

FORTY-SIXTH LEGISLATURE
FIRST SESSION

March 17, 2003

Madam President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 137, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike House Business and Industry Committee Amendment 1.
2. On page 2, line 17, strike "that sells", strike lines 18 through 21 in their entirety and insert in lieu thereof "required to affix stamps on cigarette packages pursuant to Section 7-12-5 NMSA 1978 or required to pay excise tax imposed on cigarettes pursuant to Section 7-12A-3 NMSA 1978. "Distributor" does not include a retailer of cigarette packages upon which stamps were already affixed when the packages were received by that retailer;".
3. On page 4, lines 17 and 18, strike "quarterly installment" and insert in lieu thereof "annual".
4. On page 5, line 24, after "preceding" insert "or current".
5. On page 6, line 7, after "year" insert "in the volume and shares determined pursuant to the master settlement agreement".
6. On pages 8 and 9, strike Section 6 in its entirety and insert in lieu thereof the following to read:

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"Section 6. MAINTENANCE OF DIRECTORY--NOTICE. --

A. If the attorney general determines to remove from or to not include a tobacco product manufacturer or brand family in the directory, the attorney general shall provide by email or other practicable means notice of the preliminary determination to the tobacco product manufacturer's registered agent for service of process in the state; provided, however, that if one of the bases of removal or non-inclusion in the directory is the failure to satisfy Section 7 of the Tobacco Escrow Fund Act, the determination shall be final and no preliminary notice shall be necessary. The tobacco product manufacturer shall have ten business days from the date of the attorney general's notice of the preliminary determination to the registered agent for service of process in the state to establish, to the attorney general's satisfaction, compliance with Section 6-4-13 NMSA 1978 and the Tobacco Escrow Fund Act.

B. If the tobacco product manufacturer fails to establish said compliance within the ten-day period set forth above, the attorney general shall remove from or not include the tobacco product manufacturer or brand family in the directory. The determination to remove from or to not include a tobacco product manufacturer or brand family in the directory may be appealed to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. "

7. On page 11, line 3, after "cigarettes" insert ", or equivalent stick count in the case of roll-your-own, ".

8. On page 11, line 18, before "from" insert "proof".

9. On page 11, line 19, strike "financial institution where a" and after "manufacturer" insert "that it".

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10. On page 11, line 20, after "fund" insert "with".
11. On page 11, line 21, strike "on behalf of the state" and insert in lieu thereof "exclusive of interest".
12. On page 12, line 6, strike "in quarterly installments" and insert in lieu thereof "annually".
13. On page 12, line 8, strike "installment" and insert in lieu thereof "annual".
14. On page 13, line 12, after "contraband" strike the remainder of the line, strike line 13 in its entirety and insert in lieu thereof ", are subject to seizure and forfeiture and shall be destroyed."
15. On page 14, line 1, after "fees" insert ", if the state prevails".
16. On page 14, line 9, after "fees" insert ", if the state prevails".
17. On page 14, line 18, strike "The provisions of the", strike line 19 in its entirety and strike line 20 through the period.

Respectfully submitted,

Michael S. Sanchez, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against
Yes: 8
No: 0
Excused: 2 Gorham, Martinez
Absent: 0