

By: Strama

H.B. No. 2936

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the sale or distribution of certain
cigarettes; providing penalties.

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

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

SUBCHAPTER U. PROHIBITED CIGARETTES

Sec. 161.551. FLAVORED CIGARETTES PROHIBITED. (a) In this
section, "cigarette" has the meaning assigned by Section 154.001,
Tax Code.

(b) A person may not sell, distribute, or offer for sale or
distribution in this state a cigarette or a component part of a
cigarette, including the tobacco, paper, or filter, if the
cigarette or a component part of a cigarette is advertised or
marketed as having or producing a flavor, taste, or aroma other than
tobacco or menthol.

Sec. 161.552. CIVIL PENALTY. (a) A person who violates
this subchapter is subject to a civil penalty not to exceed \$15,000
a day for each violation. Each day of violation constitutes a
separate violation for purposes of penalty assessment.

(b) In determining the amount of the civil penalty, the
court shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation, including the

1 nature, circumstances, extent, and gravity of the violation;

2 (3) whether the health and safety of the public was
3 threatened by the violation;

4 (4) the demonstrated good faith of the person; and

5 (5) the amount necessary to deter future violations.

6 (c) The attorney general or the appropriate district or
7 county attorney, in the name of the state, may bring an action under
8 this section in a district court of Travis County or of a county in
9 which any part of the violation occurs.

10 (d) A penalty collected under this section by the attorney
11 general shall be deposited in the state treasury to the credit of
12 the general revenue fund. A penalty collected under this section by
13 a district or county attorney shall be deposited to the credit of
14 the general fund of the county in which the suit was heard.

15 Sec. 161.553. REMEDIES CUMULATIVE. The civil penalty
16 authorized by this subchapter is in addition to any other civil,
17 administrative, or criminal action provided by law.

18 SECTION 2. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.