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H.B. No. 211

A BILL TO BE ENTITLED

AN ACT

relating to sales and use taxes on e-cigarette vapor products;
imposing taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

It is in the state's interest to implement consistent and effective taxation on nicotine-based consumer products and set appropriate tax rates based on the risk associated with the different types of new nicotine and tobacco products we see in today's marketplace.

SECTION 2. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 164 to read as follows:

CHAPTER 164. TAX ON E-CIGARETTE VAPOR PRODUCTS

Sec. 164.0001. DEFINITIONS. In this chapter:

(1) "E-cigarette" has the meaning assigned by Section 161.081, Health and Safety Code.

(2) "Vapor product" means a consumable nicotine liquid solution or other material containing nicotine suitable for use in an e-cigarette.

Sec. 164.0002. E-CIGARETTE VAPOR PRODUCT SALES TAX. (a) A tax is imposed on each sale of a vapor product in this state.

(b) The tax rate is five cents for each milliliter or fractional part of a milliliter of vapor product sold.

(c) The tax imposed under this section is in addition to the

1 tax imposed under Subchapter C, Chapter 151. The tax imposed under
2 this section does not apply to a sale unless the tax imposed under
3 Subchapter C, Chapter 151, applies to the sale.

4 Sec. 164.0003. E-CIGARETTE VAPOR PRODUCT USE TAX. (a) A
5 tax is imposed on the storage, use, or other consumption in this
6 state of a vapor product purchased from a retailer for storage, use,
7 or other consumption in this state.

8 (b) The tax rate is five cents for each milliliter or
9 fractional part of a milliliter of vapor product stored, used, or
10 otherwise consumed in this state.

11 (c) The tax imposed under this section is in addition to the
12 tax imposed under Subchapter D, Chapter 151. The tax imposed under
13 this section does not apply to the storage, use, or other
14 consumption of a vapor product unless the tax imposed under
15 Subchapter D, Chapter 151, applies to the storage, use, or other
16 consumption.

17 Sec. 164.0004. APPLICATION OF OTHER PROVISIONS OF CODE.

18 (a) Except as provided by this chapter:

19 (1) the taxes imposed under this chapter are
20 administered, imposed, collected, and enforced in the same manner
21 as the taxes under Chapter 151 are administered, imposed,
22 collected, and enforced; and

23 (2) the provisions of Chapter 151 applicable to the
24 sales tax imposed under Subchapter C, Chapter 151, and the use tax
25 imposed under Subchapter D, Chapter 151, apply to the sales and use
26 taxes imposed under this chapter.

27 (b) A change in the law relating to the taxation of the sale

1 or use of a vapor product under Chapter 151 also applies to the
2 sales or use tax imposed under this chapter.

3 Sec. 164.0005. REPORTS. (a) A person required to file a
4 report under Section 151.403 who is also required to collect or pay
5 a tax under this chapter shall file with the comptroller a report
6 stating:

7 (1) for sales tax purposes, the volume of vapor
8 products sold by the seller during the reporting period;

9 (2) for use tax purposes, the volume of vapor products
10 sold by the retailer during the reporting period for storage, use,
11 or other consumption in this state;

12 (3) the volume of vapor products subject to the use tax
13 that were acquired during the reporting period for storage, use, or
14 other consumption in this state by a purchaser who did not pay the
15 tax to a retailer;

16 (4) the amount of the taxes due under this chapter for
17 the reporting period; and

18 (5) any other information required by the comptroller.

19 (b) The report required by this section for a reporting
20 period is due on the same date that the tax payment for the period is
21 due.

22 Sec. 164.0006. RECORDS. A person required to file a report
23 under Section 151.403 who is also required to collect or pay a tax
24 under this chapter shall keep a complete record of:

25 (1) the volume of vapor products sold in this state
26 during each reporting period;

27 (2) the volume of vapor products, including the

1 constituent parts of vapor products, purchased from every source
2 during each reporting period;

3 (3) all sales and use taxes, and any money represented
4 to be sales or use tax, collected during each reporting period; and

5 (4) any other information required by the comptroller.

6 Sec. 164.0007. DISPOSITION AND USE OF PROCEEDS. The
7 comptroller shall deposit the proceeds from taxes imposed under
8 this chapter as follows:

9 (1) 20 percent to the credit of an account in the
10 general revenue fund administered by the Department of State Health
11 Services, which may be appropriated to the department only for the
12 purpose of administering youth vaping prevention and awareness
13 programs; and

14 (2) the remainder to the credit of the general revenue
15 fund.

16 SECTION 3. This Act takes effect September 1, 2021.