

## BILL ANALYSIS

Senate Research Center  
80R4497 ABC-D

S.B. 448  
By: Uresti  
Health & Human Services  
3/19/2007  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, 18-year-olds are allowed to purchase tobacco products in this state. In 2004, 22 percent of high school students and over eight percent of middle school students were smokers. Over 90 percent of smokers began smoking before the age of 21. Smoking has been linked to increased risks for heart disease, cancer, emphysema, strokes, and many other preventable illnesses. The costs of tobacco ailments in terms of health care costs is staggering. Furthermore, 18-year-olds, many of whom are still in high school, may be disseminating tobacco products to their underage peers.

As proposed, S.B. 448 increases the minimum age for the purchase of tobacco products from 18 years of age to 19 years of age. The bill also changes related notification and enforcement provisions.

### 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 "minor."

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 Section 161.082, Health and Safety Code, by amending Subsections (a) and (e) and adding Subsections (f) and (g), as follows:

(a) Increases from 18 to 19 years the minimum age that a person must be to be sold, given, or intended to be delivered to a cigarette or tobacco product.

(e) Makes a conforming change.

(f) Provides an exception to the application of this section if the person to whom the cigarette or tobacco product is sold or given, or the person to whom the cigarette or tobacco product is intended to be delivered as described by Subsection (a) (2), is 18 years of age or older on September 1, 2007. Provides that this subsection expires on September 1, 2008.

(g) Sets forth the criteria by which a proof of identification satisfies the requirements of Subsection (d) (regarding defense of prosecution under Subsection a-1), notwithstanding the minimum age established by Subsection (a-1). Provides that this subsection expires on September 1, 2008.

SECTION 4. Amends Section 161.084, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2) as follows:

(b) Makes conforming changes.

(b-1) Authorizes a sign that is required to provide a warning notice at a location where tobacco products are sold to include the statement: A PERSON WHO IS AT LEAST 18 YEARS OF AGE ON SEPTEMBER 1, 2007, MAY PURCHASE TOBACCO PRODUCTS UNDER LAW.

(b-2) Provides that Subsection (b-1) and this subsection expire September 1, 2008.

SECTION 5. Amends Section 161.085, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Makes a conforming change.

(a-1) Requires a retailer to notify each individual employed by the retailer of the exception provided by Section 161.082(f) for a person who is 18 years of age or older on September 1, 2007. Provides that this subsection expires September 1, 2008.

(b) Makes conforming changes.

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

SECTION 7. Amends Section 161.087, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(e) Provides an exception to the application of this section if the person to whom the free sample of the cigarette or tobacco product or the coupon or item is distributed, or the recipient from whom a coupon or other item is accepted or for whom a coupon or other item is redeemed, is 18 years of age or older on September 1, 2007. Provides that this subsection expires on September 1, 2008.

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

(b) Makes a conforming change.

(d) Increases from 17 to 18 years the age requirement for a minor decoy to test compliance of this subchapter. Makes a conforming change.

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

SECTION 10. Amends Section 161.252, Health and Safety Code, by amending Subsections (a), (b), and (c) and adding Subsection (c-1), as follows:

(a), (b), and (c) Make conforming changes.

(c-1) Provides an exception to the application of this section if the individual who possesses, purchases, consumes, or accepts a cigarette or tobacco product is 18 years of age or older on September 1, 2007. Provides that this subsection expires on September 1, 2008.

SECTION 11. Amends Section 161.453, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes a conforming change.

(c) Authorizes a person to satisfy the requirement of Subsection (a)(1)(A) (regarding mailing or shipping cigarettes in connection with a delivery sale order) by obtaining from the prospective customer a certification that includes reliable confirmation that the purchaser is 18 years of age or older on September 1, 2007. Provides that this subsection expires September 1, 2008.

SECTION 12. Amends Section 161.455, Health and Safety Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Makes conforming changes.

(a-1) Sets forth requirements and procedures that a person who mails or ships cigarettes in connection with a delivery sale order must follow.

(a-2) Provides that Subsection (a-1) and this subsection expire on September 1, 2008.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Provides that application of the expiration dates added by this Act do not apply to offenses committed before the date of the expiration.

SECTION 15. Effective date: September 1, 2007.