

BILL ANALYSIS

Senate Research Center
80R5375 KLA-D

S.B. 667
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, tobacco snuff is subject to a state excise tax based on the price paid by a wholesaler to a manufacturer, rather than the weight or units per item taxed for other consumer products. Different qualities of snuff yield different taxes paid, whereas cigarettes are subject to a flat excise tax rate of \$1.41 per pack, regardless of brand or quality. As a result, higher-end snuff purchasers are taxed more heavily than those who buy generic brand snuff.

The State of Texas potentially loses millions of dollars in tax collections due to this variation in tax rates, and the discount given to manufacturers of cheap tobacco products. Complications stemming from the current ad valorem tax have resulted in audits and litigation for the comptroller of public accounts, leading to the state having to refund an estimated \$12 to \$15 million to tobacco wholesalers under a settlement to a lawsuit over the correct taxing point.

As proposed, S.B. 667 provides a tax rate on snuff of \$1 per canned ounce, rather than the current 40 percent ad valorem tax on the manufacturer's list price. This tax would maintain approximately the same level of tax revenue dedicated to property tax relief under the current tax.

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 155.001, Tax Code, by adding Subdivision (14-a), to define "snuff."

SECTION 2. Amends Section 155.0211, Tax Code, by amending Subsection (b) and adding Subsections (c), (d), and (e), as follows:

- (b) Exempts snuff from the tax rate of 40 percent of a certain price for tobacco products.
- (c) Establishes a tax rate for each can or package of snuff of one dollar per ounce and a proportionate tax rate on all fractional parts of an ounce, except as provided by Subsection (d).
- (d) Provides that the tax imposed on a can or package of snuff that weighs less than 1.2 ounces is equal to the tax imposed on a can or package of snuff that weighs 1.2 ounces.
- (e) Requires the tax on snuff to be computed based on the net weight as listed by the manufacturer for purposes of Subsection (c) and (d). Provides that the total tax to be imposed on a unit that contains multiple individual amounts of snuff is the sum of certain taxes on each individual can or package intended for sale or redistribution at retail.

SECTION 3. Amends Section 155.101, Tax Code, as follows:

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Requires that certain entities that purchase or receive tobacco products keep records at each place where those products are purchased or received. Sets forth the required types of data for those

records, including the net weight for each unit of snuff as listed by the manufacturer. Makes conforming changes.

SECTION 4. Amends Section 155.102, Tax Code, by adding Subsection (c), as follows:

(c) Requires the records kept by certain entities that sell, distribute, exchange, or use tobacco products to include the net weight for each unit of snuff as listed by the manufacturer in addition to other information required for those records.

SECTION 5. Amends Section 155.103, Tax Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires the records kept by manufacturers of tobacco products to include the net weight for each unit of snuff as listed by the manufacturer in addition to other information required for those records.

(b) Requires a manufacturer who sells tobacco products to a permit holder in this state to file with the comptroller of public accounts, no later than the last day of each month, a report showing the information required by Subsections (a) and (a-1), if applicable, for the previous month. Makes a conforming change.

SECTION 6. Amends Section 155.111, Tax Code, by adding Subsection (b-1), as follows:

(b-1) Requires the records kept by distributors of tobacco products to include the net weight for each unit of snuff as listed by the manufacturer for snuff in addition to other information required for those records.

SECTION 7. Amends Section 155.2415, Tax Code, as follows:

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND. Requires that, notwithstanding Section 155.241, Tax Code, all proceeds from the collection of taxes imposed by Section 155.0211(b), Tax Code, attributable to the portion of the tax rate in excess of 35.213 percent of manufacturer's list price, and the amount of proceeds from the collection of taxes imposed on snuff as if they were the proceeds from the collection of taxes imposed by Section 155.0211(b), Tax Code, are required to be deposited to the credit of the property tax relief fund under Section 403.109 (Property Tax Relief Fund), Government Code. Makes conforming changes.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2007.