

## BILL ANALYSIS

Senate Research Center  
77R5492 DAK-D

S.B. 937  
By: Armbrister  
Finance  
3/12/2001  
As Filed

### DIGEST AND PURPOSE

The 76th Legislature amended the Tax Code to prohibit the affixing of tax stamps to certain cigarettes, The change in law has prevented duty-free stores from being able to sell cigarettes for export. As proposed, S.B. 937 allows duty-free stores to continue to sell cigarettes for export and allows a private right of action for those persons who sustain economic or commercial injury as a result of violations of the law.

### 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 Chapter 154C, Tax Code, by adding Section 154.0401, as follows:

Sec. 154.0401. APPLICABILITY. (a) Provides that this subchapter, except as provided by Subsection (b), does not apply to cigarettes imported or brought into the United States for personal use or sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with 19 U.S.C. Section 1555(b) (Duty-free sales enterprises), as amended, and any implementing regulations.

(b) Provides that this subchapter applies to cigarettes brought back into the customs territory for resale within the customs territory.

SECTION 2. Amends Section 154.042, Tax Code, by adding Subsection (e), to require that on or before the 15th business day of each month, each distributor file with the comptroller, for all cigarettes imported in the United States to which the distributor has affixed the tax stamp in the preceding month, copies of the customs certificates for the cigarettes required by 19 U.S.C. Section 1681a(c) (Customs certifications required for cigarette imports), as amended.

SECTION 3. Amends Section 154.053, Tax Code, by adding Subsection (c), to require the comptroller to design and furnish stamps in a manner that permits identification of the person that affixed the stamp to the particular package of cigarettes by means of a serial number or other mark on the stamp. Requires the comptroller to maintain for at least three years the information identifying the person that affixed the stamp to each package of cigarettes. Provides that the information is not confidential or exempt from disclosure to the public.

SECTION 4. Amends Chapter 154H, Tax Code, by adding Section 154.402, as follows:

Sec. 154.402. SEIZURE AND DESTRUCTION OF CERTAIN CONTRABAND CIGARETTES. (a) Provides that this section applies only to cigarettes that meet certain criteria.

(b) Prohibits a person from doing certain acts in this state where this section applies.

(c) Provides that cigarettes that are acquired, held, owned, possessed, transported, imported into, or sold or distributed in this state in violation of Subsection (b) are subject to seizure and forfeiture under Sections 154.403 and 154.405, without regard to whether the violation was knowing or otherwise.

(d) Requires that any cigarettes seized and forfeited under this section be destroyed.

SECTION 5. Amends Chapter 154H, Tax Code, by adding Section 154.416, as follows:

Sec. 154.416. PRIVATE RIGHT OF ACTION. (a) Provides that a person who sustains economic or commercial injury as a result of a violation of Section 154.0415, 154.042(e), or 154.402 may bring an action for certain forms of relief.

(b) Authorizes the court, if the trier of fact finds that the violation is egregious, to increase the judgment to an amount equal to or less than three times the amount of actual damages.

(c) Provides the remedy provided by this section is in addition to any other remedy provided by law.

SECTION 6. (a) Effective date: September 1, 2001.

(b) Makes application of Section 154.416, Tax Code, as added by this Act, prospective.