

By: Hopson

H.B. No. 3339

A BILL TO BE ENTITLED

AN ACT

relating to the tax on cigarettes.

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

SECTION 1. Section 154.001(18), Tax Code, is amended to read as follows:

(18) "Stamp" includes only a stamp that:

(A) is printed, manufactured, or made by authority of the comptroller;

(B) shows payment of the tax imposed by this chapter, subject to Section 154.059; and

(C) is consecutively numbered and uniquely identifiable as a Texas tax stamp.

SECTION 2. Section 154.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

(1) the greater of:

(A) \$70.50 per thousand on cigarettes weighing three pounds or less per thousand; or

(B) 55 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal; and

(2) the applicable rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

SECTION 3. The heading to Subchapter C, Chapter 154, Tax

1 Code, is amended to read as follows:

2 SUBCHAPTER C. TAX STAMPS AND SUPPLEMENTAL PAYMENTS

3 SECTION 4. Sections 154.041(a) and (d), Tax Code, are
4 amended to read as follows:

5 (a) A person who pays a tax imposed by this chapter shall
6 securely affix a stamp to each individual package of cigarettes to
7 show payment of the tax, subject to Section 154.059.

8 (d) A manufacturer of cigarettes outside this state may
9 purchase a stamp and affix it to the individual package and no
10 further payment of the tax is required, subject to Section 154.059.

11 SECTION 5. Subchapter C, Chapter 154, Tax Code, is amended
12 by adding Section 154.059 to read as follows:

13 Sec. 154.059. SUPPLEMENTAL PAYMENTS. (a) If the amount of
14 the tax imposed under Section 154.021(b)(1)(B) on a package of
15 cigarettes is greater than the face value of the stamp the
16 manufacturer or distributor affixed to the package, the
17 manufacturer or distributor shall pay the difference in those
18 amounts at the time the manufacturer or distributor files the
19 report required by Section 154.204 or 154.210, as applicable.

20 (b) The manufacturer or distributor shall pay the
21 additional tax by cashier's check payable to the comptroller, by
22 electronic funds transfer to the comptroller, or by any other
23 method of payment authorized by the comptroller.

24 SECTION 6. Section 154.210(b), Tax Code, is amended to read
25 as follows:

26 (b) The report must show:

27 (1) the date the report was made;

- 1 (2) the distributor's name and address;
- 2 (3) the month the report covers;
- 3 (4) the number of cigarettes in stamped packages and
4 the number of cigarettes in unstamped packages on hand at the
5 beginning of the month;
- 6 (5) the number of cigarettes in stamped packages and
7 the number of cigarettes in unstamped packages purchased and
8 received during the month;
- 9 (6) the number of cigarettes in stamped packages and
10 the number of cigarettes in unstamped packages returned by
11 customers or received from any other source;
- 12 (7) the number of cigarettes in stamped packages and
13 the number of cigarettes in unstamped packages sold, used, lost,
14 stolen, returned to the factory, or disposed of in any other manner;
- 15 (8) the number of cigarettes in stamped packages and
16 the number of cigarettes in unstamped packages on hand at the end of
17 the month;
- 18 (9) the number of cigarettes sold or distributed in
19 interstate commerce;
- 20 (10) the number of cigarettes sold or distributed in
21 intrastate commerce;
- 22 (11) the beginning and ending serial numbers, design,
23 color, or denomination of, and amount paid for, unused stamps on
24 hand at the beginning of the month;
- 25 (12) the beginning and ending serial numbers, design,
26 color, or denomination of, and amount paid for, stamps purchased
27 and received;

1 (13) the beginning and ending serial numbers, design,
2 color, or denomination of, and amount paid for, stamps sold, used,
3 lost, stolen, exchanged, returned, or disposed of in any other
4 manner;

5 (14) the beginning and ending serial numbers, design,
6 color, or denomination of, and amount paid for, stamps on hand at
7 the end of the month;

8 (15) a summary schedule, on a form prescribed by the
9 comptroller, identifying each receipt of cigarettes, the date of
10 receipt, the shipper, the invoice number, and the quantity of
11 cigarettes received; ~~and~~

12 (16) the manufacturer's list price of cigarettes
13 purchased, received, and acquired; and

14 (17) any other information the comptroller requires
15 relating to cigarettes and to the payment of taxes due on them.

16 SECTION 7. Section 154.411(a), Tax Code, is amended to read
17 as follows:

18 (a) The comptroller may waive a forfeiture proceeding for
19 property seized under Section 154.403 ~~[of this code]~~ if the owner or
20 possessor of the property:

21 (1) affixes the required stamp to the individual
22 packages of cigarettes; and

23 (2) in addition to the value of the stamps required to
24 be affixed, pays to the state through the comptroller a sum equal to
25 the value of the required stamps and any supplemental payment due
26 under Section 154.059.

27 SECTION 8. Section 154.603(b), Tax Code, is amended to read

1 as follows:

2 (b) The revenue remaining after the deductions for the
3 purposes provided by Section 154.602 [~~of this code~~] and allocation
4 under Subsection (a), including any revenue received under Section
5 154.159, [~~of this section~~] is allocated to the general revenue
6 fund.

7 SECTION 9. Section 154.6035, Tax Code, is amended to read as
8 follows:

9 Sec. 154.6035. ALLOCATION OF CERTAIN REVENUE TO PROPERTY
10 TAX RELIEF FUND. Notwithstanding Section 154.603, all proceeds
11 that are from the collection of taxes imposed by this chapter under
12 Sections 154.021(b)(1)(A) and (2) based on weight and that are
13 attributable to the portion of the tax rate in excess of \$20.50 per
14 thousand on cigarettes, regardless of weight, shall be deposited to
15 the credit of the property tax relief fund under Section 403.109,
16 Government Code.

17 SECTION 10. The change in law made by this Act does not
18 affect tax liability accruing before the effective date of this
19 Act. That liability continues in effect as if this Act had not been
20 enacted, and the former law is continued in effect for the
21 collection of taxes due and for civil and criminal enforcement of
22 the liability for those taxes.

23 SECTION 11. This Act takes effect September 1, 2009.