

By: Springer

H.B. No. 3364

A BILL TO BE ENTITLED

AN ACT

relating to sales and use taxes on electronic nicotine delivery system vapor products; imposing taxes.

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

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 164 to read as follows:

CHAPTER 164. TAX ON ELECTRONIC NICOTINE DELIVERY SYSTEM VAPOR PRODUCTS

Sec. 164.0001. DEFINITIONS. In this chapter:

(1) "Electronic nicotine delivery system" has the meaning assigned to "e-cigarette" by Section 161.081, Health and Safety Code.

(2) "Vapor product" means a consumable nicotine liquid solution or any other consumable solutions with materials, which may or may not contain nicotine, suitable for use in an electronic nicotine delivery system.

Sec. 164.0002. ELECTRONIC NICOTINE DELIVERY SYSTEM VAPOR PRODUCT SALES TAX. (a) A tax is imposed on each sale of a vapor product in this state.

(b) The tax rate is five cents for each milliliter or fractional part of a milliliter of vapor product sold.

(c) The tax imposed under this section is in addition to the tax imposed under Subchapter C, Chapter 151. The tax imposed under this section does not apply to a sale unless the tax imposed under

1 Subchapter C, Chapter 151, applies to the sale.

2 Sec. 164.0003. ELECTRONIC NICOTINE DELIVERY SYSTEM VAPOR  
3 PRODUCT USE TAX. (a) A tax is imposed on the storage, use, or other  
4 consumption in this state of a vapor product purchased from a  
5 retailer for storage, use, or other consumption in this state.

6 (b) The tax rate is five cents for each milliliter or  
7 fractional part of a milliliter of vapor product stored, used, or  
8 otherwise consumed in this state.

9 (c) The tax imposed under this section is in addition to the  
10 tax imposed under Subchapter D, Chapter 151. The tax imposed under  
11 this section does not apply to the storage, use, or other  
12 consumption of a vapor product unless the tax imposed under  
13 Subchapter D, Chapter 151, applies to the storage, use, or other  
14 consumption.

15 Sec. 164.0004. APPLICATION OF OTHER PROVISIONS OF CODE.

16 (a) Except as provided by this chapter:

17 (1) the taxes imposed under this chapter are  
18 administered, imposed, collected, and enforced in the same manner  
19 as the taxes under Chapter 151 are administered, imposed,  
20 collected, and enforced; and

21 (2) the provisions of Chapter 151 applicable to the  
22 sales tax imposed under Subchapter C, Chapter 151, and the use tax  
23 imposed under Subchapter D, Chapter 151, apply to the sales and use  
24 taxes imposed under this chapter.

25 (b) A change in the law relating to the taxation of the sale  
26 or use of a vapor product under Chapter 151 also applies to the  
27 sales or use tax imposed under this chapter.

1       Sec. 164.0005. REPORTS. (a) A person required to file a  
2 report under Section 151.403 who is also required to collect or pay  
3 a tax under this chapter shall file with the comptroller a report  
4 stating:

5           (1) for sales tax purposes, the volume of vapor  
6 products sold by the seller during the reporting period;

7           (2) for use tax purposes, the volume of vapor products  
8 sold by the retailer during the reporting period for storage, use,  
9 or other consumption in this state;

10          (3) the volume of vapor products subject to the use tax  
11 that were acquired during the reporting period for storage, use, or  
12 other consumption in this state by a purchaser who did not pay the  
13 tax to a retailer;

14          (4) the amount of the taxes due under this chapter for  
15 the reporting period; and

16          (5) any other information required by the comptroller.

17       (b) The report required by this section for a reporting  
18 period is due on the same date that the tax payment for the period is  
19 due.

20       Sec. 164.0006. RECORDS. A person required to file a report  
21 under Section 151.403 who is also required to collect or pay a tax  
22 under this chapter shall keep a complete record of:

23           (1) the volume of vapor products sold in this state  
24 during each reporting period;

25           (2) the volume of vapor products, including the  
26 constituent parts of vapor products, purchased from every source  
27 during each reporting period;

1           (3) all sales and use taxes, and any money represented  
2 to be sales or use tax, collected during each reporting period; and  
3           (4) any other information required by the comptroller.

4           Sec. 164.0007. DISPOSITION OF PROCEEDS. The comptroller  
5 shall deposit the proceeds from taxes imposed under this chapter to  
6 the credit of the general revenue fund.

7           SECTION 2. This Act takes effect September 1, 2019.