WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2969

(By Delegates Boggs, Caputo, White and Fragale)

Passed March 11, 2011

In Effect Ninety Days From Passage
AN ACT to amend and reenact §16-9D-6 of the Code of West Virginia, 1931, as amended, relating to enforcement of statutes implementing tobacco master settlement agreement; reporting of information; and requiring the Tax Commissioner to disclose, at the request of a nonparticipating tobacco product manufacturer, the branding information, sales, stamping and other information that is reported to the Tax Commissioner by distributors and stamping agents for products obtained from that nonparticipating manufacturer.

Be it enacted by the Legislature of West Virginia:

That §16-9D-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 9D. ENFORCEMENT OF STATUTES IMPLEMENTING TOBACCO MASTER SETTLEMENT AGREEMENT.

§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, 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within is approved this the 30th day of March, 2011.

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2011

Time 11:05 AM