

By: Thierry

H.B. No. 1872

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited sale of certain flavored e-cigarettes;
providing a civil penalty.

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

SECTION 1. Chapter 161, Health and Safety Code, is amended
by adding Subchapter I to read as follows:

SUBCHAPTER I. FLAVORED E-CIGARETTES

Sec. 161.095. DEFINITION. In this subchapter,
"e-cigarette" has the meaning assigned by Section 161.081.

Sec. 161.096. PROHIBITED SALE OF CERTAIN FLAVORED
E-CIGARETTES. (a) A person may not sell, give, or cause to be sold
or given an e-cigarette with a distinguishable taste or aroma other
than the taste or aroma of tobacco or menthol, including the aroma
or taste of:

- (1) an alcoholic beverage;
- (2) candy or dessert;
- (3) chocolate, cocoa, or vanilla;
- (4) fruit;
- (5) an herb or spice;
- (6) honey; or
- (7) mint or wintergreen.

(b) There is a rebuttable presumption that an e-cigarette
has a distinguishable taste or aroma prohibited under Subsection
(a) if a person:

1 (1) makes a public statement or claim that the
2 e-cigarette imparts a taste or smell other than the taste or smell
3 of tobacco or menthol;

4 (2) uses text or images on the labeling or packaging of
5 the e-cigarette to indicate the e-cigarette imparts a taste or
6 smell other than the taste or smell of tobacco or menthol; or

7 (3) takes other action directed at consumers that
8 would reasonably be expected to cause consumers to believe the
9 e-cigarette imparts a taste or smell other than the taste or smell
10 of tobacco or menthol.

11 Sec. 161.097. CIVIL PENALTY. (a) A person who violates
12 Section 161.096 is liable to this state for a civil penalty of \$250
13 for each violation.

14 (b) The attorney general may sue to collect the penalty.

15 (c) The attorney general shall file an action under this
16 section in a district court in Travis County or the county in which
17 the violation occurred.

18 (d) The attorney general may recover reasonable expenses
19 incurred in obtaining a civil penalty under this section, including
20 court costs, reasonable attorney's fees, investigative costs,
21 witness fees, and deposition expenses.

22 SECTION 2. This Act takes effect September 1, 2023.