

BILL ANALYSIS

C.S.H.B. 4758
By: Thierry
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. These mediums also use cartoon-like characters and celebrity imagery to appeal to youths. According to the CDC, in the 10-year period from 2011 to 2021, vaping rates among middle and high school student increased from 1.5 percent of youth to nearly 30 percent of youth using e-cigarettes. These deliberate and ongoing efforts considerably impact the consumption rates of e-cigarettes among youth and require swift action. In 2018, the Department of State Health Services determined that e-cigarette use has reached epidemic status among teens. C.S.H.B. 4758 seeks to reduce 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.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4758 amends the Health and Safety Code to create a Class B misdemeanor offense for a person who markets, advertises, sells, or causes to be sold an e-cigarette product in the following containers:

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

EFFECTIVE DATE

January 1, 2024.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4758 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced prohibited a person from selling or causing to be sold certain e-cigarette containers, the substitute creates a Class B misdemeanor offense for a person who markets, advertises, sells, or causes to be sold an e-cigarette product in certain containers.

The substitute omits a provision from the introduced that established that a retailer is not required to comply with the bill's provisions until January 1, 2024.

The substitute changes the bill's effective date from September 1, 2023, as in the introduced, to January 1, 2024.