

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE G. LICENSES AND OTHER REGULATION

CHAPTER 147. E-CIGARETTE RETAILER PERMITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 147.0001. DEFINITIONS. In this chapter:

(1) "Commercial business location" means the entire premises occupied by a permit applicant or a person required to hold a permit under this chapter.

(2) "E-cigarette" has the meaning assigned by Section [161.081](#).

(3) "E-cigarette retailer" means a person who engages in the business of selling e-cigarettes to consumers, including a person who sells e-cigarettes to consumers through a marketplace.

(4) "Marketplace" has the meaning assigned by Section [151.0242](#), Tax Code.

(5) "Permit holder" means a person who obtains a permit under Section [147.0052](#).

(6) "Place of business" means:

(A) a commercial business location where e-cigarettes are sold;

(B) a commercial business location where e-cigarettes are kept for sale or consumption or otherwise stored;
or

(C) a vehicle from which e-cigarettes are sold.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. [248](#)), Sec. 1, eff. September 1, 2021.

Sec. 147.0002. INAPPLICABILITY TO CERTAIN PRODUCTS. This chapter does not apply to a product described by Section [161.0815](#).

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. [248](#)), Sec. 1, eff. September 1, 2021.

Sec. 147.0003. HEARINGS. Unless otherwise provided by this chapter, the comptroller shall conduct all hearings required by

this chapter in accordance with Chapter 2001, Government Code. The comptroller may designate one or more representatives to conduct the hearings and may prescribe the rules of procedure governing the hearings.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0004. RULES. The comptroller may adopt rules to implement this chapter, including rules exempting a person who sells e-cigarettes to consumers through a marketplace from the requirements of this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. PERMITS

Sec. 147.0051. E-CIGARETTE RETAILER PERMIT REQUIRED.

(a) A person may not engage in business as an e-cigarette retailer in this state unless the person has been issued a permit from the comptroller.

(b) An e-cigarette retailer shall obtain a permit for each place of business owned or operated by the e-cigarette retailer. The comptroller may not issue a permit for a place of business that is a residence or a unit in a public storage facility.

(c) The comptroller shall prescribe the form and content of an application for a permit and provide the form on request.

(d) The applicant shall accurately complete all information required by the application and provide the comptroller with additional information the comptroller considers necessary.

(e) Each applicant that applies for a permit to sell e-cigarettes from a vehicle must provide the make, model, vehicle identification number, registration number, and any other information concerning the vehicle the comptroller requires.

(f) All financial information provided under this section is confidential and not subject to Chapter 552, Government Code.

(g) Permits for engaging in business as an e-cigarette retailer are governed exclusively by the provisions of this code.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0052. ISSUANCE OF PERMIT. (a) The comptroller shall issue a permit to an applicant if the comptroller:

- (1) has received an application and fee;
- (2) does not reject the application and deny the permit under Section 147.0053; and
- (3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(b) The permit shall be issued for a designated place of business, except as provided by Section 147.0056.

(c) The permits are nonassignable.

(d) The permit must indicate the type of permit and authorize the sale of e-cigarettes in this state. The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0053. DENIAL OF PERMIT. The comptroller may reject an application and deny a permit if the comptroller finds, after notice and opportunity for hearing, any of the following:

(1) the premises where business will be conducted are not adequate to protect the e-cigarettes; or

(2) the applicant or managing employee, or if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or, if the applicant is a partnership, a partner or manager:

(A) has failed to disclose any information required by Sections 147.0051(d) and (e); or

(B) has previously violated provisions of this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0054. PERMIT PERIOD; FEES. (a) A permit required by this chapter expires on the last day of May of each even-numbered year.

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) one-half of the amount of the fee for a retailer's permit required by Section 154.111(b), Tax Code, if at the time of application the applicant holds a valid retailer's permit under Section 154.101, 154.102, or 155.041, Tax Code, for the same place of business; or

(2) the amount of the fee for a retailer's permit required by Section 154.111(b), Tax Code.

(c) For a new permit required by Section 147.0051, the comptroller shall prorate the fee according to the number of months remaining during the period that the permit is to be in effect.

(d) A person who does not obtain a renewal permit in a timely manner must pay a late fee of \$50 in addition to the application fee for the permit.

(e) If on the date of issuance a permit will expire within three months, the comptroller may collect the prorated permit fee or the fee for the current period and, with the consent of the permit holder, may collect the fee for the next permit period and issue a permit or permits for both periods, as applicable.

(f) A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0055. PAYMENT FOR PERMITS. (a) An applicant for a permit required by Section 147.0051 shall send the required fee with the application.

(b) The payment must be made in cash or by money order, check, or credit card.

(c) The comptroller may not issue a permit in exchange for a check until after the comptroller receives full payment on the

check.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0056. DISPLAY OF PERMIT. (a) A permit holder shall keep the permit on public display at the place of business for which the permit was issued.

(b) A permit holder who has a permit assigned to a vehicle shall post the permit in a conspicuous place on the vehicle.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0057. REVENUE. Revenue from the sale of e-cigarette retailer's permits shall be deposited as provided by Section 161.0903 and may be appropriated only as provided by that section.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. PERMIT SUSPENSION AND REVOCATION

Sec. 147.0101. FINAL SUSPENSION OR REVOCATION OF PERMIT.

(a) The comptroller may revoke or suspend a permit holder's permit if the comptroller finds, after notice and hearing as provided by this section, that the permit holder violated this chapter or a rule adopted under this chapter.

(b) If the comptroller intends to suspend or revoke a permit, the comptroller shall provide the permit holder with written notice that includes a statement:

(1) of the reason for the intended revocation or suspension;

(2) that the permit holder is entitled to a hearing by the comptroller on the proposed suspension or revocation; and

(3) of the date, time, and place of the hearing.

(c) The comptroller shall deliver the written notice by personal service or by mail to the permit holder's mailing address as it appears in the comptroller's records. Service by mail is

complete when the notice is deposited with the United States Postal Service.

(d) The comptroller shall give the permit holder notice before the 10th day before the final hearing.

(e) A permit holder may appeal the comptroller's decision to a district court in Travis County not later than the 30th day after the date the comptroller's decision becomes final.

(f) A person whose permit is suspended or revoked may not sell, offer for sale, or distribute e-cigarettes from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. 248), Sec. 1, eff. September 1, 2021.

Sec. 147.0102. SUMMARY SUSPENSION OF PERMIT. (a) The comptroller may suspend a permit holder's permit without notice or a hearing for the permit holder's failure to comply with this chapter or a rule adopted under this chapter if the permit holder's continued operation constitutes an immediate and substantial threat.

(b) If the comptroller summarily suspends a permit holder's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than the 10th day after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a permit holder's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice

must be personally served on the permit holder or an officer, employee, or agent of the permit holder or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears in the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the permit holder shall immediately surrender the permit to the comptroller. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section [147.0101](#), governing hearings for final suspension or revocation of a permit under this chapter, governs a final administrative hearing.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. [248](#)), Sec. 1, eff. September 1, 2021.

SUBCHAPTER D. PENALTIES

Sec. 147.0151. PENALTIES. (a) A person violates this chapter if the person:

(1) engages in the business of an e-cigarette retailer without a permit; or

(2) is a person who is subject to a provision of this chapter or a rule adopted by the comptroller under this chapter and who violates the provision or rule.

(b) A person who violates this section shall pay to the state a penalty of not more than \$2,000 for each violation.

(c) Each day on which a violation occurs is a separate violation.

(d) The attorney general shall bring suit to recover penalties under this section.

(e) A suit under this section may be brought in Travis County or another county having jurisdiction.

Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. [248](#)), Sec. 1, eff. September 1, 2021.

Sec. 147.0152. FAILURE TO HAVE PERMIT; OFFENSE. (a) A

person commits an offense if the person acts as an e-cigarette retailer and:

(1) receives or possesses e-cigarettes without having a permit;

(2) receives or possesses e-cigarettes without having a permit posted where it can be easily seen by the public; or

(3) sells e-cigarettes without having a permit.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2021, 87th Leg., R.S., Ch. 994 (S.B. [248](#)), Sec. 1,
eff. September 1, 2021.