

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 1, 2025

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1698 by Parker (relating to the sale of certain e-cigarettes in this state and a directory of e-cigarette manufacturers and their products; authorizing fees; authorizing administrative and civil penalties; creating a criminal offense.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1698, Committee Report 1st House, Substituted: a negative impact of (\$3,864,062) through the biennium ending August 31, 2027. There would be an indeterminate revenue gain dependent on the amount and timing of any civil penalties or fees collected as a result of the bill.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2026	(\$1,932,031)
2027	(\$1,932,031)
2028	(\$1,932,031)
2029	(\$1,932,031)
2030	(\$1,932,031)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2025</i>
2026	(\$1,932,031)	7.0
2027	(\$1,932,031)	7.0
2028	(\$1,932,031)	7.0
2029	(\$1,932,031)	7.0
2030	(\$1,932,031)	7.0

Fiscal Analysis

The bill would require e-cigarette manufacturers to annually submit a certification form as prescribed by the Comptroller, and a fee of \$2,500 for each e-cigarette product they sell in the state. The bill would make it a Class B misdemeanor to attempt to conceal the nature of an e-cigarette product from consumers or to falsely represent that the product does not contain nicotine. A manufacturer who falsely represents information in their certification form would be committing a Class B misdemeanor. The bill lists certain requirements for

manufacturers not located in this state, including filing a surety bond with the Comptroller for \$25,000.

The bill would require the Comptroller to maintain and post on their internet website, a directory listing of all e-cigarette manufacturers and e-cigarettes that require the certification. Importers, distributors, wholesalers, and retailers would be prohibited from selling an e-cigarette that is not included in the directory. Engaging in business as an e-cigarette distributor without registering with the Comptroller would be a Class B misdemeanor.

The bill would require the Comptroller or a designee to annually provide for random, unannounced inspections of various importers, distributors, wholesalers, and retailers who sell or distribute e-cigarettes in this state. A subsequent inspection would be required within 30 days of an inspection that discovers non-compliance. The Comptroller would be required to publish the results of the inspections on their internet website.

Those selling products not in the directory would be subject to a civil penalty ranging from \$1,000 to \$2,000 for each individual e-cigarette sold, depending on number of offenses. A manufacturer who causes an e-cigarette removed from or not included in the directory to be sold or offered for sale in this state would be subject to a civil penalty of \$10,000 for each individual e-cigarette. The Attorney General could bring action to recover the civil penalties, as well as reasonable attorney's fees. All fees and penalties collected related to Subchapter I could only be used for the administration and enforcement of that subchapter.

The bill would require the Comptroller to submit an annual report on the directory to the Legislature. The Comptroller would adopt rules necessary to implement the bill.

Note: 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.

Methodology

It is assumed the Comptroller would require seven additional full-time equivalent (7.0 FTEs) positions to implement the bill. The additional FTEs include 3.0 Account Examiners III to process the applications, maintain the directory, and handle the surety bond set-ups, forfeitures, and cancellations; 3.0 Corporals to complete the investigations and inspections, ensure compliance, and enforce the provisions in the bill; and 1.0 Program Specialist III to manage the internal operations including, processing invoices, contracts, monitoring and tracking civil penalty assessment compliance, and ensure operational support. Personnel costs for the 7.0 FTEs are estimated to be \$500,274 in each fiscal year.

The Comptroller estimates ongoing annual costs of \$800,000 for storage fees for holding product seized throughout the state and \$414,000 for industry training, equipment for officers to respond to complaints and conduct inspections, fleet vehicle repair and fuel costs, transportation to conduct inspections, and other operating costs. Additionally, annual mailing costs are estimated to be \$67,757 to inform all current permitted cigarette, e-cigarette and tobacco industry retailers in Texas and all trade groups and associations.

The Attorney General anticipates that any additional legal work or inspections resulting from the bill's enactment could be reasonably absorbed within current resources.

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

The number of e-cigarette directory certification forms to be submitted is unknown, as is the number of potential civil and criminal offenses; therefore, the fiscal implications of the bill cannot be determined.

Technology

The Comptroller estimates an annual IT cost of \$150,000 for software updates to the record management system and procurement of additional licenses for the database.

Local Government Impact

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

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