

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(b), Health and Safety Code, is
8 amended to read as follows:

9 (b) Beginning in January 2014, and in February [~~January~~] of
10 each subsequent year, the comptroller shall compute the rate of the
11 fee applicable during that calendar year by increasing the rate for
12 the preceding calendar year by the greater of:

13 (1) three percent; or

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

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

22 (e) Notwithstanding any other law, a distributor that
23 remits a monthly fee under this section is [~~subject to Section~~
24 ~~154.051, Tax Code,~~] entitled to a stamping allowance of three

1 percent of the face value of all stamps purchased under Section
2 [154.041](#), Tax Code, for providing the service of affixing stamps to
3 cigarette packages.

4 SECTION 3. Subchapter B, Chapter [154](#), Tax Code, is amended
5 by adding Section 154.026 to read as follows:

6 Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH
7 PURPOSES. (a) Cigarettes are exempt from the tax imposed by
8 Section [154.021](#) if the cigarettes are:

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

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

16 (A) a laboratory, hospital, medical center,
17 college, or university; or

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

20 (3) used by the research facility exclusively for
21 experimental purposes; and

22 (4) not resold by the research facility.

23 (b) Sections [154.041](#), [154.302](#), [154.502](#), [154.503](#), and
24 [154.515](#) do not apply to cigarettes exempted by Subsection (a).

25 SECTION 4. Section [154.210](#)(a), Tax Code, is amended to read
26 as follows:

27 (a) A distributor shall deliver to the comptroller, on or

1 before the 25th [~~last~~] day of each month, a report for the preceding
2 month.

3 SECTION 5. Section 154.502, Tax Code, is amended to read as
4 follows:

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

- 7 (1) makes a first sale of unstamped cigarettes;
8 (2) sells, offers for sale, or presents as a prize or
9 gift unstamped cigarettes; or

10 (3) knowingly consumes, uses, or smokes cigarettes
11 taxed under this chapter without a stamp affixed to each individual
12 package.

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

15 (a) Except as provided by Sections 154.026(b) and [~~Section~~]
16 154.042 [~~of this code~~], a person commits an offense if the person
17 possesses unstamped cigarettes in quantities less than 10,000.

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

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

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

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

1 SECTION 9. (a) The changes in law made by this Act do not
2 affect taxes and fees imposed before the effective date of this Act,
3 and the law in effect before the effective date of this Act is
4 continued in effect for purposes of the liability for and
5 collection of those taxes and fees.

6 (b) The changes in law made by this Act to Sections [154.210](#)
7 and [155.111](#), Tax Code, apply only to a distributor's report
8 originally due on or after the effective date of this Act. A
9 distributor's report originally due before that date is governed by
10 the law in effect on the date the report was due, and the former law
11 is continued in effect for that purpose.

12 (c) The changes in law made by this Act to Sections [154.502](#),
13 [154.503](#), and [154.515](#), Tax Code, apply only to an offense committed
14 on or after the effective date of this Act. An offense committed
15 before the effective date of this Act is governed by the law in
16 effect when the offense was committed, and the former law is
17 continued in effect for that purpose. For purposes of this
18 subsection, an offense was committed before the effective date of
19 this Act if any element of the offense occurred before that date.

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