

By: Allison

H.B. No. 1255

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of, and taxes imposed on the sale or use  
3 of, cigarettes, tobacco products, and e-cigarettes; imposing  
4 taxes; requiring a permit; imposing a fee; providing administrative  
5 penalties.

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

7 SECTION 1. Sections 161.081(1-a), (2), and (4), Health and  
8 Safety Code, are amended to read as follows:

9 (1-a) "E-cigarette" means an electronic cigarette or  
10 any other device that simulates smoking by using a mechanical  
11 heating element, battery, or electronic circuit to deliver nicotine  
12 or other substances to the individual inhaling from the device or a  
13 consumable liquid solution or other material aerosolized or  
14 vaporized during the use of an electronic cigarette or other device  
15 described by this subdivision, regardless of whether the liquid or  
16 other material contains nicotine. The term does not include a  
17 prescription medical device unrelated to the cessation of smoking.  
18 The term includes:

19 (A) a device described by this subdivision  
20 regardless of whether the device is manufactured, distributed, or  
21 sold as an e-cigarette, e-cigar, or e-pipe or under another product  
22 name or description; and

23 (B) a component, part, or accessory for the  
24 device, regardless of whether the component, part, or accessory is

1 sold separately from the device.

2 (2) "Permit holder" has the meaning assigned by  
3 Section 154.001, ~~[or]~~ 155.001, or 164.0001, Tax Code, as  
4 applicable.

5 (4) "Retailer" means a person who engages in the  
6 practice of selling cigarettes, e-cigarettes, or tobacco products  
7 to consumers and includes the owner of a coin-operated cigarette,  
8 e-cigarette, or tobacco product vending machine. The term includes  
9 a retailer as that term is defined by Section 154.001, ~~[or]~~ 155.001,  
10 or 164.0001, Tax Code, as applicable.

11 SECTION 2. Section 161.083(d), Health and Safety Code, is  
12 amended to read as follows:

13 (d) Notwithstanding any other provision of law, a violation  
14 of this section is not a violation of this subchapter for purposes  
15 of Section 161.0901 [~~154.1142 or 155.0592, Tax Code~~].

16 SECTION 3. Subchapter H, Chapter 161, Health and Safety  
17 Code, is amended by adding Section 161.0901 to read as follows:

18 Sec. 161.0901. DISCIPLINARY ACTION AGAINST CIGARETTE,  
19 E-CIGARETTE, AND TOBACCO PRODUCTS RETAILERS. (a) A retailer is  
20 subject to disciplinary action as provided by this section if an  
21 agent or employee of the retailer commits an offense under this  
22 subchapter or Subchapter K.

23 (b) If the comptroller finds, after notice and an  
24 opportunity for a hearing as provided by Chapter 2001, Government  
25 Code, that a permit holder has violated this subchapter or  
26 Subchapter K at a place of business for which a permit is issued,  
27 the comptroller may suspend the permit for that place of business

1 and administratively assess a fine as follows:

2 (1) if the permit holder has not been found to have  
3 violated this subchapter or Subchapter K at that place of business  
4 during the 24-month period preceding the violation, the comptroller  
5 may require the permit holder to pay a fine in an amount not to  
6 exceed \$1,000;

7 (2) if the permit holder has been found to have  
8 violated this subchapter or Subchapter K at that place of business  
9 once during the 24-month period preceding the violation, the  
10 comptroller may require the permit holder to pay a fine in an amount  
11 not to exceed \$2,000; and

12 (3) if the permit holder has been found to have  
13 violated this subchapter or Subchapter K at that place of business  
14 at least twice during the 24-month period preceding the violation,  
15 the comptroller may:

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

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

20 (c) Except as provided by Subsection (e), if the permit  
21 holder has been found to have violated this subchapter or  
22 Subchapter K on four or more previous and separate occasions at the  
23 same place of business during the 24-month period preceding the  
24 violation, the comptroller shall revoke the permit issued under  
25 Chapter 154, 155, or 164, Tax Code, as applicable. If the permit  
26 holder does not hold a permit under Chapter 154, 155, or 164, Tax  
27 Code, the comptroller shall revoke the permit issued under Section

1 151.201, Tax Code.

2 (d) A permit holder whose permit has been revoked under this  
3 section may not apply for a permit for the same place of business  
4 before the expiration of six months after the effective date of the  
5 revocation.

6 (e) For purposes of this section, the comptroller may  
7 suspend a permit but may not revoke the permit under Subsection (c)  
8 if the comptroller finds that:

9 (1) the employer has not violated this subchapter or  
10 Subchapter K more than seven times at the place of business for  
11 which the permit is issued in the 48-month period preceding the  
12 violation in question;

13 (2) the employer requires its employees to attend a  
14 comptroller-approved seller training program;

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

17 (4) the employer has not directly or indirectly  
18 encouraged the employees to violate the law.

19 (f) The comptroller may adopt rules to implement this  
20 section.

21 SECTION 4. Section 111.00455(b), Tax Code, is amended to  
22 read as follows:

23 (b) The following are not contested cases under Subsection  
24 (a) and Section 2003.101, Government Code:

25 (1) a show cause hearing or any hearing not related to  
26 the collection, receipt, administration, or enforcement of the  
27 amount of a tax or fee imposed, or the penalty or interest

1 associated with that amount, except for a hearing under Section  
2 151.157(f), 151.1575(c), or 151.712(g) of this code or Section  
3 161.0901, Health and Safety Code [~~154.1142, or 155.0592~~];

4 (2) a property value study hearing under Subchapter M,  
5 Chapter 403, Government Code;

6 (3) a hearing in which the issue relates to:

7 (A) Chapters 72-75, Property Code;

8 (B) forfeiture of a right to do business;

9 (C) a certificate of authority;

10 (D) articles of incorporation;

11 (E) a penalty imposed under Section 151.703(d);

12 (F) the refusal or failure to settle under  
13 Section 111.101; or

14 (G) a request for or revocation of an exemption  
15 from taxation; and

16 (4) any other hearing not related to the collection,  
17 receipt, administration, or enforcement of the amount of a tax or  
18 fee imposed, or the penalty or interest associated with that  
19 amount.

20 SECTION 5. Section 154.1135(b), Tax Code, is amended to  
21 read as follows:

22 (b) The payment must be made in cash or by money order, ~~or~~  
23 check, or credit card.

24 SECTION 6. Section 154.121(b), Tax Code, is amended to read  
25 as follows:

26 (b) Revenue from the sale of retailer's permits shall be  
27 deposited to the general revenue fund and may be appropriated only

1 as provided by this section. The money may be appropriated first to  
2 the comptroller for administering:

3 (1) permitting [administration of licensing] of  
4 retailers under this chapter and Chapters [or Chapter] 155 and 164;  
5 and

6 (2) disciplinary actions taken under Section  
7 161.0901, Health and Safety Code.

8 SECTION 7. Section 155.050(b), Tax Code, is amended to read  
9 as follows:

10 (b) The payment must be made in cash or by money order, ~~[or]~~  
11 check, or credit card.

12 SECTION 8. Section 155.058(b), Tax Code, is amended to read  
13 as follows:

14 (b) Revenue from the sale of retailer's permits shall be  
15 deposited to the general revenue fund and may be appropriated only  
16 as provided by this section. The money may be appropriated first to  
17 the comptroller for administering:

18 (1) permitting [administration of licensing] of  
19 retailers under this chapter and Chapters [or Chapter] 154 and 164;  
20 and

21 (2) disciplinary actions taken under Section  
22 161.0901, Health and Safety Code.

23 SECTION 9. Subtitle E, Title 2, Tax Code, is amended by  
24 adding Chapter 164 to read as follows:

25 CHAPTER 164. TAX ON E-CIGARETTES

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 164.0001. DEFINITIONS. In this chapter:

1           (1) "E-cigarette" has the meaning assigned by Section  
2 161.081, Health and Safety Code.

3           (2) "Marketplace" has the meaning assigned by Section  
4 151.0242.

5           (3) "Permit holder" means a person who obtains a  
6 permit under Section 164.0102.

7           (4) "Retailer" means a person who engages in the  
8 business of selling e-cigarettes to consumers, including a person  
9 who sells e-cigarettes to consumers through a marketplace.

10           Sec. 164.0002. INAPPLICABILITY TO CERTAIN PRODUCTS. This  
11 chapter does not apply to a product described by Section 161.0815,  
12 Health and Safety Code.

13           Sec. 164.0003. RULES. The comptroller may adopt rules to  
14 implement this chapter, including rules exempting a person who  
15 sells e-cigarettes to consumers through a marketplace from the  
16 requirements of this chapter.

17           SUBCHAPTER B. IMPOSITION AND ADMINISTRATION OF E-CIGARETTE SALES  
18   AND USE TAXES

19           Sec. 164.0051. E-CIGARETTE SALES TAX. (a) A tax is imposed  
20 on each sale of an e-cigarette in this state, including a sale made  
21 through a marketplace, except that the tax does not apply to a sale  
22 unless the tax imposed under Subchapter C, Chapter 151, applies to  
23 the sale.

24           (b) The tax under this section is imposed at the rate  
25 determined under Section 164.0053.

26           (c) The tax imposed under this section is in addition to the  
27 tax imposed under Subchapter C, Chapter 151.

1       Sec. 164.0052. E-CIGARETTE USE TAX. (a) A tax is imposed  
2 on the storage, use, or other consumption in this state of an  
3 e-cigarette purchased from a retailer for storage, use, or other  
4 consumption in this state, except that the tax does not apply to the  
5 storage, use, or other consumption unless the tax imposed under  
6 Subchapter D, Chapter 151, applies to the storage, use, or other  
7 consumption.

8       (b) The tax under this section is imposed at the rate  
9 determined under Section 164.0053.

10       (c) The tax imposed under this section is in addition to the  
11 tax imposed under Subchapter D, Chapter 151.

12       Sec. 164.0053. TAX RATE. (a) In this section:

13               (1) "Cigarette" means a roll for smoking described by  
14 Section 154.001(2) weighing three pounds or less per thousand.

15               (2) "Federal excise tax rate on cigarettes" means the  
16 tax rate imposed on cigarettes under 26 U.S.C Section 5701(b)(1).

17               (3) "First sale" has the meaning assigned by Section  
18 154.001.

19               (4) "State excise tax rate on cigarettes" means the  
20 tax rate imposed on cigarettes under Section 154.021(b)(1).

21       (b) The rate of the taxes imposed under this chapter in a  
22 calendar year is the rate the comptroller computes and publishes in  
23 the Texas Register not later than December 1 of the preceding  
24 calendar year as required by Subsection (c).

25       (c) As soon as practicable after the end of each state  
26 fiscal year but not later than December 1 of each year, the  
27 comptroller shall:



1           (1) determine the tax rate to be imposed under this  
2 chapter in the subsequent calendar year that is proportionate to  
3 the state excise tax rate imposed on cigarettes in this state during  
4 the preceding state fiscal year by:

5                   (A) determining the estimated mean price of 1,000  
6 cigarettes on first sale in this state during the preceding state  
7 fiscal year, including the amount of the federal excise tax imposed  
8 on cigarettes and excluding the amount of the state excise tax  
9 imposed on cigarettes, using available data and generally accepted  
10 statistical methods in making that determination as necessary;

11                   (B) dividing the state excise tax rate on  
12 cigarettes by the estimated mean price of 1,000 cigarettes on first  
13 sale in this state as determined under Paragraph (A); and

14                   (C) converting the amount computed under  
15 Paragraph (B) into a percentage and rounding that percentage down  
16 to the nearest quarter percentage point; and

17           (2) publish the tax rate determined under Subdivision  
18 (1) in the Texas Register.

19           Sec. 164.0054. APPLICATION OF OTHER PROVISIONS OF CODE.

20           (a) Except as provided by this chapter:

21                   (1) the taxes imposed under this chapter are  
22 administered, imposed, collected, and enforced in the same manner  
23 as the taxes under Chapter 151 are administered, imposed,  
24 collected, and enforced; and

25                   (2) the provisions of Chapter 151 applicable to the  
26 sales tax imposed under Subchapter C, Chapter 151, and the use tax  
27 imposed under Subchapter D, Chapter 151, apply to the sales and use

1 taxes imposed under this chapter.

2 (b) A change in law relating to the taxation of the sale or  
3 use of an e-cigarette under Chapter 151 also applies to the sales or  
4 use tax imposed under this chapter.

5 Sec. 164.0055. REPORTS. (a) A person required to file a  
6 report under Section 151.403 who is also required to collect or pay  
7 a tax under this chapter shall file with the comptroller a report  
8 stating:

9 (1) for e-cigarette sales tax purposes, the amount of  
10 total receipts from e-cigarettes sold by the retailer during the  
11 reporting period, if the person is a retailer;

12 (2) for e-cigarette use tax purposes, the amount of  
13 total receipts from e-cigarettes sold by the retailer during the  
14 reporting period for storage, use, or other consumption in this  
15 state, if the person is a retailer described by Section 151.403(b);

16 (3) the amount of the total sales prices of  
17 e-cigarettes subject to the e-cigarette use tax that were acquired  
18 during the reporting period for storage, use, or other consumption  
19 in this state, if the person is a purchaser who did not pay the tax  
20 to a retailer;

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

23 (5) any other information the comptroller requires.

24 (b) The report required by this section for a reporting  
25 period is due on the same date the tax payment for the period is due.

26 Sec. 164.0056. RECORDS. (a) A person required to file a  
27 report under Section 151.403 who is also required to collect or pay

1 a tax under this chapter shall keep a complete record of:

2 (1) all gross receipts from each sale to which this  
3 chapter applies occurring during each reporting period, along with  
4 documentation relating to those receipts;

5 (2) all purchases of e-cigarettes, including the  
6 constituent parts of e-cigarettes, from every source during each  
7 reporting period, along with documentation relating to those  
8 purchases;

9 (3) all sales and use taxes, and any money represented  
10 to be sales or use tax, collected under this chapter during each  
11 reporting period; and

12 (4) any other information the comptroller requires.

13 (b) A person shall keep the records required by Subsection  
14 (a) for the period required by Section 151.025(b).

15 SUBCHAPTER C. E-CIGARETTE RETAILER PERMITS

16 Sec. 164.0101. PERMITS REQUIRED. (a) A person may not  
17 engage in business as a retailer in this state unless the person has  
18 been issued a permit from the comptroller. A person shall obtain a  
19 permit for each place of business the person owns or operates at  
20 which sales of e-cigarettes are made.

21 (b) The comptroller shall prescribe the form and content of  
22 an application for a permit and provide the form on request.

23 (c) The applicant shall accurately complete all information  
24 required by the application and provide the comptroller with  
25 additional information the comptroller considers necessary.

26 (d) The comptroller may require each corporation,  
27 association, joint venture, syndicate, partnership, or

1 proprietorship to provide:

2 (1) financial information regarding the applicant;

3 and

4 (2) the identity of each officer, director,  
5 stockholder owning 10 percent or more of the outstanding stock,  
6 partner, member, owner, or managing employee.

7 (e) Each applicant that applies for a permit to sell  
8 e-cigarettes from a vehicle must provide the make, model, vehicle  
9 identification number, registration number, and any other  
10 information concerning the vehicle the comptroller requires.

11 (f) All financial information provided under this section  
12 is confidential and not subject to Chapter 552, Government Code.

13 (g) Permits for engaging in business as an e-cigarette  
14 retailer are governed exclusively by the provisions of this code.

15 Sec. 164.0102. ISSUANCE OF PERMIT. (a) The comptroller  
16 shall issue a permit to an applicant if the comptroller:

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

18 (2) does not reject the application and deny the  
19 permit under Section 164.0103; and

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

22 (b) The permit shall be issued for a designated place of  
23 business, except as provided by Section 164.0106.

24 (c) The permits are nonassignable.

25 (d) The permit must indicate the type of permit that it is  
26 and authorize the sale of e-cigarettes in this state. The permit  
27 must show that it is revocable and shall be forfeited or suspended

1 if the conditions of issuance, provisions of this chapter, or rules  
2 of the comptroller are violated.

3 Sec. 164.0103. DENIAL OF PERMIT. The comptroller may  
4 reject an application and deny a permit if the comptroller finds,  
5 after notice and opportunity for hearing, any of the following:

6 (1) the premises where business will be conducted are  
7 not adequate to protect the e-cigarettes; or

8 (2) the applicant or managing employee, or if the  
9 applicant is a corporation, an officer, director, manager, or any  
10 stockholder who holds directly or through family or partner  
11 relationship 10 percent or more of the corporation's stock, or, if  
12 the applicant is a partnership, a partner or manager:

13 (A) has failed to disclose any information  
14 required by Sections 164.0101(c), (d), and (e), including previous  
15 business experience, financial condition of the applicant, present  
16 or previous business affiliations, previous employment, and any  
17 conviction of a felony, or has made a false statement in the  
18 application; or

19 (B) has previously violated provisions of this  
20 chapter.

21 Sec. 164.0104. PERMIT YEAR; FEES. (a) A permit required  
22 by this chapter expires on the last day of May of each even-numbered  
23 year.

24 (b) An application for a permit required by this chapter  
25 must be accompanied by a fee of:

26 (1) one-half of the amount of the fee for a retailer's  
27 permit required by Section 154.111(b) if the applicant holds a

1 valid retailer's permit under Section 154.101, 154.102, or 155.041;  
2 or

3 (2) the amount of the fee for a retailer's permit  
4 required by Section 154.111(b).

5 (c) For a new or renewal permit required by Section  
6 164.0101, the comptroller shall prorate the fee according to the  
7 number of months remaining during the calendar year that the permit  
8 is to be in effect.

9 (d) A person who does not obtain a permit each year in a  
10 timely manner must pay a late fee of \$50 in addition to the  
11 application fee for the permit.

12 (e) If on the date of issuance a permit will expire within  
13 three months, the comptroller may collect the prorated permit fee  
14 or the fee for the current year and, with the consent of the permit  
15 holder, may collect the fee for the next permit year and issue a  
16 permit or permits for both periods, as applicable.

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

20 Sec. 164.0105. PAYMENT FOR PERMITS. (a) An applicant for a  
21 permit required by Section 164.0101 shall send the required fee  
22 with the application.

23 (b) The payment must be made in cash or by money order,  
24 check, or credit card.

25 (c) The comptroller may not issue a permit in exchange for a  
26 check until after the comptroller receives full payment on the  
27 check.

1       Sec. 164.0106. DISPLAY OF PERMIT. (a) A permit holder  
2 shall keep the permit on public display at the place of business for  
3 which the permit was issued.

4       (b) A permit holder who has a permit assigned to a vehicle  
5 shall post the permit in a conspicuous place on the vehicle.

6       Sec. 164.0107. REVENUE. Revenue from the sale of  
7 retailer's permits shall be deposited to the general revenue fund  
8 and may be appropriated only as provided by this section. The money  
9 may be appropriated first to the comptroller for administering:

10           (1) permitting of retailers under this chapter and  
11 Chapters 154 and 155; and

12           (2) disciplinary actions taken under Section  
13 161.0901, Health and Safety Code.

14       Sec. 164.0108. FINAL SUSPENSION OR REVOCATION OF PERMIT.

15 (a) The comptroller may revoke or suspend a permit holder's permit  
16 if the comptroller finds, after notice and hearing as provided by  
17 this section, that the permit holder violated this chapter or a rule  
18 adopted under this chapter.

19       (b) If the comptroller intends to suspend or revoke a  
20 permit, the comptroller shall provide the permit holder with  
21 written notice that includes a statement:

22           (1) of the reason for the intended revocation or  
23 suspension;

24           (2) that the permit holder is entitled to a hearing by  
25 the comptroller on the proposed suspension or revocation; and

26           (3) of the date, time, and place of the hearing.

27       (c) The comptroller shall deliver the written notice by

1 personal service or by mail to the permit holder's mailing address  
2 as it appears in the comptroller's records. Service by mail is  
3 complete when the notice is deposited with the United States Postal  
4 Service.

5 (d) The comptroller shall give the permit holder notice  
6 before the 10th day before the final hearing.

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

10 (f) A person whose permit is suspended or revoked may not  
11 sell, offer for sale, or distribute e-cigarettes from the place of  
12 business to which the permit applied until a new permit is granted  
13 or the suspension is removed.

14 Sec. 164.0109. SUMMARY SUSPENSION OF PERMIT. (a) The  
15 comptroller may suspend a permit holder's permit without notice or  
16 a hearing for the permit holder's failure to comply with this  
17 chapter or a rule adopted under this chapter if the permit holder's  
18 continued operation constitutes an immediate and substantial  
19 threat to the collection of taxes imposed by this chapter and  
20 attributable to the permit holder's operation.

21 (b) If the comptroller summarily suspends a permit holder's  
22 permit, proceedings for a preliminary hearing before the  
23 comptroller or the comptroller's representative must be initiated  
24 simultaneously with the summary suspension. The preliminary  
25 hearing shall be set for a date not later than the 10th day after the  
26 date of the summary suspension, unless the parties agree to a later  
27 date.



1        (c) At the preliminary hearing, the permit holder must show  
2 cause why the permit should not remain suspended pending a final  
3 hearing on suspension or revocation.

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

6        (e) To initiate a proceeding to suspend summarily a permit  
7 holder's permit, the comptroller shall serve notice on the permit  
8 holder informing the permit holder of the right to a preliminary  
9 hearing before the comptroller or the comptroller's representative  
10 and of the time and place of the preliminary hearing. The notice  
11 must be personally served on the permit holder or an officer,  
12 employee, or agent of the permit holder or sent by certified or  
13 registered mail, return receipt requested, to the permit holder's  
14 mailing address as it appears in the comptroller's records. The  
15 notice must state the alleged violations that constitute the  
16 grounds for summary suspension. The suspension is effective at the  
17 time the notice is served. If notice is served in person, the  
18 permit holder shall immediately surrender the permit to the  
19 comptroller. If notice is served by mail, the permit holder shall  
20 immediately return the permit to the comptroller.

21        (f) Section 164.0108, governing hearings for final  
22 suspension or revocation of a permit under this subchapter, governs  
23 a final administrative hearing.

24        Sec. 164.0110. HEARINGS. Unless otherwise provided by this  
25 chapter, the comptroller shall conduct all hearings required by  
26 this subchapter in accordance with Chapter 2001, Government Code.  
27 The comptroller may designate one or more representatives to

1 conduct the hearings and may prescribe the rules of procedure  
2 governing the hearings.

3 SUBCHAPTER D. DISPOSITION OF PROCEEDS

4 Sec. 164.0151. DEPOSIT AND USE OF PROCEEDS. The  
5 comptroller shall deposit the proceeds from taxes imposed under  
6 this chapter as follows:

7 (1) 25 percent to the credit of an account in the  
8 general revenue fund that may be appropriated only to the  
9 Department of State Health Services for the purposes of tobacco and  
10 e-cigarette use prevention, control, and enforcement; and

11 (2) the remainder to the credit of the general revenue  
12 fund.

13 SECTION 10. The following provisions of the Tax Code are  
14 repealed:

- 15 (1) Section 154.1142;  
16 (2) Section 154.1143;  
17 (3) Section 155.0592; and  
18 (4) Section 155.0593.

19 SECTION 11. Section 161.0901, Health and Safety Code, as  
20 added by this Act, applies only to a violation that occurs on or  
21 after the effective date of this Act. A violation that occurs  
22 before the effective date of this Act is governed by the law in  
23 effect on the date the violation occurred, and the former law is  
24 continued in effect for that purpose.

25 SECTION 12. (a) Notwithstanding Sections 164.0051 and  
26 164.0052, Tax Code, as added by this Act, the taxes imposed under  
27 those sections apply only to a sale, storage, use, or other

1 consumption of e-cigarettes that occurs on or after January 1,  
2 2022.

3 (b) The comptroller of public accounts shall determine and  
4 publish the initial tax rate for the taxes imposed under Sections  
5 164.0051 and 164.0052, Tax Code, as added by this Act, in the manner  
6 required by Section 164.0053, Tax Code, as added by this Act, not  
7 later than December 1, 2021. The initial tax rate applies beginning  
8 January 1, 2022.

9 SECTION 13. (a) Notwithstanding Section 164.0101, Tax  
10 Code, as added by this Act, a person is not required to hold a permit  
11 under that section to engage in business as a retailer of  
12 e-cigarettes in this state until January 1, 2022.

13 (b) The comptroller of public accounts shall prescribe the  
14 form and content of an application for a permit under Section  
15 164.0101, Tax Code, as added by this Act, and begin accepting  
16 applications for the permit not later than October 1, 2021.

17 SECTION 14. This Act takes effect September 1, 2021.