diligence.

The proposed changes would also give the OAG, on behalf of the Alcohol and Tobacco Commission (ATC) or Comptroller, penalty authority for violations of Business Regulation § 16-506(a). The ATC is responsible for holding administrative hearings when there are violations and determining whether a wholesaler has violated the law. The penalty authority, which permits the OAG to levy a penalty of up to \$1,000 per incorrect report, will be in lieu of or in addition to suspension or revocation of a wholesaler's license, which are the current options available if the ATC determines there is a violation of Business Regulation § 16-506(a).

For the foregoing reasons, we urge a favorable report on HB 777.

cc: Committee Members