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HOUSE BILL 85

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Gail C. Beam

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

AN ACT

**RELATING TO TOBACCO; AMENDING THE ESCROW FUND ACT TO ALLOW THE
ATTORNEY GENERAL TO REQUIRE QUARTERLY DEPOSITS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 6-4-21 NMSA 1978 (being Laws 2003,
Chapter 114, Section 8) is amended to read:**

"6-4-21. REPORTING OF INFORMATION--ESCROW INSTALLMENTS. --

**A. A distributor shall submit to the department by
the twenty-fifth day of each month a list by brand family of
the total number of cigarettes, or equivalent stick count in
the case of roll-your-own, for which the distributor affixed
tax stamps or otherwise paid the tax due during the previous
calendar month, and any other information that the department
or attorney general may require. A distributor shall maintain
and make available to the department and attorney general all**

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1 invoices and documentation of sales of all nonparticipating
2 manufacturer cigarettes and any other information relied upon
3 in reporting to the department and attorney general for a
4 period of five years.

5 B. The department and attorney general shall share
6 information received pursuant to the Tobacco Escrow Fund Act,
7 and may share information with other federal, state or local
8 agencies for purposes of enforcement of that act, enforcement
9 of Section 6-4-13 NMSA 1978 or enforcement of corresponding
10 laws of other states.

11 C. The attorney general may require proof from a
12 nonparticipating manufacturer that it has established a
13 qualified escrow fund with verification of the amount of money
14 in the fund exclusive of interest, including the balance, dates
15 and amounts of deposits and dates and amounts of withdrawals.

16 D. The attorney general and the department may
17 require a distributor or tobacco product manufacturer to submit
18 additional information as necessary to determine compliance
19 with the Tobacco Escrow Fund Act, including samples of the
20 packaging or labeling of each brand family.

21 E. The attorney general may [~~promulgate rules~~
22 ~~requiring~~] require a nonparticipating manufacturer to make
23 escrow fund deposits [~~annually~~] quarterly and may require
24 information sufficient to determine the adequacy of the amount
25 of the [~~annual~~] quarterly deposit.

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F. The attorney general or the department may seek an injunction to compel compliance with this section. In any action brought pursuant to this subsection, the state shall be entitled to recover the costs of investigation, costs of the action and reasonable attorney fees. "

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