

BILL ANALYSIS

Senate Research Center
83R4363 KKR-D

S.B. 313
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Health & Human Services
2/15/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill increases the legal age for purchase, possession, and consumption of tobacco products in Texas from the current 18 years of age to 21 years of age. Smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined, and the earlier a child first tries smoking the higher his or her chances of ultimately becoming a regular smoker and the less likely he or she is to quit. Research also shows that the earlier people begin to smoke the higher the risk they have of contracting lung cancer or experiencing a range of risk factors and health problems in adulthood. Overall, roughly one-third of all persons who become regular smokers before adulthood will eventually die from smoking. According to the Campaign for Tobacco Free Kids, 24,500 adult Texans die each year from smoking and 503,000 Texas kids currently under the age of 18 will die prematurely due to smoking.

Moreover, smoking costs Texans \$5.83 billion in annual health care costs, \$1.6 billion of which is covered by Medicaid. According to the Tobacco Control Legal Consortium, raising the minimum legal sale age (MLSA) would likely lower overall tobacco use rates by reducing and delaying the onset of tobacco use of young adults. Recent studies of England's experience when it raised the MLSA for cigarettes from 16 to 18 years of age in late 2007 have shown rapid and significant drops in smoking prevalence among 16-year-olds and 17-year-olds regardless of socioeconomic status.

Not only does delaying the onset of tobacco use reduce the amount of time someone might use tobacco over the course of their lifetime, thereby reducing the risk of developing severe health problems, the delay also reduces the difficulty of quitting at a later date. By increasing the age for the legal purchase and possession of tobacco from 18 to 21 years of age, Texas will succeed in reducing childhood access to deadly tobacco products thereby saving money and lives.

As proposed, S.B. 313 amends current law relating to the distribution, possession, purchase, consumption, and receipt of tobacco products and provides penalties.

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 21 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED.

SECTION 3. Amends Sections 161.082(a) and (e), Health and Safety Code, as follows:

(a) Provides that a person commits an offense if the person, with criminal negligence, sells, gives, or causes to be sold or given a cigarette or tobacco product to someone who is younger than, or intends to give it to someone who is younger than, 21, rather than 18, years of age; or sells, gives, or causes to be sold or given a cigarette or tobacco product to someone who is younger than, or intends to give it to someone who is younger than 21, rather than 18, years of age.

(e) Provides that a proof of identification satisfies certain requirements if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 21, rather than 18, years of age or older, and was issued by a government agency.

SECTION 4. Amends Section 161.084(b), Health and Safety Code, to make conforming changes relating to required language to be included on a warning notice sign.

SECTION 5. Amends Sections 161.085(a) and (b), Health and Safety Code, as follows:

(a) Makes conforming changes.

(b) Requires that the notice required by this section, rather than Subsection (a), be provided within 72 hours of the date an individual begins to engage in retail sales of tobacco products. Makes a conforming change.

SECTION 6. Amends Section 161.086(b), Health and Safety Code, to provide that Subsection (a) (relating to prohibiting a retailer to offer for sale under certain conditions) does not apply to a facility or business that is not open to persons younger than 21, rather than 18, years of age at any time.

SECTION 7. Amends Sections 161.087(a) and (b), Health and Safety Code, as follows:

(a) Prohibits a person from distributing free samples of, or coupons for, a cigarette or tobacco product to persons younger than 21, rather than 18, years of age.

(b) Makes conforming changes.

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

(b) Authorizes the comptroller of public accounts (comptroller) to make block grants to counties and municipalities to be used by local law enforcement agencies to enforce this subchapter in a manner that can reasonably be expected to reduce the extent to which cigarettes and tobacco products are sold or distributed to persons younger than 21, rather than 18, years of age.

(d) Requires that the use of a person younger than 21, rather than 18, years of age to act as a minor decoy to test compliance with this subchapter to be conducted in a fashion that promotes fairness. Authorizes a person to be enlisted by the comptroller or a local law enforcement agency to act as a minor only if certain requirements are met, including, at the time of the inspection, the minor decoy is younger than 20, rather than 17, years of age.

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

SECTION 10. Amends Sections 161.252(a), (b), and (c), Health and Safety Code, as follows:

(a) Provides that an individual who is younger than 21, rather than 18, years of age commits an offense if the individual possesses, purchases, consumes, or accepts a cigarette or tobacco product, or falsely represents himself or herself to be 21, rather than 18, years of age or older by displaying proof of age that is false, fraudulent, or not

actually proof of the individual's own age in order to obtain possession of, purchase, or receive a cigarette or tobacco product.

(b) Makes conforming changes.

(c) Makes conforming changes.

SECTION 11. Amends Section 161.452(b), Health and Safety Code, to delete existing text requiring a person taking a delivery sale order to comply with the shipping requirements prescribed by Section 161.455 (Shipping Requirements) among certain other requirements, and to make nonsubstantive changes.

SECTION 12. Amends Section 161.453(a), Health and Safety Code, to prohibit a person from mailing or shipping cigarettes in connection with a delivery sale order unless before mailing or shipping the cigarettes the person accepting the delivery sale order first takes certain actions, including obtains from the prospective customer a certification that includes reliable confirmation that the purchaser is at least 21, rather than 18, years of age, and a statement signed by the prospective purchaser in writing and under penalty of law, providing certain certifications and confirmations.

SECTION 13. Repealer: Section 161.455 (Shipping Requirements), Health and Safety Code.

SECTION 14. Makes application of the changes in law made by this Act to Subchapters H (Distribution of Tobacco Products), N (Tobacco Use by Minors), and R (Delivery Sales of Cigarettes), Chapter 161, Health and Safety Code, prospective.

SECTION 15. Effective date: September 1, 2013.