

BILL ANALYSIS

Senate Research Center
88R19177 SRA-F

H.B. 4758
By: Thierry et al. (Springer)
Health & Human Services
5/12/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are concerns that electronic cigarette manufacturers have begun marketing their products to attract youth. Various e-cigarette manufacturers package e-cigarette products to appear nearly identical to popular candy, flavored juice boxes, and other edible treats. The similarity in packaging of e-cigarette products to children's snacks is a direct appeal from manufacturers to children, which entices them to consume these dangerous nicotine products. The CDC reports that 69 percent of youth are exposed to e-cigarette advertisement via retail stores, magazines, TV shows, movies, and the Internet.

According to the Centers for Disease Control and Prevention (CDC), from 2011 to 2021, vaping rates among middle and high school students increased from 1.5 percent to nearly 30 percent. The Department of State Health Services determined that e-cigarette use had reached epidemic status among teens back in 2018. The bill reduces youth consumption of e-cigarettes by creating a Class B misdemeanor offense for marketing, advertising, selling, or causing to be sold an e-cigarette product in certain containers that are designed to appeal to minors.

H.B. 4758 amends current law relating to a prohibition on certain e-cigarette products and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Protecting Children from Electronic Cigarette Advertising Act.

SECTION 2. Amends Subchapter H, Chapter 161, Health and Safety Code, by adding Section 161.0876, as follows:

Sec. 161.0876. PROHIBITED E-CIGARETTE PRODUCTS. (a) Provides that a person commits an offense if the person markets, advertises, sells, or causes to be sold an e-cigarette product, if the product's container:

- (1) depicts a cartoon-like fictional character that mimics a character primarily aimed at entertaining minors;
- (2) imitates or mimics trademarks or trade dress of products that are or have been primarily marketed to minors;
- (3) includes a symbol that is primarily used to market products to minors;
- (4) includes an image of a celebrity; or
- (5) includes an image that resembles a food product, including candy or juice.

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

SECTION 3. Effective date: January 1, 2024.