

BILL ANALYSIS

Senate Research Center

S.B. 1390
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Finance
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of the Comptroller of Public Accounts (comptroller's office) has identified several issues governing the sale of and reporting requirements for tobacco products and cigarettes. These concerns are an administrative burden to taxpayers and the comptroller's office. S.B. 1390 provides clarity to taxpayers and will improve efficiency for the comptroller.

Specifically, S.B. 1390:

- amends the effective date of the adjusted rate on cigarette and tobacco fees from January 1 to February 1. Information necessary to adjust the fee is not available until mid-January, making it impossible for the Texas comptroller of public accounts (comptroller) to determine the appropriate fee by January 1. This change will ensure the comptroller can appropriately adjust the fee each year;
- clarifies that the three percent stamp allowance is available to all distributors, regardless of whether the distributor is a member of the cigarette tax recovery trust fund, thereby codifying longstanding agency policy;
- exempts cigarettes used solely for research purposes from taxation; and
- removes an administrative burden to taxpayers by aligning all due dates for cigarette and tobacco product distributors, so that all required reports are due on the 25th of each month.

S.B. 1390 amends current law relating to taxes and fees imposed on cigarettes and other tobacco products, including an exemption to the cigarette tax, related administrative matters, and the elements of certain related offenses.

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 161.604, Health and Safety Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the Texas comptroller of public accounts (comptroller), beginning in January 2014, and in January of each subsequent year, to adjust the rate of the fee by increasing the rate in effect on the date the adjustment is made by the greater of a certain amount, rather than compute the rate of the fee applicable during that calendar year by increasing the rate for the preceding calendar year by the greater of a certain amount.

(b-1) Provides that the adjusted rate of the fee determined under Subsection (b) takes effect on February 1 of the year in which the adjusted rate is determined and remains in effect until January 31 of the following year.

SECTION 2. Amends Section 161.605(e), Health and Safety Code, to delete existing text providing that the entitlement of certain distributors to a stamping allowance is subject to Section 154.051 (Cigarette Tax Recovery Trust Fund), Tax Code.

SECTION 3. Amends Subchapter B, Chapter 154, Tax Code, by adding Section 154.026, as follows:

Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH PURPOSES.

(a) Provides that cigarettes are exempt from the tax imposed by Section 154.021 (Imposition and Rate of Tax) if the cigarettes meet certain criteria.

(b) Provides that Sections 154.041 (Stamp Required), 154.302 (Payment of Double Amount), 154.502 (Unstamped Cigarettes), 154.503 (Possession in Quantities Less Than 10,000), and 154.515 (Possession in Quantities of 10,000 or More) do not apply to cigarettes exempted by Subsection (a).

SECTION 4. Amends Section 154.210(a), Tax Code, to require a distributor to deliver to the comptroller, on or before the 25th day of each month, rather than on or before the last day of each month, a report for the preceding month.

SECTION 5. Amends Section 154.502, Tax Code, to create an exception under Section 154.026(b).

SECTION 6. Amends Section 154.503(a), Tax Code, to create an exception under Section 154.026(b) and make a nonsubstantive change.

SECTION 7. Amends Section 154.515(a), Tax Code, to create an exception under Section 154.026(b) and make a nonsubstantive change.

SECTION 8. Amends Section 155.111(a), Tax Code, as follows:

(a) Requires a distributor to file with the comptroller on or before the 25th day of each month, rather than on or before the last day of each month, a report for the preceding month. Makes a nonsubstantive change.

SECTION 9. (a) Provides that the changes in law made by this Act do not affect taxes and fees imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes and fees.

(b) Makes application of the changes in law made by this Act to Sections 154.210 and 155.111, Tax Code, prospective.

(c) Makes application of the changes in law made by this Act to Sections 154.502, 154.503, and 154.515, Tax Code, prospective.

SECTION 10. Effective date: September 1, 2017.