

BILL ANALYSIS

C.S.H.B. 4013
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the increasing popularity of electronic cigarettes among the youth in Texas. It has been suggested that the nicotine in these cigarettes is highly addictive and can harm the developing brains of young users. Furthermore, reports indicate that it is easy for minors to obtain e-cigarettes as many retailers do not check for identification and there is little enforcement of the purchasing age across the state. C.S.H.B. 4013 seeks to address this issue by increasing enforcement of the purchasing age for these products and by levying an additional sales and use tax.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4013 amends the Tax Code to impose a sales tax on each sale in Texas of an e-cigarette or vapor product and a use tax on the storage, use, or other consumption in Texas of an e-cigarette or vapor product purchased from a retailer. The bill defines "vapor product" as a consumable liquid solution or other material aerosolized or vaporized during the use of an e-cigarette, regardless of whether the liquid contains nicotine.

C.S.H.B. 4013 sets those tax rates at 10 percent of the sales price of an e-cigarette or vapor product sold, stored, used, or otherwise consumed in Texas, as applicable. The bill establishes that the taxes are imposed in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act and that a tax imposed by the bill does not apply unless the respective tax under that act applies to the sale or the storage, use, or other consumption of the e-cigarette or vapor product, as applicable. The bill sets out the applicability of other Tax Code provisions to the taxes imposed by the bill's provisions; provides for reporting and related recordkeeping requirements regarding the taxes, including disciplinary action for certain violations of Health and Safety Code provisions governing the distribution of cigarettes, e-cigarettes, or tobacco products; and requires the comptroller of public accounts to deposit the proceeds from the taxes to the credit of the foundation school fund.

C.S.H.B. 4013 authorizes the comptroller, for purposes of such Health and Safety Code provisions relating to the sale or delivery of e-cigarettes to a minor, to suspend a sales tax permit of a person required to file a sales tax report under that act who is also required to collect or pay a tax on e-cigarette vapor products but prohibits the comptroller from revoking the permit under

the bill's provisions if the comptroller finds that:

- the person's employee has not sold cigarettes, e-cigarettes, or tobacco products to a person younger than 18 years of age or a person who intends to deliver the product to someone who is younger than 18 years of age more than four times at the place of business for which the permit is issued in the 24-month period preceding the violation in question;
- the person requires the person's employees to attend a comptroller-approved seller training program;
- the employee has actually attended a comptroller-approved seller training program; and
- the person has not directly or indirectly encouraged the employee to violate the law.

The bill requires the comptroller to adopt rules or policies establishing the minimum requirements for approved seller training programs and sets out additional provisions relating to such programs.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4013 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes e-cigarettes among the products to which the sales and use taxes apply and changes the sales and use tax rates from five cents for each milliliter or fractional part of a milliliter of vapor product to 10 percent of the sales price of the e-cigarette or vapor product.

The substitute changes the definition of "vapor product."

The substitute changes the fund to which the comptroller is required to deposit the proceeds of the taxes from the general revenue fund to the foundation school fund.

The substitute revises certain reporting and recordkeeping requirements regarding the taxes.