BILL ANALYSIS

Senate Research Center

H.B. 3141
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Engrossed

DIGEST AND PURPOSE

In 1997, Texas, along with four other states, agreed to individual state tobacco settlements. By 1998 the remaining states had joined into a Master Settlement Agreement (MSA) that calculated the tobacco settlement payments to the states. These payments were based on the total nationwide sales by cigarette manufacturers that are parties to the agreement. However, sales by manufacturers that are not parties to the agreement, or nonparticipating manufacturers (NPM), do not result in payments to the states.

Since 1998 the 46 MSA states have required those NPM’s that refused to sign the MSA to instead escrow funds that could be used to satisfy the judgments that might be entered against them in lawsuits brought by the states.

Some NPMs attempt to evade making these escrow payments by using the four non-escrow states, Mississippi, Florida, Minnesota and Texas as a first point of shipment. They will then ship the product to other states and as they do not make escrow payments, they are able to sell the product at a substantially lower price. Companies that comply with the state requirements often have reduced sales due to these illegal practices. This in turn costs the State of Texas settlement money.

H.B. 3141 prohibits a person from transporting or causing to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

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 154.152, Tax Code, by adding Subsections (c), (d), (e), and (f), as follows:

> (c) Prohibits a person from transporting or causing to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold; provided, however, that nothing in this section prohibits a distributor from transporting or causing to be transported from this state cigarettes to the distributor's location in another state or to the distributor's affiliated entity located in another state without first affixing stamps to the cigarettes.
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> (d) Defines "affiliated entity."
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> (e) Prohibits a person from affixing to cigarettes the stamp required by another state or paying any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other

excise tax on the cigarettes, or prohibits the sale of the cigarettes.

(f) Requires a person who transports or causes to be transported from this state cigarettes for sale in another state to submit to the attorney general, not later than the 15th day after the end of each calendar quarter, a report identifying:

(1) the quantity of cigarettes, by brand style, transported or caused to be transported in the preceding calendar quarter; and

(2) the name and address of each recipient of the cigarettes.

SECTION 2. Effective date: upon passage or September 1, 2003.