

BILL ANALYSIS

Senate Research Center
82R1990 YDB-D

S.B. 268
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 268 raises the legal age for the possession and purchase of tobacco products from 18 to 19 years of age. In order to make up for the lost tax revenue, the bill increases the tax on a pack of cigarettes by three cents from \$1.41 to \$1.44. This tax increase is for cigarettes only and would not affect other forms of tobacco. The tax increase makes the bill revenue neutral.

As proposed, S.B. 268 amends current law relating to the distribution, possession, purchase, consumption, receipt, and taxation of tobacco products and provides penalties.

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 161.081, Health and Safety Code, by adding Subdivision (1-a) to define a "minor" as a person under 19 years of age.

SECTION 2. Amends the heading to Section 161.082, Health and Safety Code, to read as follows:

Sec. 161.082. SALE OF CIGARETTES OR TOBACCO PRODUCTS TO PERSONS YOUNGER THAN 19 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED.

SECTION 3. Amends Sections 161.082(a) and (e), Health and Safety Code, as follows:

(a) Provides that a person commits an offense if the person, with criminal negligence:

(1) sells, gives, or causes to be sold or given a cigarette or tobacco product to someone who is younger than 19 years of age, rather than 18 years of age; or

(2) sells, gives, or causes to be sold or given a cigarette or tobacco product to another person who intends to deliver it to someone who is younger than 19 years of age, rather than 18 years of age.

(e) Makes a conforming change.

SECTION 4. Amends Section 161.084(b), Health and Safety Code, to make conforming changes.

SECTION 5. Amends Sections 161.085(a) and (b), Health and Safety Code, to make conforming and nonsubstantive changes.

SECTION 6. Amends Section 161.086(b), Health and Safety Code, to make a conforming change.

SECTION 7. Amends Sections 161.087(a) and (b), Health and Safety Code, to make conforming changes.

SECTION 8. Amends Sections 161.088(b) and (d), Health and Safety Code, as follows:

(b) Makes a conforming change.

(d) Authorizes a person to be enlisted by the comptroller of public accounts or a local law enforcement agency to act as a minor decoy only if certain requirements are met, including that at the time of the inspection, the minor decoy is younger than 18 years of age, rather than 17 years of age. Makes a conforming change.

SECTION 9. Amends Section 161.251, Health and Safety Code, by adding Subdivision (1-a) to define a "minor."

SECTION 10. Amends Sections 161.252(a), (b), and (c), Health and Safety Code, to make conforming changes.

SECTION 11. Amends Section 161.452(b), Health and Safety Code, to delete existing text requiring a person taking a delivery sale order to comply with the shipping requirements prescribed by Section 161.455 (Shipping Requirements). Makes nonsubstantive changes.

SECTION 12. Amends Section 161.453(a), Health and Safety Code, to make conforming changes.

SECTION 13. Amends Section 154.021(b), Tax Code, to increase the tax rate from \$70.50 per thousand to \$71.50 per thousand on cigarettes weighing three pounds or less per thousand.

SECTION 14. Repealer: Section 161.455 (Shipping Requirements), Health and Safety Code.

SECTION 15. (a) Makes application of this Act prospective. Provides that for purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) Provides that an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 16. Provides that the changes in law made by this Act do 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 17. Effective date: September 1, 2011.