

- SUBJECT:** Lowering the tax rate on chewing tobacco
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 8 ayes — Hilderbran, Otto, Elkins, Gonzalez, Martinez Fischer, Murphy, Ritter, Woolley
- 0 nays
- 3 absent — Christian, Lyne, Villarreal
- WITNESSES:** (*On original version:*)
- For — Billy Hamilton, Swedish Match BH; Ron Tully, National Tobacco Company; (*Registered, but did not testify:* Troy Alexander, Texas Medical Association; Carey Dabney, Texas PTA; Mindy Ellmer, Swedish Match North America; Walter Fisher, Swisher International; Stephanie Gibson, Texas Retailers Association; Ron Hinkle, National Tobacco)
- Against — (*Registered, but did not testify:* Ross Haynes, Robert Rowland, Tantus Tobacco; Jay Maguire, Tantus Tobacco, Cheyenne International, Sandia Manufacturing)
- On — Dean Ferguson, Texas Comptroller’s Office
- BACKGROUND:** Tax Code, sec. 155.0211, taxes chewing tobacco at:
- \$1.13 per ounce in 2011;
  - \$1.16 per ounce in 2012;
  - \$1.19 per ounce in 2013; and
  - \$1.22 per ounce in 2014 and beyond.
- Tax Code, sec. 155.001, defines “chewing tobacco” as Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing.
- DIGEST:** CSHB 2599 would remove chewing tobacco from the graduated tobacco tax ladder and would tax it at 80 cents per ounce.

The bill would define “chewing tobacco” as any leaf tobacco that was not snuff and that was either suitable for chewing, including Twist, plug, and scrap, or not intended to be smoked.

The bill would take effect on September 1, 2011, and would not affect any tax liability that accrued before that date.

**SUPPORTERS  
SAY:**

CSHB 2599 would help create tax equity in the tobacco market. In 2009, the 81st Legislature enacted HB 2154 by Edwards, which changed the way noncigarette and noncigar tobacco was taxed to a weight-based system. A typical package of chewing tobacco weighs about three times more than a can of snuff. Switching to a weight-based system meant that comparable tobacco products were taxed disproportionately. This has led to a collapse in chewing tobacco sales in Texas.

The bill would encourage Texans to buy their chewing tobacco in-state. Usage rates have not substantially decreased since the tobacco tax was changed. The new tax system drove Texans to either purchase their chewing tobacco out-of-state or illegally online. Lowering the rate would help stop out-of-state sales, on which the state collects no taxes.

Taxing chewing tobacco at 80 cents an ounce would create a true Laffer curve. The rate reduction would expand the market by increasing sales. The 80-cent rate resulted from negotiations between the tobacco industry and state tax administrators. According to the fiscal note, the increase in sales would make up for any tax revenue lost by lowering the tax rate.

Lowering the tobacco tax rate resulted in an increase in tax revenue for the state of Washington in 2005. Four years earlier, the state had increased the tax on cigarettes from roughly 75 percent to roughly 130 percent of the price of a package. The increase pushed cigarette sales to neighboring states, Canada, and Indian reservations. Lowering the tax back to 75 percent allowed Washington to recover 95 percent of the lost market.

**OPPONENTS  
SAY:**

The bill is shortsighted. By lowering the tax rate on chewing tobacco, CSHB 2599 would increase its consumption. All forms of tobacco cause cancer. Increased usage would increase the incidence of cancer, which ultimately would raise health care costs for the state and people of Texas.

OTHER  
OPPONENTS  
SAY:

If lowering the tax rate would have a true Laffer effect, then the tax rate on chewing tobacco should be reduced further to maximize tobacco tax income.

It would be more equitable to tax tobacco on a proportional usage system rather than a weight-based one. For instance, a one-ounce can of snuff will usually last a consumer a day or a day and a half. A three-ounce pouch of chewing tobacco will last just as long. A proportional usage system would cause less inference in the tobacco market and would prevent the need for legislative tweaks and calibrations that the weight-based system requires.