

PENAL CODE

CHAPTER 48. CONDUCT AFFECTING PUBLIC HEALTH

Sec. 48.01. SMOKING TOBACCO. (a) A person commits an offense if he is in possession of a burning tobacco product or smokes tobacco in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, or intrastate bus, as defined by Section 541.201, Transportation Code, plane, or train which is a public place.

(b) It is a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such conveyance or public place and that an offense is punishable by a fine not to exceed \$500.

(c) All conveyances and public places set out in Subsection (a) of Section 48.01 shall be equipped with facilities for extinguishment of smoking materials and it shall be a defense to prosecution under this section if the conveyance or public place within which the offense takes place is not so equipped.

(d) It is an exception to the application of Subsection (a) if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance.

(e) An area designated for smoking tobacco on a transit system bus or intrastate plane or train must also include the area occupied by the operator of the transit system bus, plane, or train.

(f) An offense under this section is punishable as a Class C misdemeanor.

Added by Acts 1975, 64th Leg., p. 744, ch. 290, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1991, 72nd Leg., ch. 108, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 165, Sec. 30.242, eff. Sept. 1, 1997.

Sec. 48.015. PROHIBITIONS RELATING TO CERTAIN CIGARETTES. (a) A person may not acquire, hold, own, possess, or transport for sale or distribution in this state or import or cause to be imported into this state for sale or distribution in this state:

(1) cigarettes that do not comply with all applicable requirements imposed by or under federal law and implementing regulations; or

(2) cigarettes to which stamps may not be affixed under Section 154.0415, Tax Code, other than cigarettes lawfully imported or brought into the state for personal use and cigarettes lawfully 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), as amended.

(b) A person who commits an act prohibited by Subsection (a), knowing or having reason to know that the person is doing so, is guilty of a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1104, Sec. 6, eff. Sept. 1, 2001.

Sec. 48.02. PROHIBITION OF THE PURCHASE AND SALE OF HUMAN ORGANS. (a) "Human organ" means the human kidney, liver, heart, lung, pancreas, eye, bone, skin, fetal tissue, or any other human organ or tissue, but does not include hair or blood, blood components (including plasma), blood derivatives, or blood reagents.

(b) A person commits an offense if he or she knowingly or intentionally offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human organ for valuable consideration.

(c) It is an exception to the application of this section that the valuable consideration is: (1) a fee paid to a physician or to other medical personnel for services rendered in the usual course of medical practice or a fee paid for hospital or other clinical services; (2) reimbursement of legal or medical expenses incurred for the benefit of the ultimate receiver of the organ; or (3) reimbursement of expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(d) A violation of this section is a Class A misdemeanor.

Added by Acts 1985, 69th Leg., ch. 40, Sec. 1, eff. Aug. 26, 1985. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,

1994.