

By: Guillen

H.B. No. 3475

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the cigarette tax and the tax on cigars and other  
3 tobacco products; requiring permits.

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

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

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

14 (7) "Distributor" means a person who:

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

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

22 (C) manufactures or produces cigarettes; or

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

24 (7-a) "Engage in business" means, in relation to

1 cigarettes, engaging by a person, either directly or through a  
2 representative, in any of the following activities:

3 (A) selling cigarettes in or into this state;

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

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

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

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

13 (i) includes the sale of cigarettes by:

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

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

18 (ii) does not include:

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

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

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

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

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

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

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

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

15           (15) "Place of business" means:

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

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

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

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

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

27           (17-a) "Roll-your-own machine" means a machine for

1 commercial use at a retail premise that is capable of producing  
2 cigarettes only in quantities for personal use.

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

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

6 (B) shows payment of the tax imposed by this  
7 chapter; ~~and~~

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

10 (D) is legible and undamaged.

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

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

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

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

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

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

26 Sec. 154.0225. LIABILITY OF PERMITTED DISTRIBUTOR. A  
27 permitted distributor who makes a first sale to a permitted

1 distributor in this state is liable for and shall pay the tax  
2 imposed by this chapter.

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

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

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

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

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

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

27 (b) Each distributor, wholesaler, bonded agent,

1 manufacturer, export warehouse, importer, or retailer shall obtain  
2 a permit for each place of business owned or operated by the  
3 distributor, wholesaler, bonded agent, manufacturer, export  
4 warehouse, importer, or retailer. The comptroller may not issue a  
5 permit for a place of business that is a residence or a unit in a  
6 public storage facility.

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

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

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

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

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

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

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

27 (e) A permitted importer may sell cigarettes only to a

1 permitted distributor, wholesaler, or retailer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (7) in the case of a distributor, copies of the customs  
26 certificates required by 19 U.S.C. Section 1681a(c), as amended,  
27 for all cigarettes imported into the United States to which the

1 distributor has affixed a tax stamp; and

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

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

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

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

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

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

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

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

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

1 delivered.

2 (b) The records must include:

3 (1) invoices for receipts and deliveries;

4 (2) orders for receipts and deliveries;

5 (3) shipping records for receipts and deliveries; and

6 (4) shipping records for distribution and delivery.

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

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

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

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

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

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

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

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

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

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

9           SECTION 18. 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 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 subject to the tax [~~taxed~~] under this chapter without a stamp  
18 affixed to each individual package.

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

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

- 23           (1) as a distributor, wholesaler, or retailer,  
24 receives or possesses cigarettes without having a valid permit;  
25           (2) as a distributor, wholesaler, or retailer,  
26 receives or possesses cigarettes without having a permit posted  
27 where it can be easily seen by the public;

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

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

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

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

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

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

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

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

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

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

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

1 manufacturer [~~person outside this state~~].

2 (6) "Distributor" means a person who:

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

8 (B) manufactures or produces tobacco products;

9 or

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

11 (6-a) "Engage in business" means, in relation to  
12 tobacco products, engaging by a person, either directly or through  
13 a representative, in any of the following activities:

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

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

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

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

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

26 (A) the first transfer of possession in  
27 connection with a purchase, sale, or any exchange for value of

1 tobacco products in or into this state, which:

2 (i) includes the sale of tobacco products  
3 by:

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

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

8 (ii) does not include:

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

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

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

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

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

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

27 (11) "Manufacturer's representative" means a person

1 employed by a manufacturer to sell or distribute the manufacturer's  
2 tobacco products for which the tax imposed under this chapter has  
3 been paid.

4 (12) "Permit holder" means a bonded agent,  
5 distributor, wholesaler, manufacturer, importer, export warehouse,  
6 or retailer who obtains [~~required to obtain~~] a permit under Section  
7 [155.041](#).

8 (13) "Place of business" means:

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

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

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

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

17 (13-a) "Raw tobacco" means any part of the tobacco  
18 plant, including the tobacco leaf or stem, that is harvested from  
19 the ground and is not a tobacco product as the term is defined in  
20 this chapter.

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

24 (15) "Tobacco product" means:

25 (A) a cigar;

26 (B) smoking tobacco, including granulated,  
27 plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable

1 for smoking in a pipe or as a cigarette;

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

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

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

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

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

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

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

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

26 (a) A person may not engage in business as a distributor,  
27 wholesaler, bonded agent, manufacturer, export warehouse,

1 importer, or retailer unless the person has applied for and  
2 received the applicable permit from the comptroller.

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

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

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

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

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

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

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

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

27 (g) A permitted retailer may sell tobacco products only to

1 the consumer and may purchase tobacco products only from a  
2 permitted distributor or wholesaler in this state.

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

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

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

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

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

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

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

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

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

1 or receipt of tobacco products other than cigars:

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

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

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

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

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

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

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

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

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

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

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

27 (b) The records must include:

- 1           (1) invoices for receipts and deliveries;
- 2           (2) orders for receipts and deliveries;
- 3           (3) shipping records for receipts and deliveries; and
- 4           (4) shipping records for distribution and delivery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 follows:

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

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

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

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

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

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

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

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

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

23           SECTION 36. The changes in law made by this Act to Sections  
24 154.502, 154.509, 154.520, 155.202, 155.207, 155.209, and 155.211,  
25 Tax Code, and the repeal by this Act of Section 155.203, Tax Code,  
26 apply only to an offense committed on or after the effective date of  
27 this Act. An offense committed before the effective date of this

1 Act is governed by the law in effect on the date the offense was  
2 committed, and the former law is continued in effect for that  
3 purpose. For purposes of this section, an offense was committed  
4 before the effective date of this Act if any element of the offense  
5 occurred before that date.

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

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