

BILL ANALYSIS

Senate Research Center

S.B. 248
By: Johnson
Finance
6/8/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Surveys indicate minors are able to easily obtain e-cigarettes through brick-and-mortar retailers despite the new legal purchase age—in 2019, 27.5 percent of high school students and 10.5 percent of middle school students reported current e-cigarette use. In addition to developing a harmful addiction, minors using e-cigarettes are more likely to smoke cigarettes later in life and may be exposed to potentially fatal diseases such as E-cigarette or Vaping Product Use-Associated Lung Injury (EVALI).

Current statutory tools for enforcing the purchase age on e-cigarettes and tobacco are outdated and ineffective. E-cigarette retailers are not required to obtain a permit like tobacco retailers, so there is no comprehensive list of retail locations to guide enforcement efforts. Additionally, the system used by the Comptroller of Public Accounts of the State of Texas (comptroller) to penalize permitted retailers that sell tobacco to minors is ineffective—tight timelines and lax penalties mean retailers typically escape accountability.

S.B. 248 updates these statutes to increase compliance, dissuade underage sales, and harmonize regulations between e-cigarettes and tobacco.

Under S.B. 248, e-cigarette retailers are required to obtain a similar permit to traditional tobacco retailers. Existing retailer underage sales penalties for cigarettes and tobacco products are consolidated with other tobacco laws in Chapter 161, Health and Safety Code. E-cigarette retailers are included in the reorganized statute. The accrual schedule and severity of penalties are enhanced to increase accountability for retailers and simplify administration for the comptroller.

At the request of comptroller staff, several minor revisions are also made to cigarette and tobacco product tax statutes to simplify administration. Finally, a new kind of tobacco wholesaler permit is created to resolve a logistical issue regarding untaxed tobacco that is ultimately destined for out-of-state wholesale.

(Original Author's / Sponsor's Statement of Intent)

S.B. 248 amends current law relating to sale of cigarettes, tobacco products, and e-cigarettes; requires occupational permits; imposes fees; provides civil and administrative penalties; and creates criminal offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 147.0004, Health and Safety Code) and SECTION 4 (Section 161.0901, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Comptroller of Public Accounts of the State of Texas is rescinded in SECTION 35 (Sections 154.1143 and 155.0593, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 2, Health and Safety Code, by adding Chapter 147, as follows:

CHAPTER 147. E-CIGARETTE RETAILER PERMITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 147.0001. DEFINITIONS. Defines "commercial business location," "e-cigarette," "e-cigarette retailer," "marketplace," "permit holder," and "place of business."

Sec. 147.0002. INAPPLICABILITY TO CERTAIN PRODUCTS. Provides that this chapter does not apply to a product described by Section 161.0815 (Nonapplicability).

Sec. 147.0003. HEARINGS. Requires the Comptroller of Public Accounts of the State of Texas (comptroller), unless otherwise provided by this chapter, to conduct all hearings required by this chapter in accordance with Chapter 2001 (Administrative Procedure), Government Code. Authorizes the comptroller to prescribe the rules of procedure governing the hearings and to designate one or more representatives to conduct the hearings.

Sec. 147.0004. RULES. Authorizes the comptroller to adopt rules to implement this chapter, including rules exempting a person who sells e-cigarettes to consumers through a marketplace from the requirements of this chapter.

SUBCHAPTER B. PERMITS

Sec. 147.0051. E-CIGARETTE RETAILER PERMIT REQUIRED. (a) Prohibits a person from engaging in business as an e-cigarette retailer in this state unless the person has been issued a permit from the comptroller.

(b) Requires an e-cigarette retailer to obtain a permit for each place of business owned or operated by the e-cigarette retailer. Prohibits the comptroller from issuing a permit for a place of business that is a residence or a unit in a public storage facility.

(c) Requires the comptroller to prescribe the form and content of an application for a permit and provide the form on request.

(d) Requires the applicant to accurately complete all information required by the application and provide the comptroller with additional information the comptroller considers necessary.

(e) Requires each applicant that applies for a permit to sell e-cigarettes from a vehicle to provide the make, model, vehicle identification number, registration number, and any other information concerning the vehicle the comptroller requires.

(f) Provides that all financial information provided under this section is confidential and not subject to Chapter 552 (Public Information), Government Code.

(g) Provides that permits for engaging in business as an e-cigarette retailer are governed exclusively by the provisions of the Health and Safety Code.

Sec. 147.0052. ISSUANCE OF PERMIT. (a) Requires the comptroller to issue a permit to an applicant if the comptroller has received an application and fee, does not reject the application and deny the permit under Section 147.0053, and determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

- (b) Requires that the permit be issued for a designated place of business, except as provided by Section 147.0056.
- (c) Provides that the permits are nonassignable.
- (d) Requires that the permit indicate the type of permit and authorize the sale of e-cigarettes in this state. Requires that the permit show that it is revocable and that it is forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

Sec. 147.0053. DENIAL OF PERMIT. Authorizes the comptroller to reject an application and deny a permit if the comptroller finds, after notice and opportunity for hearing, any of the following:

- (1) the premises where business will be conducted are not adequate to protect the e-cigarettes; or
- (2) the applicant or managing employee, or if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or, if the applicant is a partnership, a partner or manager:
 - (A) has failed to disclose any information required by Sections 147.0051(d) and (e); or
 - (B) has previously violated provisions of this chapter.

Sec. 147.0054. PERMIT PERIOD; FEES. (a) Provides that a permit required by this chapter expires on the last day of May of each even-numbered year.

- (b) Requires that an application for a permit required by this chapter be accompanied by a fee of:
 - (1) one-half of the amount of the fee for a retailer's permit required by Section 154.111(b) (relating to fees accompanying cigarette retailer permit applications), Tax Code, if at the time of the application the applicant holds a valid retailer's permit under Sections 154.101 (Permits), 154.102 (Combination Permit), or 155.041 (Permits), Tax Code, for the same place of business; or
 - (2) the amount of the fee for a retailer's permit required by Section 154.111(b), Tax Code.
- (c) Requires the comptroller, for a new permit required by Section 147.0051, to prorate the fee according to the number of months remaining during the period that the permit is to be in effect.
- (d) Requires a person who does not obtain a renewal permit in a timely manner to pay a late fee of \$50 in addition to the application fee for the permit.
- (e) Authorizes the comptroller, if on the date of issuance a permit will expire within three months, to collect the prorated permit fee or the fee for the current period and, with the consent of the permit holder, to collect the fee for the next permit period and issue a permit or permits for both periods, as applicable.
- (f) Provides that 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.

Sec. 147.0055. PAYMENT FOR PERMITS. (a) Requires an applicant for a permit required by Section 147.0051 to send the required fee with the application.

(b) Requires that the payment be made in cash or by money order, check, or credit card.

(c) Prohibits the comptroller from issuing a permit in exchange for a check until after the comptroller receives full payment on the check.

Sec. 147.0056. DISPLAY OF PERMIT. (a) Requires a permit holder to keep the permit on public display at the place of business for which the permit was issued.

(b) Requires a permit holder who has a permit assigned to a vehicle to post the permit in a conspicuous place on the vehicle.

Sec. 147.0057. REVENUE. Provides that revenue from the sale of e-cigarette retailer's permits is required to be deposited as provided by Section 161.0903 and is authorized to be appropriated only as provided by that section.

SUBCHAPTER C. PERMIT SUSPENSION AND REVOCATION

Sec. 147.0101. FINAL SUSPENSION OR REVOCATION OF PERMIT. (a) Authorizes the comptroller to revoke or suspend a permit holder's permit if the comptroller finds, after notice and hearing as provided by this section, that the permit holder violated this chapter or a rule adopted under this chapter.

(b) Requires the comptroller, if the comptroller intends to suspend or revoke a permit, to provide the permit holder with written notice that includes a statement of the reason for the intended revocation or suspension, that the permit holder is entitled to a hearing by the comptroller on the proposed suspension or revocation, and of the date, time, and place of the hearing.

(c) Requires the comptroller to deliver the written notice by personal service or by mail to the permit holder's mailing address as it appears in the comptroller's records. Provides that service by mail is complete when the notice is deposited with the United States Postal Service.

(d) Requires the comptroller to give the permit holder notice before the 10th day before the final hearing.

(e) Authorizes a permit holder to appeal the comptroller's decision to a district court in Travis County not later than the 30th day after the date the comptroller's decision becomes final.

(f) Prohibits a person whose permit is suspended or revoked from selling, offering for sale, or distributing e-cigarettes from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

Sec. 147.0102. SUMMARY SUSPENSION OF PERMIT. (a) Authorizes the comptroller to suspend a permit holder's permit without notice or a hearing for the permit holder's failure to comply with this chapter or a rule adopted under this chapter if the permit holder's continued operation constitutes an immediate and substantial threat.

(b) Requires that proceedings for a preliminary hearing before the comptroller or the comptroller's representative, if the comptroller summarily suspends a permit holder's permit, be initiated simultaneously with the summary suspension. Requires that the preliminary hearing be set for a date not later than the 10th day after the date of the summary suspension, unless the parties agree to a later date.

(c) Requires the permit holder, at the preliminary hearing, to show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) Provides that Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) Requires the comptroller, to initiate a proceeding to suspend summarily a permit holder's permit, to serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. Requires that the notice be personally served on the permit holder or an officer, employee, or agent of the permit holder or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears in the comptroller's records. Requires that the notice state the alleged violations that constitute the grounds for summary suspension. Provides that the suspension is effective at the time the notice is served. Requires the permit holder, if notice is served in person, to immediately surrender the permit to the comptroller. Requires the permit holder, if notice is served by mail, to immediately return the permit to the comptroller.

(f) Provides that Section 147.0101, governing hearings for final suspension or revocation of a permit under this chapter, governs a final administrative hearing.

SUBCHAPTER D. PENALTIES

Sec. 147.0151. PENALTIES. (a) Provides that a person violates this chapter if the person engages in the business of an e-cigarette retailer without a permit or is a person who is subject to a provision of this chapter or a rule adopted by the comptroller under this chapter and who violates the provision or rule.

(b) Requires a person who violates this section to pay to the state a penalty of not more than \$2,000 for each violation.

(c) Provides that each day on which a violation occurs is a separate violation.

(d) Requires the attorney general to bring suit to recover penalties under this section.

(e) Authorizes a suit under this section to be brought in Travis County or another county having jurisdiction.

Sec. 147.0152. FAILURE TO HAVE PERMIT; OFFENSE. (a) Provides that a person commits an offense if the person acts as an e-cigarette retailer and:

(1) receives or possesses e-cigarettes without having a permit;

(2) receives or possesses e-cigarettes without having a permit posted where it can be easily seen by the public; or

(3) sells e-cigarettes without having a permit.

(b) Provides that an offense under this section is a Class A misdemeanor.

SECTION 2. Amends Sections 161.081(1-a), (2), and (4), Health and Safety Code, to redefine "e-cigarette," "permit holder," and "retailer" for purposes of Subchapter H (Distribution of Cigarettes, E-Cigarettes, or Tobacco Products).

SECTION 3. Amends Section 161.083(d), Health and Safety Code, to provide that, notwithstanding any other provision of law, a violation of Section 161.083 (Sale of Cigarettes, E-

Cigarettes, or Tobacco Products to Persons Younger Than 30 Years of Age) is not a violation of this subchapter for purposes of Section 161.0901, rather than for purposes of Sections 154.1142 (Disciplinary Action for Certain Violations) or 155.0592 (Disciplinary Action for Certain Violations), Tax Code.

SECTION 4. Amends Subchapter H, Chapter 161, Health and Safety Code, by adding Sections 161.0901 and 161.0903, as follows:

Sec. 161.0901. DISCIPLINARY ACTION AGAINST CIGARETTE, E-CIGARETTE, AND TOBACCO PRODUCT RETAILERS. (a) Provides that a retailer is subject to disciplinary action as provided by this section if an agent or employee of the retailer commits an offense under this subchapter.

(b) Authorizes the comptroller, if the comptroller finds, after notice and an opportunity for a hearing as provided by Chapter 2001, Government Code, that a permit holder has violated this subchapter at a place of business for which a permit is issued, to suspend the permit for that place of business and administratively assess a fine as follows:

(1) for the first violation of this subchapter during the 24-month period preceding the violation at that place of business, the comptroller is authorized to require the permit holder to pay a fine in an amount not to exceed \$1,000;

(2) for the second violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, the comptroller is authorized to require the permit holder to pay a fine in an amount not to exceed \$2,000; and

(3) for the third violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, the comptroller is authorized to:

(A) require the permit holder to pay a fine in an amount not to exceed \$3,000; and

(B) suspend the permit for that place of business for not more than five days.

(c) Requires the comptroller, except as provided by Subsection (e), for the fourth or a subsequent violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, to revoke the permit issued under Chapter 147 of this code or Chapter 154 (Cigarette Tax) or 155 (Cigars and Tobacco Products Tax), Tax Code, as applicable. Requires the comptroller, if the permit holder does not hold a permit under Chapter 147 of this code or Chapter 154 or 155, Tax Code, to revoke the permit issued under Section 151.201 (Sales Tax Permits), Tax Code.

(d) Prohibits a permit holder whose permit has been revoked under this section from applying for a permit for the same place of business before the expiration of six months after the effective date of the revocation.

(e) Provides that for purposes of this section, the comptroller is authorized to suspend a permit for a place of business but is prohibited from revoking the permit under Subsection (c) if the comptroller finds that:

(1) the permit holder has not violated this subchapter more than seven times at the place of business in the 48-month period preceding the violation in question;

(2) the permit holder requires its employees to attend a comptroller-approved seller training program;

(3) the employees have actually attended a comptroller-approved seller training program; and

(4) the permit holder has not directly or indirectly encouraged the employees to violate the law.

(f) Authorizes the comptroller to adopt rules to implement this section.

Sec. 161.0903. USE OF CERTAIN REVENUE. Provides that revenue from fees collected under Section 161.123 (Advertising Fee) and from the sale of permits under Chapter 147 of this code, retailer permits under Chapter 154, Tax Code, and retailer permits under Chapter 155, Tax Code, is required to be deposited in the general revenue fund and is authorized to be appropriated only as provided by this section. Requires that the revenue be appropriated, in order of priority, to:

(1) the comptroller for the purpose of administering retailer permitting under Chapter 147 of this code and Chapters 154 and 155, Tax Code; and

(2) the comptroller for the purpose of administering and enforcing this subchapter and Subchapters K (Prohibition of Certain Cigarette or Tobacco Product Advertising; Fee) and N (E-Cigarette and Tobacco Use by Minors).

SECTION 5. Amends Section 161.123(b), Health and Safety Code, to require the comptroller to collect the fee for the outdoor advertising of cigarettes and tobacco products, rather than to collect the fee and deposit the money, as provided in this section.

SECTION 6. Amends Section 111.00455(b), Tax Code, to create an exception for a hearing under Section 161.0901, Health and Safety Code, to the provision that certain hearings are not contested cases under Subsection (a) (relating to requiring the State Office of Administrative Hearings to conduct any contested case hearing in relation to the collection, receipt, administration, and enforcement of certain taxes and fees) and Section 2003.101 (Tax Hearings), Government Code. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 154.001, Tax Code, by amending Subdivisions (9), (14), and (19) to redefine "first sale," "permit holder," and "wholesaler," and adding Subdivisions (11-a) and (11-b), to define "interstate warehouse" and "interstate warehouse transaction" for purposes of Chapter 154.

SECTION 8. Amends Section 154.041, Tax Code, by adding Subsection (f) to provide that no stamp is required on the transfer of possession of cigarettes described by Section 154.001(9)(A)(ii)(d) (relating to the first transfer of possession in connection with a purchase, sale, or any exchange for value of cigarettes in or into this state, which does not include the transfer of cigarettes by an interstate warehouse in an interstate warehouse transaction).

SECTION 9. Amends Section 154.101, Tax Code, by amending Subsections (a), (b), and (h) and adding Subsection (k), as follows:

(a) Prohibits a person from engaging in business in a certain manner, including as an interstate warehouse, unless the person has applied for and received the applicable permit from the comptroller.

(b) and (h) Makes conforming changes to these subsections.

(k) Prohibits a person from holding a distributor's permit issued by this state and an interstate warehouse's permit for the same location.

SECTION 10. Amends Section 154.1015, Tax Code, by amending Subsections (c), (d), and (e) and adding Subsection (j), as follows:

(c) Authorizes a manufacturer outside this state who is not a permitted distributor to sell cigarettes only to a permitted distributor or permitted interstate warehouse, rather than only to a permitted distributor.

(d) Authorizes a permitted distributor who manufactures or produces cigarettes in this state to sell those cigarettes to a permitted interstate warehouse.

(e) Makes a conforming change to this subsection.

(j) Authorizes a permitted interstate warehouse to sell cigarettes only in an interstate warehouse transaction. Prohibits an interstate warehouse from making an intrastate sale of cigarettes without written authorization by the comptroller.

SECTION 11. Amends Section 154.102(a), Tax Code, to prohibit an interstate warehouse from holding a combination permit as a retailer of cigarettes or tobacco products. Makes a conforming change.

SECTION 12. Amends Sections 154.110(a) and (d), Tax Code, as follows:

(a) Makes a conforming change to this subsection.

(d) Creates an exception as provided by Section 154.1015(j) to the requirement that the permit indicate the type of permit that it is and authorize the sale of cigarettes in this state.

SECTION 13. Amends Section 154.111(b), Tax Code, to require that an application for a permit required by this chapter be accompanied by a fee of \$300 for an interstate warehouse's permit.

SECTION 14. Amends Section 154.1135(b), Tax Code, to require that the payment for the permit application fee be made in cash or by money order, check, or credit card, rather than be in cash or by money order or check.

SECTION 15. Amends Section 154.121(a) and (b), Tax Code, as follows:

(a) Makes conforming and nonsubstantive changes to this subsection.

(b) Provides that revenue from the sale of retailer's permits is required to be deposited as provided by Section 161.0903, Health and Safety Code, and is authorized to be appropriated only as provided by that section. Deletes existing text providing that revenue from the sale of retailer's permits is required to be deposited to the general revenue fund and is authorized to be appropriated only as provided by Section 154.121 (Revenue). Deletes existing text authorizing the money to be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 155.

SECTION 16. Amends Section 154.152(c), Tax Code, to provide that Subsection (c) (relating to prohibiting a person from transporting or causing to be transported from this state cigarettes for sale in another state without first affixing certain stamps or excise taxes) does not apply to the distribution, sale, or transportation of cigarettes sold by an interstate warehouse in an interstate warehouse transaction.

SECTION 17. Amends Section 154.201, Tax Code, to make a conforming change.

SECTION 18. Amends Section 154.203, Tax Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes conforming changes to this subsection.

(c) Requires an interstate warehouse, on request by the comptroller, to provide to the comptroller copies of periodic cigarette reports filed with each state into which the interstate warehouse sells cigarettes and copies of each report required under 15 U.S.C. Section 376.

SECTION 19. Amends Section 154.501(a), Tax Code, to make conforming changes.

SECTION 20. Amends Section 154.503(a), Tax Code, to create an exception as provided by Section 154.041(f) to the provision that a person commits an offense if the person possesses unstamped cigarettes in quantities less than 10,000.

SECTION 21. Amends Section 154.509, Tax Code, to make conforming changes.

SECTION 22. Amends Section 154.511, Tax Code, to create an exception as provided by Section 154.152(c) to the provision that a person, other than a common carrier, commits an offense if the person knowingly transports cigarettes without a stamp affixed to each individual package.

SECTION 23. Amends Section 154.515(a), Tax Code, to make a conforming change.

SECTION 24. Amends Section 155.001, Tax Code, by amending Subdivisions (8), (12), and (16) to redefine "first sale," "permit holder," and "wholesaler," and by adding Subdivisions (9-a) and (9-b) to define "interstate warehouse" and "interstate warehouse transaction" for purposes of Chapter 155.

SECTION 25. Amends Section 155.041, Tax Code, by amending Subsections (a), (b), and (h) and adding Subsection (i), as follows:

(a), (b), and (h) Makes conforming changes to these subsections.

(i) Prohibits a person from holding a distributor's permit issued by this state and an interstate warehouse's permit for the same location.

SECTION 26. Amends Section 155.0415, Tax Code, by amending Subsections (c), (d), (e), and (f) and adding Subsection (j), as follows:

(c) Makes a conforming change to this subsection.

(d) Authorizes a permitted distributor who manufactures or produces tobacco products in this state to sell those tobacco products to a permitted interstate warehouse.

(e) and (f) Makes conforming changes to these subsections.

(j) Authorizes a permitted interstate warehouse to sell tobacco products only in an interstate warehouse transaction. Prohibits an interstate warehouse from making an intrastate sale of tobacco products without written authorization by the comptroller.

SECTION 27. Amends Sections 155.048(a) and (d), Tax Code, as follows:

(a) Makes a conforming change to this subsection.

(d) Creates an exception as provided by Section 155.0415(j) to the requirement that the permit indicate the type of permit that it is and authorize the sale of tobacco products in this state.

SECTION 28. Amends Section 155.049(b), Tax Code, to require that an application for a permit required by this chapter be accompanied by a fee of \$300 for an interstate warehouse's permit.

SECTION 29. Amends Section 155.050(b), Tax Code, to require that the payment for the permit application fee be made in cash or by money order, check, or credit card, rather than be in cash or by money order or check.

SECTION 30. Amends Sections 155.058(a) and (b), Tax Code, as follows:

(a) Makes conforming and nonsubstantive changes to this subsection.

(b) Provides that revenue from the sale of retailer's permits is required to be deposited as provided by Section 161.0903, Health and Safety Code, and is authorized to be appropriated only as provided by that section. Deletes existing text providing that revenue from the sale of retailer's permits is required to be deposited to the general revenue fund and is authorized to be appropriated only as provided by Section 155.058 (Revenue). Deletes existing text authorizing the money to be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 154.

SECTION 31. Amends Section 155.101, Tax Code, as follows:

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Requires each distributor, wholesaler, bonded agent, interstate warehouse, and export warehouse to keep records at each place of business of all tobacco products purchased or received. Requires that the records include certain information, including in the case of a distributor, the manufacturer's list price for the tobacco products, and for tobacco products other than cigars, the net weight as listed by the manufacturer for each unit. Makes conforming changes.

SECTION 32. Amends Section 155.102, Tax Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) and (b) Makes conforming changes to these subsections.

(d) Requires an interstate warehouse, on request by the comptroller, to provide to the comptroller copies of periodic tobacco product reports filed with each state into which the interstate warehouse sells tobacco products and copies of each report required under 15 U.S.C. Section 376.

SECTION 33. Amends Section 155.201(a), Tax Code, to make conforming changes.

SECTION 34. Amends Section 155.207, Tax Code, to make conforming changes.

SECTION 35. (a) Repealer: Section 161.124 (Use of Advertising Fee), Health and Safety Code.

(b) Repealer: Section 154.1142 (Disciplinary Action for Certain Violations), Tax Code.

Repealer: Section 154.1143 (Actions of Employee), Tax Code.

Repealers: Sections 154.121(c) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to the comptroller for administration and enforcement of certain subchapters) and (d) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to the Department of State Health Services to administer certain responsibilities), Tax Code.

Repealers: Section 154.121(e) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to an appropriate entity to administer that entity's responsibilities) and Section 155.058(c) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to the comptroller for administration and enforcement of certain subchapters), Tax Code.

Repealers: Sections 155.058(d) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to the Department of State Health

Services to administer certain responsibilities) and (e) (relating to the circumstances under which certain remaining revenue is authorized to be appropriated to an appropriate entity to administer that entity's responsibilities), Tax Code.

Repealer: Section 155.0592 (Disciplinary Action for Certain Violations), Tax Code.

Repealer: Section 155.0593 (Actions of Employee), Tax Code.

SECTION 36. Makes application of Section 161.0901, Health and Safety Code, as added by this Act, prospective.

SECTION 37. (a) Provides that, notwithstanding Sections 147.0051, 147.0151, and 147.0152, Health and Safety Code, as added by this Act, a person is not required to hold a permit under Section 147.0051 to engage in business as a retailer of e-cigarettes in this state until January 1, 2022.

(b) Requires the comptroller to prescribe the form and content of an application for a permit under Section 147.0051, Health and Safety Code, as added by this Act, and begin accepting applications for the permit not later than October 1, 2021.

SECTION 38. Effective date: September 1, 2021.