86R15311 SRA-F

By:  Guillen H.B. No. 3475

A BILL TO BE ENTITLED

AN ACT

relating to the cigarette tax and the tax on cigars and other tobacco products; requiring permits.

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

SECTION 1.  Section 154.001, Tax Code, is amended by amending Subdivisions (1), (7), (9), (10), (11), (12), (14), (15), (17), and (18) and adding Subdivisions (7-a) and (17-a) to read as follows:

(1)  "Bonded agent" means a person in this state who is a third-party [~~an~~] agent of a manufacturer [~~person~~] outside this state and who receives cigarettes in interstate commerce and stores the cigarettes for distribution or delivery to distributors under orders from the manufacturer [~~person outside this state~~].

(7)  "Distributor" means a person who:

(A)  is authorized to purchase for the purpose of making a first sale in this state cigarettes in unstamped packages from manufacturers who distribute cigarettes in this state and to stamp cigarette packages;

(B)  ships, transports, imports into this state, acquires, or possesses cigarettes and makes a first sale of the cigarettes in this state;

(C)  manufactures or produces cigarettes; or

(D)  is an importer [~~or import broker~~].

(7-a)  "Engage in business" means, in relation to cigarettes, engaging by a person, either directly or through a representative, in any of the following activities:

(A)  selling cigarettes in or into this state;

(B)  using a warehouse or another location to store cigarettes; or

(C)  otherwise conducting through a physical presence cigarette-related business in this state.

(9)  "First sale" means, except as otherwise provided by this chapter:

(A)  the first transfer of possession in connection with a purchase, sale, or any exchange for value of cigarettes in or into this state, which:

(i)  includes the sale of cigarettes by:

(a)  a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b)  a manufacturer in this state who transfers the cigarettes in this state; and

(ii)  does not include:

(a)  the sale of cigarettes by a manufacturer outside this state to a distributor in this state; or

(b)  the transfer of cigarettes from a manufacturer outside this state to a bonded agent in this state [~~in intrastate commerce~~];

(B)  the first use or consumption of cigarettes in this state; or

(C)  the loss of cigarettes in this state whether through negligence, theft, or other unaccountable loss.

(10)  "Importer" [~~or "import broker"~~] means a person who ships, transports, or imports into this state cigarettes manufactured or produced outside the United States for the purpose of making a first sale in this state.

(11)  "Individual package of cigarettes" means a package that contains at least 20 [~~not fewer than 10~~] cigarettes.

(12)  "Manufacturer" means a person who manufactures, fabricates, or assembles cigarettes, or causes or arranges for the manufacture, fabrication, or assembly of cigarettes, for sale or distribution [~~and sells cigarettes to a distributor~~].

(14)  "Permit holder" means a bonded agent, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains [~~required to obtain~~] a permit under Section 154.101.

(15)  "Place of business" means:

(A)  a commercial business location where cigarettes are sold;

(B)  a commercial business location where cigarettes are kept for sale or consumption or otherwise stored; [~~or~~]

(C)  a vehicle from which cigarettes are sold; or

(D)  a vending machine from which cigarettes are sold.

(17)  "Retailer" means a person who engages in the business [~~practice~~] of selling cigarettes to consumers and includes the owner of a [~~coin-operated~~] cigarette vending machine.

(17-a) "Roll-your-own machine" means a machine for commercial use at a retail premise that is capable of producing cigarettes only in quantities for personal use.

(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; [~~and~~]

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

(D)  is legible and undamaged.

SECTION 2.  Section 154.002, Tax Code, is amended to read as follows:

Sec. 154.002.  STORAGE. (a) The commercial business location where cigarettes are stored or kept cannot be a residence or a unit in a public storage facility.

(b)  For the purpose of Subsection (a), the vehicle of a manufacturer's representative is not a residence or public storage facility.

SECTION 3.  Section 154.022, Tax Code, is amended to read as follows:

Sec. 154.022.  TAX IMPOSED ON FIRST SALE OF CIGARETTES. The cigarette tax is imposed and becomes due and payable when a person [~~in this state~~] receives cigarettes to make a first sale.

SECTION 4.  Subchapter B, Chapter 154, Tax Code, is amended by adding Section 154.0225 to read as follows:

Sec. 154.0225.  LIABILITY OF PERMITTED DISTRIBUTOR. A permitted distributor who makes a first sale to a permitted distributor in this state is liable for and shall pay the tax imposed by this chapter.

SECTION 5.  Section 154.024(a), Tax Code, is amended to read as follows:

(a)  A person who imports and personally transports 200 or fewer cigarettes into this state from another state or from an Indian reservation under the jurisdiction of the United States government is not required to pay the tax imposed by this chapter if the person uses the cigarettes and does not sell them or offer them for sale. A person who imports and personally transports 200 or fewer cigarettes into this state from a foreign country shall pay the tax imposed by this chapter and have affixed on each individual package of cigarettes a stamp to show payment of the tax.

SECTION 6.  Section 154.060, Tax Code, is amended to read as follows:

Sec. 154.060.  CANCELLATION. No person may cancel, mark, alter, or mutilate a stamp on a package of cigarettes so that the comptroller is prevented from or hindered in examining the genuineness of the stamp.

SECTION 7.  Section 154.101, Tax Code, is amended by amending Subsections (a), (b), and (h) and adding Subsections (i) and (j) to read as follows:

(a)  A person may not engage in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b)  Each distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer. The comptroller may not issue a permit for a place of business that is a residence or a unit in a public storage facility.

(h)  Permits for engaging in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall be governed exclusively by the provisions of this code.

(i)  This section does not apply to a research facility that possesses and uses cigarettes only for experimental purposes.

(j)  A person engaged in the business of selling cigarettes for commercial purposes who provides a roll-your-own machine available for use by consumers must obtain manufacturer's, distributor's, and retailer's permits.

SECTION 8.  Section 154.1015, Tax Code, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), (f), (g), (h), and (i) to read as follows:

(a)  Except for retail sales to consumers, cigarettes may only be sold or distributed by and between permit holders as provided by this section.

(c)  A manufacturer outside this state who is not a permitted distributor may sell cigarettes only to a permitted distributor.

(d)  A permitted distributor may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(e)  A permitted importer may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(f)  A permitted wholesaler may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(g)  A permitted retailer may sell cigarettes only to the consumer and may purchase cigarettes only from a permitted distributor or wholesaler in this state.

(h)  A permitted export warehouse may sell cigarettes only to persons authorized to sell or consume unstamped cigarettes outside the United States.

(i)  A manufacturer's representative may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

SECTION 9.  Section 154.110(a), Tax Code, is amended to read as follows:

(a)  The comptroller shall issue a permit to a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer if the comptroller:

(1)  has received an application and fee, if required;

(2)  believes that the applicant has complied with Section 154.101; and

(3)  determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

SECTION 10.  Section 154.111, Tax Code, is amended by adding Subsections (c) and (g) to read as follows:

(c)  A fee is not required for an export warehouse permit.

(g)  A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

SECTION 11.  Section 154.201, Tax Code, is amended to read as follows:

Sec. 154.201.  RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all cigarettes purchased or received, including records of those cigarettes for which no tax is due under federal law. Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in this state, of all cigarettes purchased and received. These records must include:

(1)  the name and address of the shipper or carrier and the mode of transportation;

(2)  all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3)  the date and the name of the place of origin of the cigarette shipment;

(4)  the date and the name of the place of arrival of the cigarette shipment;

(5)  a statement of the number, kind, and price paid for cigarettes, including cigarettes in stamped and unstamped packages;

(6)  the name, address, permit number, and tax identification number of the seller;

(7)  in the case of a distributor, copies of the customs certificates required by 19 U.S.C. Section 1681a(c), as amended, for all cigarettes imported into the United States to which the distributor has affixed a tax stamp; and

(8)  any other information required by rules of the comptroller.

SECTION 12.  Section 154.204(b), Tax Code, is amended to read as follows:

(b)  A manufacturer who sells cigarettes to a permit holder in this state shall file with the comptroller, on or before the 25th [~~end~~] of each month, a report showing the information listed in Subsections (a)(1) [~~Subdivisions (1)~~], (2), (3), and (5) [~~of Subsection (a)~~] for the previous month. Information related to the manufacturer's list prices must be submitted by the manufacturer 15 days prior to any scheduled changes.

SECTION 13.  Section 154.207(b), Tax Code, is amended to read as follows:

(b)  The comptroller and the attorney general are entitled to access during regular business hours [~~to~~] all records pertaining to cigarettes that are transported.

SECTION 14.  Section 154.208(a), Tax Code, is amended to read as follows:

(a)  Each bonded agent shall keep, at each of the agent's places [~~place~~] of business in this state, records of all cigarettes received, distributed, and delivered.

SECTION 15.  Subchapter F, Chapter 154, Tax Code, is amended by adding Section 154.2085 to read as follows:

Sec. 154.2085.  EXPORT WAREHOUSE'S RECORDS. (a) Each export warehouse shall keep, at each of the warehouse's places of business in this state, records of all cigarettes received, distributed, and delivered.

(b)  The records must include:

(1)  invoices for receipts and deliveries;

(2)  orders for receipts and deliveries;

(3)  shipping records for receipts and deliveries; and

(4)  shipping records for distribution and delivery.

SECTION 16.  Section 154.209(b), Tax Code, is amended to read as follows:

(b)  If a permit holder's place of business is a vehicle or a vending machine, the permit holder shall designate in the application for a permit a permanent place of business to keep the records. The permit holder shall keep the records in the designated place.

SECTION 17.  Sections 154.501(a), (b), and (d), Tax Code, are amended to read as follows:

(a)  A person violates this chapter if the person:

(1)  is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2)  engages in the business of a bonded agent, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3)  is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, or retailer and fails to make a report or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4)  is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

(b)  A person who violates this section [~~forfeits and~~] shall pay to the state a penalty of not more than $2,000 for each violation.

(d)  The attorney general shall bring a suit [~~suits~~] to recover penalties under this section.

SECTION 18.  Section 154.502, Tax Code, is amended to read as follows:

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

(1)  makes a first sale of unstamped cigarettes;

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

(3)  knowingly consumes, uses, or smokes cigarettes subject to the tax [~~taxed~~] under this chapter without a stamp affixed to each individual package.

SECTION 19.  Section 154.509, Tax Code, is amended to read as follows:

Sec. 154.509.  PERMITS. A person commits an offense if the person acting:

(1)  as a distributor, wholesaler, or retailer, receives or possesses cigarettes without having a valid permit;

(2)  as a distributor, wholesaler, or retailer, receives or possesses cigarettes without having a permit posted where it can be easily seen by the public;

(3)  as a distributor or wholesaler, does not deliver an invoice to the purchaser as required by Section 154.203;

(4)  as a distributor, wholesaler, or retailer, sells cigarettes without having a valid permit; or

(5)  as a bonded agent or export warehouse, stores, distributes, or delivers cigarettes in unstamped packages without having a valid permit.

SECTION 20.  Section 154.520(a), Tax Code, is amended to read as follows:

(a)  A person commits an offense if the person:

(1)  prints, engraves, makes, duplicates, issues, sells, or circulates counterfeit stamps;

(2)  possesses, with intent to use, sell, circulate, or pass, a counterfeit stamp;

(3)  uses or consents to the use of a counterfeit stamp in the sale or offering for sale of cigarettes; or

(4)  places or causes to be placed a counterfeit stamp on an individual package of cigarettes.

SECTION 21.  Section 155.001, Tax Code, is amended by amending Subdivisions (1), (6), (7), (8), (9), (10), (11), (12), (13), (14), and (15) and adding Subdivisions (6-a) and (13-a) to read as follows:

(1)  "Bonded agent" means a person in this state who is a third-party [~~an~~] agent of a manufacturer [~~person~~] outside this state and who receives [~~cigars and~~] tobacco products in interstate commerce and stores the [~~cigars and~~] tobacco products for distribution or delivery to distributors under orders from the manufacturer [~~person outside this state~~].

(6)  "Distributor" means a person who:

(A)  receives untaxed tobacco products for the purpose of making a first sale in this state from a manufacturer outside the state or within the state or otherwise brings or causes to be brought into this state untaxed tobacco products for sale, use, or consumption;

(B)  manufactures or produces tobacco products; or

(C)  is an importer [~~or import broker~~].

(6-a)  "Engage in business" means, in relation to tobacco products, engaging by a person, either directly or through a representative, in any of the following activities:

(A)  selling tobacco products in or into this state;

(B)  using a warehouse or another location to store tobacco products; or

(C)  otherwise conducting through a physical presence tobacco product-related business in this state.

(7)  "Export warehouse" means a person in this state who receives untaxed tobacco products from manufacturers and stores the tobacco products for the purpose of making sales to authorized persons for resale, use, or consumption outside the United States.

(8)  "First sale" means, except as otherwise provided by this chapter:

(A)  the first transfer of possession in connection with a purchase, sale, or any exchange for value of tobacco products in or into this state, which:

(i)  includes the sale of tobacco products by:

(a)  a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b)  a manufacturer in this state who transfers the tobacco products in this state; and

(ii)  does not include:

(a)  the sale of tobacco products by a manufacturer outside this state to a distributor in this state; or

(b)  the transfer of tobacco products from a manufacturer outside this state to a bonded agent in this state [~~in intrastate commerce~~];

(B)  the first use or consumption of tobacco products in this state; or

(C)  the loss of tobacco products in this state whether through negligence, theft, or other unaccountable loss.

(9)  "Importer" [~~or "import broker"~~] means a person who ships, transports, or imports into this state tobacco products manufactured or produced outside the United States for the purpose of making a first sale in this state.

(10)  "Manufacturer" means a person who manufactures, fabricates, or assembles tobacco products, or causes or arranges for the manufacture, fabrication, or assembly of tobacco products, for sale or distribution [~~or produces tobacco products and sells tobacco products to a distributor~~].

(11)  "Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products for which the tax imposed under this chapter has been paid.

(12)  "Permit holder" means a bonded agent, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains [~~required to obtain~~] a permit under Section 155.041.

(13)  "Place of business" means:

(A)  a commercial business location where tobacco products are sold;

(B)  a commercial business location where tobacco products are kept for sale or consumption or otherwise stored; [~~or~~]

(C)  a vehicle from which tobacco products are sold; or

(D)  a vending machine from which tobacco products are sold.

(13-a)  "Raw tobacco" means any part of the tobacco plant, including the tobacco leaf or stem, that is harvested from the ground and is not a tobacco product as the term is defined in this chapter.

(14)  "Retailer" means a person who engages in the business [~~practice~~] of selling tobacco products to consumers and includes the owner of a [~~coin-operated~~] vending machine.

(15)  "Tobacco product" means:

(A)  a cigar;

(B)  smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette;

(C)  chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing;

(D)  snuff or other preparations of pulverized tobacco; or

(E)  an article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or an e-cigarette as defined by Section 161.081, Health and Safety Code.

SECTION 22.  Subchapter B, Chapter 155, Tax Code, is amended by adding Sections 155.0212, 155.025, and 155.028 to read as follows:

Sec. 155.0212.  LIABILITY OF PERMITTED DISTRIBUTOR. A permitted distributor who makes a first sale to a permitted distributor in this state is liable for and shall pay the tax imposed by this chapter.

Sec. 155.025.  MANUFACTURING EXEMPTION. Raw tobacco sold to a permitted manufacturer in this state for the purpose of using the tobacco in manufacturing is not subject to the taxes imposed by this chapter.

Sec. 155.028.  IMPACT OF TAX. The ultimate consumer or user in this state bears the impact of the tax imposed by this chapter. If another person pays the tax, the amount of the tax is added to the price charged to the ultimate consumer or user.

SECTION 23.  Sections 155.041(a), (b), and (h), Tax Code, are amended to read as follows:

(a)  A person may not engage in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b)  Each distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer.

(h)  Permits for engaging in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall be governed exclusively by the provisions of this code.

SECTION 24.  Section 155.0415, Tax Code, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), (f), (g), (h), and (i) to read as follows:

(a)  Except for retail sales to consumers, tobacco products may only be sold or distributed by and between permit holders as provided by this section.

(c)  A manufacturer outside this state who is not a permitted distributor may sell tobacco products only to a permitted distributor.

(d)  A permitted distributor may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(e)  A permitted importer may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(f)  A permitted wholesaler may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(g)  A permitted retailer may sell tobacco products only to the consumer and may purchase tobacco products only from a permitted distributor or wholesaler in this state.

(h)  A permitted export warehouse may sell tobacco products only to persons authorized to sell or consume untaxed tobacco products outside the United States.

(i)  A manufacturer's representative may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

SECTION 25.  The heading to Section 155.049, Tax Code, is amended to read as follows:

Sec. 155.049.  PERMIT [~~LICENSING~~] YEAR; FEES.

SECTION 26.  Section 155.049, Tax Code, is amended by adding Subsections (c) and (g) to read as follows:

(c)  A fee is not required for an export warehouse permit.

(g)  A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

SECTION 27.  Section 155.101, Tax Code, is amended to read as follows:

Sec. 155.101.  RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all tobacco products purchased or received.  Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in the state, of all tobacco products purchased and received.  These records must include the following, except that Subdivision (7) applies to distributors only and Subdivision (8) applies only to the purchase or receipt of tobacco products other than cigars:

(1)  the name and address of the shipper or carrier and the mode of transportation;

(2)  all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3)  the date and the name of the place of origin of the tobacco product shipment;

(4)  the date and the name of the place of arrival of the tobacco product shipment;

(5)  a statement of the number, kind, and price paid for the tobacco products;

(6)  the name, address, permit number, and tax identification number of the seller;

(7)  the manufacturer's list price for the tobacco products;

(8)  the net weight as listed by the manufacturer for each unit; and

(9)  any other information required by rules of the comptroller.

SECTION 28.  Subchapter D, Chapter 155, Tax Code, is amended by adding Section 155.109 to read as follows:

Sec. 155.109.  EXPORT WAREHOUSE'S RECORDS. (a) Each export warehouse shall keep, at each of the warehouse's places of business in this state, records of all tobacco products received, distributed, and delivered.

(b)  The records must include:

(1)  invoices for receipts and deliveries;

(2)  orders for receipts and deliveries;

(3)  shipping records for receipts and deliveries; and

(4)  shipping records for distribution and delivery.

SECTION 29.  Sections 155.201(a) and (b), Tax Code, are amended to read as follows:

(a)  A person violates this chapter if the person:

(1)  is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2)  engages in the business of a bonded agent, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3)  is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, or retailer and fails to make a report required by this chapter to the comptroller or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4)  is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

(b)  A person who violates this chapter [~~forfeits and~~] shall pay to the state a penalty of not more than $2,000 for each violation.

SECTION 30.  Section 155.202, Tax Code, is amended to read as follows:

Sec. 155.202.  NONPAYMENT OF TAX. A person commits an offense if the person, without the tax being paid:

(1)  receives or possesses in this state tobacco products for the purpose of making a first sale;

(2)  sells, offers for sale, or presents tobacco products as a prize or gift; or

(3)  knowingly consumes, uses, or smokes tobacco products subject to the tax imposed by this chapter [~~in an amount on which a tax of more than $50 is due~~].

SECTION 31.  Section 155.207, Tax Code, is amended to read as follows:

Sec. 155.207.  PERMITS. A person commits an offense if the person acting:

(1)  as a distributor, wholesaler, or retailer, receives or possesses tobacco products without having a valid permit;

(2)  as a distributor, wholesaler, or retailer, receives or possesses tobacco products without having a permit posted where it can be easily seen by the public;

(3)  as a distributor or wholesaler, does not deliver an invoice to the purchaser as required by Section 155.102;

(4)  as a distributor, wholesaler, or retailer, sells tobacco products without having a valid permit; or

(5)  as a bonded agent or export warehouse, stores, distributes, or delivers tobacco products on which the tax has not been paid without having a valid permit.

SECTION 32.  Section 155.209, Tax Code, is amended to read as follows:

Sec. 155.209.  TRANSPORTATION OF TOBACCO PRODUCTS. A person commits an offense if the person:

(1)  knowingly transports tobacco products subject to the tax [~~taxed~~] under this chapter without the tax being paid;

(2)  wilfully refuses to stop a motor vehicle operated to transport tobacco products after a request to stop from an authorized representative of the comptroller; or

(3)  while transporting tobacco products, refuses to permit a complete inspection of the cargo by an authorized representative of the comptroller.

SECTION 33.  The heading to Section 155.211, Tax Code, is amended to read as follows:

Sec. 155.211.  POSSESSION: TAX DUE [~~MORE THAN $50~~].

SECTION 34.  Section 155.211(a), Tax Code, is amended to read as follows:

(a)  A person commits an offense if the person possesses, in violation of this chapter, tobacco products on which a tax [~~of more than $50~~] is required to be paid that has not been paid. The absence of evidence of a tax payment is prima facie evidence of nonpayment.

SECTION 35.  Sections 155.022, 155.112(b), and 155.203, Tax Code, are repealed.

SECTION 36.  The changes in law made by this Act to Sections 154.502, 154.509, 154.520, 155.202, 155.207, 155.209, and 155.211, Tax Code, and the repeal by this Act of Section 155.203, Tax Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 37.  The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 38.  This Act takes effect September 1, 2019.