

By: Thierry

H.B. No. 211

A BILL TO BE ENTITLED

AN ACT

relating to sales and use taxes on e-cigarette vapor products to benefit the child health plan program; imposing taxes.

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

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

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

1 or other consumption in this state.

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

5 (c) The tax imposed under this section is in addition to the
6 tax imposed under Subchapter D, Chapter 151. The tax imposed under
7 this section does not apply to the storage, use, or other
8 consumption of a vapor product unless the tax imposed under
9 Subchapter D, Chapter 151, applies to the storage, use, or other
10 consumption.

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

12 (a) Except as provided by this chapter:

13 (1) the taxes imposed under this chapter are
14 administered, imposed, collected, and enforced in the same manner
15 as the taxes under Chapter 151 are administered, imposed,
16 collected, and enforced; and

17 (2) the provisions of Chapter 151 applicable to the
18 sales tax imposed under Subchapter C, Chapter 151, and the use tax
19 imposed under Subchapter D, Chapter 151, apply to the sales and use
20 taxes imposed under this chapter.

21 (b) A change in the law relating to the taxation of the sale
22 or use of a vapor product under Chapter 151 also applies to the
23 sales or use tax imposed under this chapter.

24 Sec. 164.0005. REPORTS. (a) A person required to file a
25 report under Section 151.403 who is also required to collect or pay
26 a tax under this chapter shall file with the comptroller a report
27 stating:

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

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

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

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

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

13 (b) The report required by this section for a reporting
14 period is due on the same date that the tax payment for the period is
15 due.

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

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

21 (2) the volume of vapor products, including the
22 constituent parts of vapor products, purchased from every source
23 during each reporting period;

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

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

27 Sec. 164.0007. DISPOSITION AND USE OF PROCEEDS. The

1 comptroller shall deposit the proceeds from taxes imposed under
2 this chapter in the general revenue fund. The proceeds may be
3 appropriated only to the Health and Human Services Commission for
4 the purpose of providing health benefits coverage under the child
5 health plan program established under Chapter 62, Health and Safety
6 Code.

7 SECTION 2. This Act takes effect September 1, 2021.