

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 24, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4758 by Thierry (Relating to a prohibition on certain e-cigarette products; creating a criminal offense.), **As Passed 2nd House**

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to the state could be reduced.

The bill would amend Chapter 161, Subchapter H, of the Health and Safety Code, regarding the distribution of cigarettes, e-cigarettes, or tobacco products, by adding Section 161.0876.

The new section would prohibit the sale of e-cigarette containers that depict a cartoon-like fictional character that mimics a character primarily aimed at entertaining minors; imitate or mimic trademarks or trade dress of products that are, or have been, primarily marketed to minors; include a symbol or celebrity image that is primarily used to market products to minors; or resemble a food product, including candy or juice. A violation of the prohibition would be a Class B misdemeanor.

Selling an e-cigarette container prohibited above could lead to the suspension of the seller's e-cigarette retailer's permit and assessment of administrative fines.

While the prohibition of certain e-cigarette containers could lead to reduced sales tax revenue and violations of the new section could lead to increased administrative or criminal fine revenue, the number of containers to be prohibited, their values, the number of potential violators to be assessed fines, and the administrative fine amounts to be assessed are unknown and, as such, the revenue implications of this bill cannot be determined.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to units of local government that levy a sales tax could be reduced.

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, BRI, SD