

By: Blanco

S.B. No. 440

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited distribution of flavored cigarettes,
e-cigarettes, and tobacco products; providing a civil penalty.

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

SECTION 1. Chapter 161, Health and Safety Code, is amended
by adding Subchapter I to read as follows:

SUBCHAPTER I. FLAVORED CIGARETTES, E-CIGARETTES, AND
TOBACCO PRODUCTS

Sec. 161.095. DEFINITIONS. In this subchapter:

(1) "Cigarette" has the meaning assigned by Section
154.001, Tax Code.

(2) "E-cigarette" has the meaning assigned by Section
161.081.

(3) "Hookah" means a type of water pipe with a long
flexible tube for drawing aerosol through water and used to smoke
shisha tobacco products or other tobacco products.

(4) "Loose leaf tobacco" means cut or shredded pipe
tobacco that is usually sold in a pouch. The term does not include
tobacco product that, because of its appearance, type, packaging,
or labeling, is suitable for use and likely to be offered to or
purchased by a consumer as tobacco for making cigarettes.

(5) "Premium cigar" means any cigar that:

(A) is handmade;

(B) is capped by hand;

- 1 (C) is not mass produced by a machine;
2 (D) has a wrapper made entirely from whole leaf
3 tobacco;
4 (E) has a wholesale price of not less than \$12;
5 and
6 (F) does not have a filter, tip, or nontobacco
7 mouthpiece.

8 (6) "Shisha tobacco product" means a tobacco product
9 smoked or intended to be smoked in a hookah.

10 (7) "Tobacco product" has the meaning assigned by
11 Section 155.001, Tax Code.

12 Sec. 161.096. APPLICABILITY OF SUBCHAPTER. This subchapter
13 does not apply to:

14 (1) a shisha tobacco product that imparts a
15 distinguishable taste or aroma other than the taste or aroma of
16 tobacco by a person who is engaged in the retail sale of shisha
17 tobacco products, hookahs, and hookah smoking accessories;

18 (2) a premium cigar; or

19 (3) loose leaf tobacco.

20 Sec. 161.097. PROHIBITED DISTRIBUTION OF FLAVORED
21 CIGARETTES, E-CIGARETTES, OR TOBACCO PRODUCTS. A person may not
22 sell, give, or cause to be sold or given a cigarette, e-cigarette,
23 or tobacco product with a distinguishable taste or aroma other than
24 the taste or aroma of tobacco, including the aroma or taste of:

25 (1) an alcoholic beverage;

26 (2) candy;

27 (3) chocolate or vanilla;

- 1 (4) fruit;
- 2 (5) an herb or spice;
- 3 (6) honey;
- 4 (7) menthol; or
- 5 (8) mint or wintergreen.

6 Sec. 161.098. CIVIL PENALTY. (a) A person who violates
7 Section 161.097 is liable to this state for a civil penalty of \$250
8 for each violation.

9 (b) The attorney general may sue to collect the penalty.

10 (c) The attorney general shall file an action under this
11 section in a district court in Travis County or the county in which
12 the violation occurred.

13 (d) The attorney general may recover reasonable expenses
14 incurred in obtaining a civil penalty under this section, including
15 court costs, reasonable attorney's fees, investigative costs,
16 witness fees, and deposition expenses.

17 SECTION 2. This Act takes effect September 1, 2021.