

By: Lalani

H.B. No. 238

A BILL TO BE ENTITLED

AN ACT

relating to the distribution of hookahs; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 161, Health and Safety Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. DISTRIBUTION OF HOOKAHS

Sec. 161.095. DEFINITIONS. In this subchapter:

(1) "Hookah" means a type of water pipe with a long flexible tube for drawing aerosol through water and used to smoke tobacco products, including shisha tobacco products, or nontobacco products.

(2) "Minor" means an individual under 21 years of age.

(3) "Retailer" means a person who engages in the practice of selling hookahs to consumers and includes a restaurant, bar, or cafe at which a hookah is provided for use by customers on-site. The term includes the owner of a vending machine.

Sec. 161.096. PROHIBITED SALE OR USE OF HOOKAHS TO INDIVIDUALS YOUNGER THAN 21 YEARS OF AGE; CRIMINAL OFFENSE; PROOF OF AGE REQUIRED. (a) A person commits an offense if the person, with criminal negligence:

(1) sells, gives, or provides for use at a retailer, or causes to be sold, given, or provided for use at a retailer, a hookah to a minor; or

1           (2) sells, gives, provides for use, or causes to be  
2 sold, given, or provided for use, a hookah to another person who  
3 intends to deliver the hookah to a minor.

4           (b) If an offense under this section occurs in connection  
5 with a sale by an agent or employee of a retailer in which hookahs  
6 are sold at retail or provided for customer use on-site, the agent  
7 or employee is criminally responsible for the offense and is  
8 subject to prosecution.

9           (c) An offense under this section is a Class C misdemeanor.

10           (d) It is a defense to prosecution under Subsection (a)(1)  
11 that the individual to whom the hookah was sold, given, or provided  
12 for use presented to the defendant an apparently valid proof of  
13 identification.

14           (e) A proof of identification satisfies the requirements of  
15 Subsection (d) if it contains a physical description and photograph  
16 consistent with the individual's appearance, purports to establish  
17 that the individual is 21 years of age or older, and was issued by a  
18 governmental agency. The proof of identification may include a  
19 driver's license issued by this state or another state, a passport,  
20 or an identification card issued by a state or the federal  
21 government.

22           (f) It is an exception to the application of Subsection  
23 (a)(1) that the individual to whom the hookah was sold, given, or  
24 provided:

25                   (1) is at least 18 years of age; and

26                   (2) presented at the time of purchase a valid military  
27 identification card of the United States military forces or the

1 state military forces.

2       Sec. 161.097. SALE OR PROVISION OF HOOKAH TO INDIVIDUALS  
3 YOUNGER THAN 30 YEARS OF AGE. (a) A person may not sell, give,  
4 provide for use at a retailer, or cause to be sold, given, or  
5 provided for use at a retailer, a hookah to an individual who is  
6 younger than 30 years of age unless the individual to whom the  
7 hookah was sold, given, or provided presents an apparently valid  
8 proof of identification.

9       (b) An owner of a retailer shall adequately supervise and  
10 train the retailer's agents and employees to prevent a violation of  
11 Subsection (a).

12       (c) A proof of identification described by Section  
13 161.096(e) satisfies the requirements of Subsection (a).

14       SECTION 2. This Act takes effect January 1, 2026.