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By:  Thierry H.B. No. 1872

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited sale of certain flavored e-cigarettes; 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 E-CIGARETTES

Sec. 161.095.  DEFINITION. In this subchapter, "e-cigarette" has the meaning assigned by Section 161.081.

Sec. 161.096.  PROHIBITED SALE OF CERTAIN FLAVORED E-CIGARETTES. (a) A person may not sell, give, or cause to be sold or given an e-cigarette with a distinguishable taste or aroma other than the taste or aroma of tobacco or menthol, including the aroma or taste of:

(1)  an alcoholic beverage;

(2)  candy or dessert;

(3)  chocolate, cocoa, or vanilla;

(4)  fruit;

(5)  an herb or spice;

(6)  honey; or

(7)  mint or wintergreen.

(b)  There is a rebuttable presumption that an e-cigarette has a distinguishable taste or aroma prohibited under Subsection (a) if a person:

(1)  makes a public statement or claim that the e-cigarette imparts a taste or smell other than the taste or smell of tobacco or menthol;

(2)  uses text or images on the labeling or packaging of the e-cigarette to indicate the e-cigarette imparts a taste or smell other than the taste or smell of tobacco or menthol; or

(3)  takes other action directed at consumers that would reasonably be expected to cause consumers to believe the e-cigarette imparts a taste or smell other than the taste or smell of tobacco or menthol.

Sec. 161.097.  CIVIL PENALTY. (a) A person who violates Section 161.096 is liable to this state for a civil penalty of $250 for each violation.

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

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

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

SECTION 2.  This Act takes effect September 1, 2023.