

By: Hinojosa

S.B. No. 1390

A BILL TO BE ENTITLED

AN ACT

1
2 relating to taxes and fees imposed on cigarettes and other tobacco
3 products, including an exemption to the cigarette tax, related
4 administrative matters, and the elements of certain related
5 offenses.

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

7 SECTION 1. Section 161.604, Health and Safety Code, is
8 amended by amending Subsection (b) and adding Subsection (b-1) to
9 read as follows:

10 (b) Beginning in January 2014, and in January of each
11 subsequent year, the comptroller shall adjust ~~compute~~ the rate of
12 the fee ~~[applicable during that calendar year]~~ by increasing the
13 rate in effect on the date the adjustment is made ~~[for the preceding~~
14 ~~calendar year]~~ by the greater of:

15 (1) three percent; or

16 (2) the actual total percentage change in the Consumer
17 Price Index for All Urban Consumers (CPI-U), as published by the
18 Bureau of Labor Statistics of the United States Department of
19 Labor, during the preceding calendar year, calculated by comparing
20 the CPI-U for December of the preceding calendar year with the CPI-U
21 for December a year earlier.

22 (b-1) The adjusted rate of the fee determined under
23 Subsection (b) takes effect on February 1 of the year in which the
24 adjusted rate is determined and remains in effect until January 31

1 of the following year.

2 SECTION 2. Section 161.605(e), Health and Safety Code, is
3 amended to read as follows:

4 (e) Notwithstanding any other law, a distributor that
5 remits a monthly fee under this section is[~~, subject to Section~~
6 ~~154.051, Tax Code,~~] entitled to a stamping allowance of three
7 percent of the face value of all stamps purchased under Section
8 154.041, Tax Code, for providing the service of affixing stamps to
9 cigarette packages.

10 SECTION 3. Subchapter B, Chapter 154, Tax Code, is amended
11 by adding Section 154.026 to read as follows:

12 Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH
13 PURPOSES. (a) Cigarettes are exempt from the tax imposed by
14 Section 154.021 if the cigarettes are:

15 (1) contained in a package labeled with "Experimental
16 Use Only," "Reference Cigarettes," or other similar wording
17 indicating that the manufacturer intends for the product to be used
18 exclusively for experimental purposes in compliance with 27 C.F.R.
19 Section 40.232;

20 (2) sold directly by a manufacturer to a research
21 facility in this state, including:

22 (A) a laboratory, hospital, medical center,
23 college, or university; or

24 (B) a facility designated as a Tobacco Center of
25 Regulatory Science by the National Institutes of Health;

26 (3) used by the research facility exclusively for
27 experimental purposes; and

1 (4) not resold by the research facility.

2 (b) Sections 154.041, 154.302, 154.502, 154.503, and
3 154.515 do not apply to cigarettes exempted by Subsection (a).

4 SECTION 4. Section 154.210(a), Tax Code, is amended to read
5 as follows:

6 (a) A distributor shall deliver to the comptroller, on or
7 before the 25th ~~last~~ day of each month, a report for the preceding
8 month.

9 SECTION 5. Section 154.502, Tax Code, is amended to read as
10 follows:

11 Sec. 154.502. UNSTAMPED CIGARETTES. Except as provided by
12 Section 154.026(b), a [A] person commits an offense if the person:

13 (1) makes a first sale of unstamped cigarettes;

14 (2) sells, offers for sale, or presents as a prize or
15 gift unstamped cigarettes; or

16 (3) knowingly consumes, uses, or smokes cigarettes
17 taxed under this chapter without a stamp affixed to each individual
18 package.

19 SECTION 6. Section 154.503(a), Tax Code, is amended to read
20 as follows:

21 (a) Except as provided by Sections 154.026(b) and ~~[Section]~~
22 154.042 ~~[of this code]~~, a person commits an offense if the person
23 possesses unstamped cigarettes in quantities less than 10,000.

24 SECTION 7. Section 154.515(a), Tax Code, is amended to read
25 as follows:

26 (a) Except as provided by Sections 154.026(b) and ~~[Section]~~
27 154.042 ~~[of this code]~~, a person commits an offense if the person

1 possesses unstamped cigarettes in quantities of 10,000 or more.

2 SECTION 8. Section 155.111(a), Tax Code, is amended to read
3 as follows:

4 (a) A distributor shall file with the comptroller on or
5 before the 25th [~~last~~] day of each month[~~7~~] a report for the
6 preceding month.

7 SECTION 9. (a) The changes in law made by this Act do not
8 affect taxes and fees imposed before the effective date of this Act,
9 and the law in effect before the effective date of this Act is
10 continued in effect for purposes of the liability for and
11 collection of those taxes and fees.

12 (b) The changes in law made by this Act to Sections 154.210
13 and 155.111, Tax Code, apply only to a distributor's report
14 originally due on or after the effective date of this Act. A
15 distributor's report originally due before that date is governed by
16 the law in effect on the date the report was due, and the former law
17 is continued in effect for that purpose.

18 (c) The changes in law made by this Act to Sections 154.502,
19 154.503, and 154.515, Tax Code, apply only to an offense committed
20 on or after the effective date of this Act. An offense committed
21 before the effective date of this Act is governed by the law in
22 effect when the offense was committed, and the former law is
23 continued in effect for that purpose. For purposes of this
24 subsection, an offense was committed before the effective date of
25 this Act if any element of the offense occurred before that date.

26 SECTION 10. This Act takes effect September 1, 2017.