WEST VIRGINIA CODE CHAPTER 16 ARTICLE 9D

WV Legislature

§16-9D-1. Findings and purpose.

The Legislature finds that violations of article nine-b of this chapter threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The Legislature finds that enacting procedural enhancements will help prevent violations and aid enforcement of article nine-b of this chapter and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health.

WV Legislature

§16-9D-2. Definitions.

(a) "Brand Family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s" and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(b) "Cigarette" has the same meaning as in section two, article nine-b of this chapter.

(c) "Commissioner" means the duly appointed head of the agency responsible for collection of the excise tax on cigarettes.

(d) "Distributor" means a person, wherever resident or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes.

(e) "Master tobacco settlement agreement" has the same meaning as that term is defined in section two, article nine-b of this chapter.

(f) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(g) "Participating manufacturer" has the meaning given that term in section II(jj) of the master settlement agreement and all amendments to the master settlement.

(h) "Qualified escrow fund" has the same meaning as that term is defined in section two, article nine-b of this chapter.

(i) "Stamping agent" includes any distributor or other person that is authorized to affix tax stamps to packages or other containers of cigarettes under article seventeen, chapter eleven of this code, or any person that is required to pay the excise tax imposed on cigarettes pursuant to article seventeen of said chapter eleven.

(j) "Tobacco product manufacturer" has the same meaning as that term is defined in section two, article nine-b of this chapter.

(k) "Units sold" has the same meaning as that term is defined in section two, article nine-b of this chapter.

WV Legislature

§16-9D-3. Certifications; directory; tax stamps.

(a) Certification. -– Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the commissioner a certification to the commissioner and the Attorney General, no later than April 30 each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either is a participating manufacturer or is in full compliance with article nine-b of this chapter, including payment of all quarterly installment payments required by section six of this article.

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

(2) A nonparticipating manufacturer shall include in its certification:

(A) A list of all of its brand families and the number of units sold for each brand family that were sold in this state during the preceding calendar year;

(B) A list of all of its brand families that have been sold in this state at any time during the current calendar year, indicating, by an asterisk, any brand family sold in this state during the preceding calendar year that is no longer being sold in this state as of the date of the certification; and

(C) Identification, by name and address, of any other manufacturer of the brand families in the preceding calendar year.

The nonparticipating manufacturer shall update the list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the commissioner and the Attorney General.

(3) In the case of a nonparticipating manufacturer, the certification shall further certify:

(A) That the nonparticipating manufacturer is registered to do business in this state or has appointed a resident agent for service of process and provided notice thereof as required by section four of this article;

(B) That the nonparticipating manufacturer has: (i) Established and continues to maintain a qualified escrow fund; and (ii) has executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund;

(C) That the nonparticipating manufacturer is in full compliance with article nine-b of this chapter and this article, and any rules promulgated pursuant to either article; and

WV Legislature

(D) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required by article nine-b of this chapter and all rules promulgated thereto, and:

(i) The account number of the qualified escrow fund and sub-account number for the State of West Virginia;

(ii) The amount the nonparticipating manufacturer placed in escrow fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification considered necessary by the Attorney General to confirm the information certified under this paragraph; and

(iii) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to article nine-b of this chapter and all rules promulgated thereto.

(4) A tobacco product manufacturer may not include a brand family in its certification unless:

(A) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be considered to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement; and

(B) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be considered to be its cigarettes for purposes of article nine-b of this chapter. Nothing in this section shall be construed as limiting or otherwise affecting this state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of article nine-b of this chapter.

(5) Tobacco product manufacturers shall maintain all invoices and documentation of sales and any other information relied upon for the certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

(b) Directory of cigarettes approved for stamping and sale. -- The commissioner shall develop and publish on the Tax Division's website a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (a) of this section and all brand families that are listed in the certifications, except as provided in subdivisions (1) and (2) of this subsection.

(1) The commissioner shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the commissioner or the Attorney General determines is not in

WV Legislature

compliance with subdivisions (2) and (3), subsection (a) of this section, unless the commissioner has determined that the violation has been cured to the satisfaction of the commissioner and the Attorney General.

(2) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the Attorney General concludes in the case of a nonparticipating manufacturer, that:

(A) Any escrow payment required pursuant to article nine-b of this chapter for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General of this state, or

(B) Any outstanding final judgment, including interest on the judgment, for violations of article nine-b of this chapter has not been fully satisfied for the brand family and the nonparticipating manufacturer.

(3) The Tax Commissioner shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family.

(A) The commissioner may not remove any manufacturer or brand family from the directory unless the manufacturer and all distributors and other stamping agents registered under article twelve, chapter eleven of this code, have been given at least seven days' prior notice of the intended removal by electronic mail or first class mail the notices shall be e-mailed or posted to the addresses provided by the manufacturers, distributors or other stamping agents for this purpose.

(B) The commissioner shall transmit by email or other practicable means to each distributor or other stamping agent registered under article twelve, chapter eleven of this code, to affix West Virginia tax stamps to cigarettes notice of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(C) Failure of a manufacturer, distributor or other stamping agent to receive notice under paragraph (A) or (B),subdivision (3), subsection (b) of this section, or failure of the state to provide notice of any addition to or removal from the directory shall not relieve the distributor or other stamping agent of its obligations under this article.

(4) Every tobacco product manufacturer selling cigarettes in this state and every distributor or other stamping agent affixing West Virginia tax stamps to packages of cigarettes for sale in this state shall provide and update as necessary an electronic mail address to the commissioner for the purpose of receiving any notifications required by this article.

(c) Prohibition against stamping or sale of cigarettes not on the directory. -– It is unlawful for any person:

(1) To affix a stamp to a package or other container of cigarettes of a tobacco product

WVLegislature

manufacturer or brand family not included in the directory; or

(2) To sell, offer, or possess for sale in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory, except as follows:

(A) This subsection shall not prohibit a distributor or other stamping agent from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state; and

(B) A person purchasing cigarettes for resale shall not be in violation of this subsection if, at the time the cigarettes were purchased, the manufacturer and brand families of the cigarettes are included in the directory maintained by the Tax Commissioner and the cigarettes are otherwise lawfully stamped and sold within thirty days after the date of the notice provided under paragraph (A), subdivision (3), subsection (b) of this section.

WV Legislature

§16-9D-4. Certification of tobacco product manufacturer wanting to sell product in this state for the first time.

(a) A tobacco product manufacturer whose cigarettes have not previously been sold in this state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, shall, at least thirty calendar days before beginning to sell its cigarettes in this state, make the certification required by section three of this article. In addition to the information required by section three, the manufacturer shall include the following information in its certification:

(1) If the tobacco product manufacturer is a partnership, limited liability company, corporation, association or other business entity, the following where applicable:

(A) The names and addresses of every partner, member, officer, resident agent, director or person performing a function similar to a director;

(B) The names and addresses of any person owning of record a ten percent or greater equity interest in the tobacco product manufacturer; and

(C) A list of all names under which the tobacco manufacturer, or any partner, member, officer, resident agent, director, or person owning a ten percent or greater equity interest in the tobacco manufacturer, previously did business as a tobacco product manufacturer in the United States within the five-year period preceding the date of submission of the certification; and

(2) A statement of whether the tobacco product manufacturer, or any partner, member, officer, resident agent, director, or person owning a ten percent or greater equity interest in the tobacco manufacturer, or in any subsidiary, affiliate or persons controlled by or under common control with the tobacco manufacturer, has ever been an officer, partner, director or person owning a ten percent or greater equity interest in a tobacco product manufacturer that ever defaulted in fully funding the escrow account required by article nine-b of this chapter in the five-year period prior to the date of submission of the certification under this section and, if so, a brief explanation of the facts involved.

WV Legislature

§16-9D-4a. Listing of nonparticipating manufacturers in the West Virginia Tobacco Directory; bonding requirement for nonparticipating manufacturers newly qualified or posing an elevated risk for noncompliance.

(a) Notwithstanding any other provision of law to the contrary, if a newly qualified nonparticipating manufacturer is to be listed in the directory described in subsection (b), section three of this article, or if the Attorney General reasonably determines that a nonparticipating manufacturer who has filed a certification pursuant to section three of this article poses an elevated risk for noncompliance with its obligations under this article or article nine-b of this chapter, neither the nonparticipating manufacturer nor any of its brand families may be included in the directory unless and until the nonparticipating manufacturer has posted a bond in accordance with this section.

(b) The bond shall be posted by corporate surety located within the United States in an amount equal to the greater of $25,000 or the amount of escrow the manufacturer, in either its current or predecessor form, was required to deposit as a result of its sales in the previous calendar year in West Virginia. The bond shall be written in favor of the State of West Virginia and shall be conditioned on the performance by the nonparticipating manufacturer of all of its duties and obligations under this article and article nine-b of this chapter during the year in which the certification is filed and the next succeeding calendar year. Duplicate originals of the bond shall be provided to the State Tax Division and the Attorney General.

(c) A nonparticipating manufacturer may be considered to pose an elevated risk for noncompliance with this section if:

(1) The nonparticipating manufacturer or any affiliate thereof has underpaid an escrow obligation with respect to any state that is a signatory to the Master Settlement Agreement at any time during the calendar year or within the three preceding calendar years unless:

(A) The manufacturer did not make underpayment knowingly or recklessly and the manufacturer promptly cured the underpayment within one hundred eighty days' notice of it; or

(B) The underpayment or lack of payment is the subject of a good-faith dispute as documented to the satisfaction of the Attorney General and the underpayment is cured within one hundred eighty days of entry of a final order establishing the amount of the required escrow payment;

(2) Any state that is a signatory to the Master Settlement Agreement has removed the manufacturer or its brands or brand families or an affiliate or any of the affiliate's brands or brand families from the directory for noncompliance with the state law at any time during the calendar year or within the three preceding calendar years; or

(3) Any state that is a signatory to the Master Settlement Agreement has litigation pending

WV Legislature

against, or an unsatisfied judgment against, the manufacturer or any affiliate thereof for escrow or for penalties, costs, or attorney fees related to noncompliance with state escrow laws.

(d) As used in this section, "newly qualified nonparticipating manufacturer" means a nonparticipating manufacturer that has not previously been listed in the directory in the three preceding calendar years. The manufacturer may be required to post a bond in accordance with this section for the first three years of their listing, or for such longer time as the Attorney General may require, if the manufacturer has been determined to pose an elevated risk for noncompliance. Any other nonparticipating manufacturer that has been determined to pose an elevated risk for noncompliance shall be required to post a bond in accordance with this section for three years, and shall be required to post a bond for such further period of time as the Attorney General may require, in accordance with this section, if the nonparticipating manufacturer still poses an elevated risk at the end of the three-year period.

(e) The posted bond shall be forfeited to the West Virginia General Revenue Fund in the event that the manufacturer fails to comply with its with its obligations under this article or article nine-b of this chapter. The amount of the forfeiture shall be equal to the delinquent escrow payments due at the time of forfeiture plus any penalties assessed against the manufacturer based on its failure to fulfill its responsibilities under this article and article nine-b of this chapter.

WV Legislature

§16-9D-5. Agent for service of process.

(a) Requirement for agent for service of process. --

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state, or in the United States, to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this article and article nine-b of this chapter, may be served in any manner authorized by law. The service constitutes legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of the agent to the satisfaction of the commissioner and the Attorney General.

(2) Any nonresident stamping agent authorized to affix stamps to packages of cigarettes evidencing payment of the tax levied by article seventeen, chapter eleven of this code, on cigarettes to be sold in this state that has not registered to do business in this state as a foreign corporation or business entity shall, as a condition precedent to being authorized to affix West Virginia tax stamps, appoint and continually engage without interruption the services of an agent in this state, or in the United States, to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this article and article nine-b of this chapter, may be served in any manner authorized by law. The service constitutes legal and valid service of process on the nonresident stamping agent. The nonresident stamping agent shall provide the name, address, phone number and proof of the appointment and availability of the agent to the satisfaction of the commissioner and the Attorney General.

(b) The nonparticipating manufacturer or the nonresident stamping agent shall provide written notice to the commissioner and the Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer, or nonresident stamping agent, as the case may be, shall notify the commissioner and Attorney General in writing of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(c) Any nonparticipating manufacturer and any nonresident stamping agent whose cigarettes are sold in this state, who has not appointed and engaged an agent as required by this section, shall be considered to have appointed the Secretary of State of West Virginia as the agent and may be proceeded against in the courts of this state by service of process upon the Secretary of State: Provided, That the appointment of the Secretary of State as the agent of the manufacturer or the nonresident stamping agent shall not satisfy the condition

WV Legislature

precedent for having the brand families of the nonparticipating manufacturer included or retained in the directory.

WV Legislature

§16-9D-6. Reporting of information; escrow installments.

(a) Reporting by distributors and other stamping agents. --

(1) Not later than twenty calendar days after the end of each calendar quarter, and more frequently if directed by the commissioner, each distributor or stamping agent shall submit information required by the commissioner to facilitate compliance with this article, including, but not limited to, a list by brand family of the total number of cigarettes of nonparticipating manufacturers, or in the case of roll your own, the equivalent stick count, for which the distributor or other stamping agent affixed West Virginia stamps and sold in West Virginia during the previous calendar quarter or otherwise paid the tax due for the cigarettes.

(2) The distributor or stamping agent shall maintain, and make available to the commissioner, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes sold in West Virginia and any other information relied upon in reporting to the commissioner for a period of five years.

(b) Disclosure of information. -- The commissioner may disclose to the Attorney General of this state any information received under this article and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of this article. The commissioner and the Attorney General shall share with each other the information received under this article, and may share the information with other federal, state or local agencies only for purposes of enforcement of this article, article nine-b of this chapter, or corresponding laws of other states. The commissioner is further directed, upon request of a nonparticipating manufacturer, to disclose to that nonparticipating manufacturer any information that has been provided by a distributor or stamping agent as required by this section regarding the purchases from that manufacturer upon which tax stamps have been applied and cigarettes sold in West Virginia.(c) Verification of qualified escrow fund. -– The Attorney General may require at any time from the nonparticipating manufacturer proof, from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with article nine-b of this chapter, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the qualified escrow fund, 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 pursuant to this section, the Attorney General may require a stamping agent, 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, that is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with this article.

(e) Quarterly escrow installments. -– To promote compliance with the provisions of this article, a tobacco product manufacturer subject to the requirements of subdivision (2), subsection (a), section three of this article, who, in the opinion of the Attorney General,

WV Legislature

materially defaults in fully funding its escrow account timely and then cures the default shall make escrow deposits for the calendar year during which the default was cured and ensuing calendar years in quarterly installments during the year in which the sales covered by such deposits are made. The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of the installment deposit.

WV Legislature

§16-9D-7. Electronic filing of quarterly reports.

(a) Electronic filing required. -- After September 1, 2003, the quarterly reports required by section six of this article from distributors and stamping agents shall be electronically filed with the Tax Commissioner.

(b) "Filed electronically" defined. -- For purposes of this section, "filing electronically" means the filing of a report or other document by any electronic medium acceptable to the Tax Commissioner including, but not limited to, the filing of reports and other documents by electronic data interchange, or by use of the Internet for web-based filing or other technology specified by the Tax Commissioner by a procedural rule promulgated as provided in article three, chapter twenty-nine-a of this code.

(c) Signature requirements. -- The signature requirement for all reports required to be filed under this article will be met if the submission is made pursuant to the Tax Commissioner's procedural rule.

(d) Standards. -- The Tax Commissioner shall give due regard to developing uniform standards for formats as adopted by the American National Standards Institute for encryption and filer authentication to ensure that the report information is kept confidential.

WV Legislature

§16-9D-8. Penalties and other remedies.

(a) Revocation of business registration certificate and civil money penalty. -– In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a distributor, stamping agent or any other person has violated subsection (c), section three of this article, or any rule adopted pursuant thereto, the commissioner may revoke or suspend the business registration certificate of the distributor, stamping agent or other person in the manner provided by article twelve, chapter eleven of this code. Each stamp affixed and each sale or offer to sell cigarettes in violation of subsection (c), section three of this article constitutes a separate violation. The commissioner may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or $5,000 upon a determination of violation of subsection (c), section three of this article or any rules adopted pursuant thereto. The penalty shall be imposed and collected in the manner that tax is assessed and collected under article ten, chapter eleven of this code. The amount of penalty collected shall be deposited in the tobacco control special fund created in section nine of this article.

(b) Contraband and seizure. –– Any cigarettes that have been sold, offered for sale, or possessed for sale, in this state, in violation of subsection (c), section three of this article, shall be considered contraband under article seventeen, chapter eleven of this code and the cigarettes are subject to seizure and forfeiture as provided in article seventeen, and all cigarettes seized and forfeited shall be destroyed and not resold: Provided, That this subsection shall not prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(c) Injunction. -– The Attorney General, on behalf of the commissioner, may seek an injunction to restrain a threatened or actual violation of subsection (c), section three of this article, subsection (a), section five of this article, or subsection (d) of said section five, by a distributor, stamping agent or other person and to compel the distributor, stamping agent or other person to comply with these subsections: Provided, That this subsection shall not prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state. In any action brought pursuant to this section, the state is entitled to recover the costs of investigation, costs of the action and reasonable attorney fees.

(d) Unlawful sale and distribution. -– It is unlawful for a person to:

(1) Sell or distribute cigarettes; or

(2) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of subsection (c), section three of this article. A violation of this subsection shall be a misdemeanor punishable as provided in section nineteen-a, article seventeen, chapter eleven of this code.

WV Legislature

(e) Unfair trade practice. -– A person who violates subsection (c), section three of this article, engages in an unfair and deceptive trade practice in violation of article six, chapter forty-six-a of this code.

WV Legislature

§16-9D-9. Miscellaneous provisions.

(a) Notice and review of determination. -– A determination of the commissioner or the Attorney General to not include or to remove from the directory a brand family or tobacco product manufacturer is subject to review in the manner prescribed by article ten-a, chapter eleven of this code, by filing a petition for review with the office of tax appeals within thirty days of receipt of the commissioner's written determination to not include or to remove the brand family or tobacco product manufacturer from the directory. A determination not to list in, or to remove from, the directory any brand family or tobacco product manufacturer shall not be stayed during the pendency of appeal procedure.

(b) Applicants for business registration certificate. -– No person shall be issued a business registration certificate under article twelve, chapter eleven of this code or granted a renewal of its business registration certificate to act as a distributor or stamping agent unless the person has certified in writing, under penalty of perjury, that the person will comply fully with this article.

(c) Promulgation of rules. -– The commissioner and the Attorney General may separately promulgate any procedural, interpretive and legislative rules in the manner provided in article three, chapter twenty-nine-a of this code, each considers necessary to effect the purposes of this article.

(d) Recovery of costs and fees by Attorney General. -– In any action brought by the state to enforce this article, the state is entitled to recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees.

(e) Disgorgement of profits for violations of this article. -– If a court determines that a person has violated this article, the court shall order any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the "tobacco control special fund", which is created in the State Treasury. Expenditures from the fund are to be made in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. Unless otherwise expressly provided, the remedies or penalties provided by this article are cumulative to each other and to the remedies or penalties available under all other laws of this state.

(f) Construction and severability. --

(A) If a court of competent jurisdiction finds that the provisions of this article and of article nine-b of this chapter conflict and cannot be harmonized, then the provisions of article nine-b control.

(B) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article causes article nine-b of this chapter to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, then that portion of

WV Legislature

this article is not valid.

(C) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article is for any reason held to be invalid, unlawful or unconstitutional, that decision shall not affect the validity of the remaining portions of this article or any part thereof.

WV Legislature

§16-9D-10. Effective date; implementation.

(a) If this act of the Legislature takes effect ninety days from passage, the first certification by a tobacco product manufacturer described in subsection (a), section three of this article, shall be due July 1, 2003, covering the 2002 calendar year, and the additional information required by section three for the current calendar year up to the date of the certification; and the directory described in subsection (b), section three of this article, is published in the state register by August 15, 2003, and made available on the Tax Commissioner's web page by October 15, 2003.

(b) If this act of the Legislature is in effect from passage, the first certification by a tobacco product manufacturer described in subsection (a), section three of this article, is due May 1, 2003, covering the 2002 calendar year, and the additional information required by section three for the current calendar year up to the date of the certification; and the directory described in subsection (b), section three of this article, shall be published in the state register by June 15, 2003, and made available on the Tax Commissioner's web page by August 15, 2003.

(c) If this act of the Legislature takes effect July 1, 2003, the first certification by a tobacco product manufacturer described in subsection (a), section three of this article, is due July 1, 2003, covering the 2002 calendar year, and the additional information required by section three for the current calendar year up to the date of the certification; and the directory described in subsection (b), section three of this article, shall be published in the state register by August 15, 2003, and made available on the Tax Commissioner's web page by October 15, 2003.

WV Legislature