

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 14, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4481 by Smith (Relating to a directory of e-cigarettes and alternative nicotine products sold in this state, and regulation of the sale and distribution of e-cigarettes and alternative nicotine products; imposing fees; creating criminal offenses; imposing a civil penalty; imposing administrative penalties.), **As Introduced**

There would be an indeterminate revenue gain to the state from the \$1,000 payments submitted with each e-cigarette and alternative nicotine product certification form and any administrative penalties assessed, but the number of each is unknown, thus, the fiscal impact cannot be determined.

The bill would define "alternative nicotine product" (ANP) and prohibit the sale of ANPs to persons under the age of 21.

The bill would require manufacturers to annually certify that their e-cigarettes and ANPs have marketing authorization from the Food and Drug Administration (FDA) and submit a payment of \$1,000 each year for each product. The Comptroller would be required to establish and maintain a publicly available directory that lists all manufacturers and their certification status. A manufacturer that does not list their e-cigarette or ANP in the directory is subject to a civil penalty of \$1,000 for each product. Additionally, a retailer that sells an e-cigarette or ANP that is not in the directory is subject to disciplinary action under Section 161.0901, Health and Safety Code.

The bill would require that funds collected from the certification form and penalties be used to administer the section or for block grants as described by Section 161.088(b), Health and Safety Code.

According to the Comptroller's office, while the \$1,000 payment to be submitted with each e-cigarette and ANP certification form and any administrative penalties assessed could increase revenue to the state, the number of each is unknown and the revenue implications of the bill cannot be determined.

According to the Comptroller's office, Office of the Attorney General and Office of Court Administration, any costs to implement the bill's provisions could be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, LCO, CSmi, NV