

By: Springer

S.B. No. 1712

A BILL TO BE ENTITLED

AN ACT

relating to sales and use taxes on e-cigarettes and nicotine products; imposing taxes.

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

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

CHAPTER 164. TAX ON E-CIGARETTES AND NICOTINE PRODUCTS

Sec. 164.0001. DEFINITIONS. In this chapter:

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

(2) "Nicotine product" means an item that contains nicotine and is not taxed under Chapter 154 or 155.

Sec. 164.0002. E-CIGARETTE AND NICOTINE PRODUCT SALES TAX.

(a) A tax is imposed on each sale of an e-cigarette or nicotine product in this state.

(b) The tax rate is 10 percent of the sales price of an e-cigarette or nicotine product sold.

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

Sec. 164.0003. E-CIGARETTE AND NICOTINE PRODUCT USE TAX.

(a) A tax is imposed on the storage, use, or other consumption in this state of an e-cigarette or nicotine product purchased from a

1 retailer for storage, use, or other consumption in this state.

2 (b) The tax rate is 10 percent of the sales price of an
3 e-cigarette or nicotine product stored, used, or otherwise consumed
4 in this state.

5 (c) A tax imposed under this section is in addition to the
6 tax imposed under Subchapter D, Chapter 151. A tax imposed under
7 this section does not apply to the storage, use, or other
8 consumption of an e-cigarette or nicotine product unless the tax
9 imposed under Subchapter D, Chapter 151, applies to the storage,
10 use, or other consumption.

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

12 (a) Except as provided by this chapter:

13 (1) the taxes imposed under this chapter are
14 administered, imposed, collected, and enforced in the same manner
15 as the taxes under Chapter 151 are administered, imposed,
16 collected, and enforced; and

17 (2) the provisions of Chapter 151 applicable to the
18 sales tax imposed under Subchapter C, Chapter 151, and the use tax
19 imposed under Subchapter D, Chapter 151, apply to the sales and use
20 taxes imposed under this chapter.

21 (b) A change in the law relating to the taxation of the sale
22 or use of an e-cigarette or nicotine product under Chapter 151 also
23 applies to the sales or use tax imposed under this chapter.

24 Sec. 164.0005. REPORTS. (a) A person required to file a
25 report under Section 151.403 who is also required to collect or pay
26 a tax under this chapter shall file with the comptroller a report
27 stating:

1 (1) for sales tax purposes, the amount of total
2 receipts from e-cigarettes and nicotine products sold by the seller
3 during the reporting period;

4 (2) for use tax purposes, the amount of total receipts
5 from e-cigarettes and nicotine products sold by the retailer during
6 the reporting period for storage, use, or other consumption in this
7 state;

8 (3) the amount of the total sales prices of
9 e-cigarettes and nicotine products subject to the use tax that were
10 acquired during the reporting period for storage, use, or other
11 consumption in this state by a purchaser who did not pay the tax to a
12 retailer;

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

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

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

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

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

25 (2) all purchases of e-cigarettes and nicotine
26 products, including the constituent parts of e-cigarettes and
27 nicotine products, from every source during each reporting period,

1 along with documentation relating to those purchases;

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

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

6 (b) A person shall keep the records required by Subsection
7 (a) for the period required by Section [151.025\(b\)](#).

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

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