

By: Thierry

H.B. No. 3022

A BILL TO BE ENTITLED

AN ACT

relating to prohibited delivery sales of e-cigarettes.

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

SECTION 1. The heading to Subchapter R, Chapter 161, Health and Safety Code, is amended to read as follows:

SUBCHAPTER R. DELIVERY SALES OF CIGARETTES AND PROHIBITED DELIVERY SALES OF E-CIGARETTES

SECTION 2. Sections 161.451(1) and (3), Health and Safety Code, are amended to read as follows:

(1) "Delivery sale" means a sale of cigarettes [~~or e-cigarettes~~] to a consumer in this state in which the purchaser submits the order for the sale by means of a telephonic or other method of voice transmission, by using the mails or any other delivery service, or through the Internet or another on-line service, or the cigarettes [~~or e-cigarettes~~] are delivered by use of the mails or another delivery service. A sale of cigarettes [~~or e-cigarettes~~] is a delivery sale regardless of whether the seller is located within or without this state. A sale of cigarettes [~~or e-cigarettes~~] not for personal consumption to a person who is a wholesale dealer or a retail dealer is not a delivery sale.

(3) "Shipping container" means a container in which cigarettes [~~or e-cigarettes~~] are shipped in connection with a delivery sale.

SECTION 3. Section 161.452(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) A person may not make a delivery sale of cigarettes [~~or~~
3 ~~e-cigarettes~~] to an individual who is under the age prescribed by
4 Section 161.082.

5 SECTION 4. Subchapter R, Chapter 161, Health and Safety
6 Code, is amended by adding Section 161.4521 to read as follows:

7 Sec. 161.4521. PROHIBITED DELIVERY SALES OF E-CIGARETTES.

8 A person may not:

9 (1) take an order for the delivery sale of
10 e-cigarettes to an individual in this state; or

11 (2) deliver through the mail or another delivery
12 service to an individual in this state e-cigarettes purchased
13 through a delivery sale.

14 SECTION 5. Sections 161.456(a), (b), and (e), Health and
15 Safety Code, are amended to read as follows:

16 (a) A person may not make a delivery sale or ship cigarettes
17 [~~or e-cigarettes~~] in connection with a delivery sale unless the
18 person first files with the comptroller a statement that includes:

19 (1) the person's name and trade name; and

20 (2) the address of the person's principal place of
21 business and any other place of business, and the person's
22 telephone number and e-mail address.

23 (b) Except as provided by Subsection (d), not later than the
24 10th day of each month, each person who has made a delivery sale or
25 shipped or delivered cigarettes [~~or e-cigarettes~~] in connection
26 with a delivery sale during the previous month shall file with the
27 comptroller a memorandum or a copy of the invoice that provides for

1 each delivery sale:

2 (1) the name, address, telephone number, and e-mail
3 address of the individual to whom the delivery sale was made;

4 (2) the brand or brands of the cigarettes [~~or~~
5 ~~e-cigarettes~~] that were sold; and

6 (3) the quantity of cigarettes [~~or e-cigarettes~~] that
7 were sold.

8 (e) A person required to submit a memorandum or a copy of an
9 invoice under Subsection (b) shall submit a memorandum or a copy of
10 an invoice to the comptroller for each delivery sale of a cigarette
11 [~~or e-cigarette~~] in the previous two years unless the person has
12 previously submitted the memorandum or copy to the comptroller.

13 SECTION 6. Section 161.461(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) Cigarettes [~~or e-cigarettes~~] sold or that a person
16 attempted to sell in a delivery sale that does not comply with this
17 subchapter are forfeited to the state and shall be destroyed.

18 SECTION 7. The following provisions of the Health and
19 Safety Code are repealed:

20 (1) Section 161.452(c);

21 (2) Sections 161.453(c) and (d); and

22 (3) Section 161.454(b).

23 SECTION 8. The changes in law made by this Act to Subchapter
24 R, Chapter 161, Health and Safety Code, apply only to an offense
25 committed on or after the effective date of this Act. An offense
26 committed before the effective date of this Act is governed by the
27 law in effect on the date the offense was committed, and the former

1 law is continued in effect for that purpose. For purposes of this
2 section, an offense was committed before the effective date of this
3 Act if any element of the offense occurred before that date.

4 SECTION 9. This Act takes effect September 1, 2023.