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

B. The department and attorney general shall share information received pursuant to the Tobacco Escrow Fund Act, and may share information with other federal, state or local agencies for purposes of enforcement of that act, enforcement

- C. The attorney general may require proof from a nonparticipating manufacturer that it has established a qualified escrow fund with verification of the amount of money in the fund exclusive of interest, including the balance, dates and amounts of deposits and dates and amounts of withdrawals.
- D. The attorney general and the department may require a distributor or tobacco product manufacturer to submit additional information as necessary to determine compliance with the Tobacco Escrow Fund Act, including samples of the packaging or labeling of each brand family.
- E. The attorney general may require a nonparticipating manufacturer to make escrow fund deposits quarterly and may require information sufficient to determine the adequacy of the amount of the quarterly deposit.
- 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."