

1 **H. B. 2969**

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3 (By Delegates Boggs, Caputo, White and Fragale)  
4 [Introduced February 1, 2011; referred to the  
5 Committee on the Judiciary.]  
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10 A BILL to amend and reenact §16-9D-6 of the Code of West Virginia,  
11 1931, as amended, relating to enforcement of statutes  
12 implementing tobacco master settlement agreement; reporting of  
13 information; and the disclosure of the number of stamps by  
14 brand name that have been purchased from a nonparticipating  
15 tobacco product manufacturer.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §16-9D-6 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 9D. ENFORCEMENT OF STATUTES IMPLEMENTING TOBACCO MASTER**  
20 **SETTLEMENT AGREEMENT.**

21 **§16-9D-6. Reporting of information; escrow installments.**

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

23 (1) Not later than twenty calendar days after the end of each

1 calendar quarter, and more frequently if directed by the  
2 commissioner, each distributor or stamping agent shall submit  
3 information required by the commissioner to facilitate compliance  
4 with this article, including, but not limited to, a list by brand  
5 family of the total number of cigarettes of nonparticipating  
6 manufacturers, or in the case of roll your own, the equivalent  
7 stick count, for which the distributor or other stamping agent  
8 affixed West Virginia stamps and sold in West Virginia during the  
9 previous calendar quarter or otherwise paid the tax due for the  
10 cigarettes.

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

16 (b) *Disclosure of information.* -- The commissioner may  
17 disclose to the Attorney General of this state any information  
18 received under this article and requested by the Attorney General  
19 for purposes of determining compliance with and enforcing the  
20 provisions of this article. The commissioner and the Attorney  
21 General shall share with each other the information received under  
22 this article, and may share the information with other federal,  
23 state or local agencies only for purposes of enforcement of this  
24 article, article nine-b of this chapter, or corresponding laws of

1 other states. The commissioner is further directed, upon request  
2 of a nonparticipating manufacturer, to disclose to that  
3 nonparticipating manufacturer any information that has been  
4 provided by a distributor or stamping agent as required by this  
5 article regarding the purchases from that manufacturer upon which  
6 tax stamps have been applied and cigarettes sold in West Virginia.

7 (c) *Verification of qualified escrow fund.* -- The Attorney  
8 General may require at any time from the nonparticipating  
9 manufacturer proof, from the financial institution in which the  
10 manufacturer has established a qualified escrow fund for the  
11 purpose of compliance with article nine-b of this chapter, of the  
12 amount of money in the fund, exclusive of interest, the amount and  
13 date of each deposit to the qualified escrow fund, and the amount  
14 and date of each withdrawal from the fund.

15 (d) *Requests for additional information.* -- In addition to the  
16 information required to be submitted pursuant to this section, the  
17 Attorney General may require a stamping agent, distributor or  
18 tobacco product manufacturer to submit any additional information  
19 including, but not limited to, samples of the packaging or labeling  
20 of each brand family, that is necessary to enable the Attorney  
21 General to determine whether a tobacco product manufacturer is in  
22 compliance with this article.

23 (e) *Quarterly escrow installments.* -- To promote compliance  
24 with the provisions of this article, a tobacco product manufacturer

1 subject to the requirements of subdivision (2), subsection (a),  
2 section three of this article, who, in the opinion of the Attorney  
3 General, materially defaults in fully funding its escrow account  
4 timely and then cures the default shall make escrow deposits for  
5 the calendar year during which the default was cured and ensuing  
6 calendar years in quarterly installments during the year in which  
7 the sales covered by such deposits are made. The Attorney General  
8 may require production of information sufficient to enable the  
9 Attorney General to determine the adequacy of the amount of the  
10 installment deposit.

NOTE: The purpose of this bill is to require the disclosure of the number of stamps by brand name that have been purchased from a nonparticipating tobacco product manufacturer.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.