

BILL ANALYSIS

H.B. 3535
By: Laubenberg
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The abusable Volatile Chemical (AVC) Act, HB 2950, 77th Legislature, repealed and replaced the Health and Safety Code, Chapter 485, Abusable Glues and Aerosol Paints Act. The AVC Act expanded the regulatory authority to cover all products that meet the definition of “abusable volatile chemical”, and is designed to prevent inhalant abuse among Texas youth. The AVC Act requires retailers to obtain a permit prior to displaying abusable volatile chemicals for sale, and prohibits the sale of these products includes glues, aerosol, paints, carburetor, and fuel injector cleaners and nitrous oxide.

HB 2085, 76th Legislature, authorized TDH to assess administrative penalties for violations in the amount of \$1,000 per day for each violation and not to exceed \$5,000 for each violation and \$25,000 for continuing violations or violations occurring on separate days. In addition, HB 2085 required TDH to provide persons with the opportunity to contest violations or penalty amounts through an administrative hearing under the State Office of Administrative Hearings (SOAH).

TDH has developed and distributed materials to assist retailers and retail associations with the identification of abusable volatile chemicals and the actions requires to comply with the AVC Act.

This bill will increase the statutory cap on administrative penalties for violations committed by persons licensed to sell abusable chemicals, Health and Safety Code sections 485.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1: Amends section 485.101(a), Health and Safety Code, by striking “glue or aerosol” paint and replace it with “volatile chemicals”.

Section 2: Amends section 485.102(a), Health and Safety Code, by increasing the penalty from \$1,000 to \$5,000 per violation. It also amends the same section by increasing the penalty assessed for a violation continuing or occurring on separate days from \$5,000 to \$25,000.

Section 3: Amends Section 501.102(a), Health and Safety Code, by increasing the maximum penalty from \$5,000 to \$10,000.

EFFECTIVE DATE

September 1, 2003.