

1-1 By: Hinojosa S.B. No. 1390  
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read  
 1-3 first time and referred to Committee on Finance; April 3, 2017,  
 1-4 reported favorably by the following vote: Yeas 14, Nays 0;  
 1-5 April 3, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED  
 1-24 AN ACT

1-25 relating to taxes and fees imposed on cigarettes and other tobacco  
 1-26 products, including an exemption to the cigarette tax, related  
 1-27 administrative matters, and the elements of certain related  
 1-28 offenses.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 161.604(b), Health and Safety Code, is  
 1-31 amended to read as follows:

1-32 (b) Beginning in January 2014, and in February [~~January~~] of  
 1-33 each subsequent year, the comptroller shall compute the rate of the  
 1-34 fee applicable during that calendar year by increasing the rate for  
 1-35 the preceding calendar year by the greater of:

- 1-36 (1) three percent; or
- 1-37 (2) the actual total percentage change in the Consumer  
 1-38 Price Index for All Urban Consumers (CPI-U), as published by the  
 1-39 Bureau of Labor Statistics of the United States Department of  
 1-40 Labor, during the preceding calendar year, calculated by comparing  
 1-41 the CPI-U for December of the preceding calendar year with the CPI-U  
 1-42 for December a year earlier.

1-43 SECTION 2. Section 161.605(e), Health and Safety Code, is  
 1-44 amended to read as follows:

1-45 (e) Notwithstanding any other law, a distributor that  
 1-46 remits a monthly fee under this section is [~~subject to Section~~  
 1-47 ~~154.051, Tax Code,~~] entitled to a stamping allowance of three  
 1-48 percent of the face value of all stamps purchased under Section  
 1-49 154.041, Tax Code, for providing the service of affixing stamps to  
 1-50 cigarette packages.

1-51 SECTION 3. Subchapter B, Chapter 154, Tax Code, is amended  
 1-52 by adding Section 154.026 to read as follows:

1-53 Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH  
 1-54 PURPOSES. (a) Cigarettes are exempt from the tax imposed by  
 1-55 Section 154.021 if the cigarettes are:

- 1-56 (1) contained in a package labeled with "Experimental  
 1-57 Use Only," "Reference Cigarettes," or other similar wording  
 1-58 indicating that the manufacturer intends for the product to be used  
 1-59 exclusively for experimental purposes in compliance with 27 C.F.R.  
 1-60 Section 40.232;
- 1-61 (2) sold directly by a manufacturer to a research

2-1 facility in this state, including:

2-2 (A) a laboratory, hospital, medical center,  
2-3 college, or university; or

2-4 (B) a facility designated as a Tobacco Center of  
2-5 Regulatory Science by the National Institutes of Health;

2-6 (3) used by the research facility exclusively for  
2-7 experimental purposes; and

2-8 (4) not resold by the research facility.

2-9 (b) Sections 154.041, 154.302, 154.502, 154.503, and  
2-10 154.515 do not apply to cigarettes exempted by Subsection (a).

2-11 SECTION 4. Section 154.210(a), Tax Code, is amended to read  
2-12 as follows:

2-13 (a) A distributor shall deliver to the comptroller, on or  
2-14 before the 25th [~~last~~] day of each month, a report for the preceding  
2-15 month.

2-16 SECTION 5. Section 154.502, Tax Code, is amended to read as  
2-17 follows:

2-18 Sec. 154.502. UNSTAMPED CIGARETTES. Except as provided by  
2-19 Section 154.026(b), a [A] person commits an offense if the person:

2-20 (1) makes a first sale of unstamped cigarettes;

2-21 (2) sells, offers for sale, or presents as a prize or  
2-22 gift unstamped cigarettes; or

2-23 (3) knowingly consumes, uses, or smokes cigarettes  
2-24 taxed under this chapter without a stamp affixed to each individual  
2-25 package.

2-26 SECTION 6. Section 154.503(a), Tax Code, is amended to read  
2-27 as follows:

2-28 (a) Except as provided by Sections 154.026(b) and [Section]  
2-29 154.042 [of this code], a person commits an offense if the person  
2-30 possesses unstamped cigarettes in quantities less than 10,000.

2-31 SECTION 7. Section 154.515(a), Tax Code, is amended to read  
2-32 as follows:

2-33 (a) Except as provided by Sections 154.026(b) and [Section]  
2-34 154.042 [of this code], a person commits an offense if the person  
2-35 possesses unstamped cigarettes in quantities of 10,000 or more.

2-36 SECTION 8. Section 155.111(a), Tax Code, is amended to read  
2-37 as follows:

2-38 (a) A distributor shall file with the comptroller on or  
2-39 before the 25th [~~last~~] day of each month[~~7~~] a report for the  
2-40 preceding month.

2-41 SECTION 9. (a) The changes in law made by this Act do not  
2-42 affect taxes and fees imposed before the effective date of this Act,  
2-43 and the law in effect before the effective date of this Act is  
2-44 continued in effect for purposes of the liability for and  
2-45 collection of those taxes and fees.

2-46 (b) The changes in law made by this Act to Sections 154.210  
2-47 and 155.111, Tax Code, apply only to a distributor's report  
2-48 originally due on or after the effective date of this Act. A  
2-49 distributor's report originally due before that date is governed by  
2-50 the law in effect on the date the report was due, and the former law  
2-51 is continued in effect for that purpose.

2-52 (c) The changes in law made by this Act to Sections 154.502,  
2-53 154.503, and 154.515, Tax Code, apply only to an offense committed  
2-54 on or after the effective date of this Act. An offense committed  
2-55 before the effective date of this Act is governed by the law in  
2-56 effect when the offense was committed, and the former law is  
2-57 continued in effect for that purpose. For purposes of this  
2-58 subsection, an offense was committed before the effective date of  
2-59 this Act if any element of the offense occurred before that date.

2-60 SECTION 10. This Act takes effect September 1, 2017.

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