

BILL ANALYSIS

Senate Research Center

H.B. 119
By: Hirschi (Zaffirini)
Health & Human Services
5-17-97
Committee Report (Amended)

DIGEST

Currently, federal law requires tobacco firms to disclose their product additives to the U.S. Department of Health and Human Services. Such lists are generally kept private due to federal and state laws regarding trade secret protections. This bill sets forth provisions relating to the disclosure of ingredients in cigarettes and tobacco products in Texas.

PURPOSE

As proposed, H.B. 119 sets forth provisions relating to the disclosure of ingredients in cigarettes and tobacco products.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Health in SECTION 1 (Sections 161.252(c) and 161.253(a), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 161, Health and Safety Code, by adding Subchapter N, as follows:

SUBCHAPTER N. DISCLOSURE OF INGREDIENTS IN CIGARETTES AND TOBACCO PRODUCTS

Sec. 161.251. DEFINITION. Defines "cigarette," "manufacturer," and "tobacco product."

Sec. 161.252. REPORT TO DEPARTMENT. Requires each manufacturer to file with the Department of Health (department) an annual report for each cigarette or tobacco product distributed in this state, stating certain information. Provides that this section does not require a manufacturer to disclose the specific amount of any ingredient in a cigarette or tobacco product if that ingredient has been approved as safe when burned and inhaled by the U.S. Food and Drug Administration or a successor entity. Requires the department, by rule, to establish the time for filing an annual report under this section and to prescribe the form for the report.

Sec. 161.253. NICOTINE YIELD RATINGS. Requires each manufacturer to assign a nicotine yield rating to each cigarette or tobacco product distributed in this state. Requires the rating to be assigned in accordance with standards adopted by the department. Requires the department standards to be developed so that the nicotine yield rating reflects, as accurately as possible, nicotine intake for an average consumer of the cigarette or tobacco product.

Sec. 161.254. PUBLIC INFORMATION. Provides that except as provided by Subsections (b), (c), and (d), information included in a report filed under this subchapter is public information and is not confidential unless it is determined to be confidential under this section. Prohibits the department from disclosing information under Subsection (a) until the department has obtained the advice of the attorney general under this section with respect to the particular information to be disclosed. Provides that if the attorney general determines that the disclosure of particular information would constitute an unconstitutional taking of

property, the information is confidential and the department shall exclude that information from disclosure. Provides that information included in a report filed under this subchapter is confidential if the department determines that there is no reasonable scientific basis for concluding that the availability of the information could reduce risks to public health. Provides that information included in a report filed under this subchapter is confidential if it is determined that the particular information would be excepted from required public disclosure as a legally protected trade secret under Chapter 552, Government Code.

Sec. 161.255. INJUNCTION. Authorizes a district court, under certain conditions and by injunction, to prohibit the sale or distribution in this state of a cigarette or tobacco product manufactured by the manufacturer; or grant any other injunctive relief warranted by the facts. Requires the attorney general to institute and conduct a suit authorized by this section at the request of the department and in the name of the state. Sets forth venue for a suit for injunctive relief.

SECTION 2. Provides that a manufacturer is not required to file an annual report under Subchapter N, Chapter 161, Health and Safety Code, as added by this Act, before January 1, 1998.

SECTION 3. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 2, line 20, strike "and (c)" and replace with "(c) and (d)".

Page 3, line 9, strike lines 9 and 10 and replace the removed Subsection (d), stating that nothing herein shall require disclosure of legally protected trade secrets, with the following: "Information included in a report filed under this subchapter is confidential if it is determined that the particular information would be excepted from required public disclosure as a legally protected trade secret under Chapter 552, Government Code."