

BILL ANALYSIS

Senate Research Center
82R18716 ALL-D

H.B. 2599
By: Ritter (Elife)
Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2009, the legislature passed H.B. 2154 which changed the taxation of most tobacco products from a system of taxes based on a percentage of the manufacturer's price to one based on weight. This new method of taxation did not affect cigars and cigarettes, but did affect chewing tobacco, pipe tobacco, snuff, and "roll-your-own" tobacco.

The legislation has worked as intended, as revenue for the state has increased. However, the weight-based tax has disproportionately affected chewing tobacco, which is approximately three times heavier than a can of snuff. Under the prior system of taxation, the tax on a pouch of chewing tobacco was \$0.87; now it is \$3.30, more than the cost of the product.

Although the State of Texas does not track sales of chewing tobacco specifically, data indicates that surrounding states have seen substantial increases in sales of chewing tobacco since H.B. 2154 went into effect. It is likely that Texans are going across state lines to purchase this product or purchasing it illegally online.

H.B. 2599 defines "chewing tobacco" to remove it from the weight-based system and taxes this product at \$0.80 per ounce.

H.B. 2599 amends current law relating to the definition of chewing tobacco for purposes of the taxes imposed on cigars and other tobacco products and to the rate of the tax imposed on chewing tobacco.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 155.001, Tax Code, by adding Subdivision (1-a) and amending Subdivision (15), to, respectively, define "chewing tobacco" and redefine "tobacco product."

SECTION 2. Amends Sections 155.0211(b), (b-1), and (b-2), Tax Code, as follows:

(b) Provides that, except as provided by Subsection (c) (relating to the tax imposed on a can or package of a tobacco product other than cigars that weighs less than 1.2 ounces being equal to the amount of the tax imposed on a can or package of a tobacco product that weighs 1.2 ounces), the tax rate for each can or package of:

(1) a tobacco product other than cigars and chewing tobacco is \$1.22 per ounce and a proportionate rate on all fractional parts of an ounce; and

(2) a tobacco product other than cigars that is chewing tobacco is 80 cents per ounce and a proportionate rate on all fractional parts of an ounce.

(b-1) Provides that, notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2012, the tax rate for each

can or package of a tobacco product other than cigars and chewing tobacco is \$1.19 per ounce and a proportionate rate on all fractional parts of an ounce. Provides that this subsection expires December 1, 2013.

(b-2) Provides that, notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2011, the tax rate for each can or package of a tobacco product other than cigars and chewing tobacco is \$1.16 per ounce and a proportionate rate on all fractional parts of an ounce. Provides that this subsection expires December 1, 2012.

SECTION 3. Repealer: Section 155.0211(b-3) (relating the tax rate for each can or package of a tobacco product other than cigars being \$1.13 per ounce and a proportionate rate on all fractional parts of an ounce), Tax Code.

SECTION 4. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. Effective date: September 1, 2011.