

By: Thierry

H.B. No. 447

A BILL TO BE ENTITLED

AN ACT

relating to sales and use taxes imposed on certain assault weapons;
imposing taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by
adding Chapter 165 to read as follows:

CHAPTER 165. ASSAULT WEAPON TAXES

SUBCHAPTER A. DEFINITIONS

Sec. 165.0001. LARGE CAPACITY AMMUNITION FEEDING DEVICE.

(a) In this chapter, "large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, including a device joined or coupled with another in any manner, that has an overall capacity of, or that can be readily restored, changed, or converted to accept, more than 10 rounds of ammunition.

(b) The term "large capacity ammunition feeding device" does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

Sec. 165.0002. PRESUMPTIVE RETAIL PRICE. In this chapter, "presumptive retail price" means the average retail sales price of an item in the United States during the preceding calendar year, as the comptroller determines or estimates.

Sec. 165.0003. SEMIAUTOMATIC ASSAULT WEAPON. (a) In this chapter, "semiautomatic assault weapon" means:

(1) a semiautomatic rifle that has the capacity to use

1 a magazine that is not a fixed magazine and has:

2 (A) a pistol grip;

3 (B) a forward grip;

4 (C) a folding, telescoping, or detachable stock;

5 (D) the ability to fold or adjust in a manner that
6 reduces the length, size, or any other dimension, or otherwise
7 enhances the concealability, of the rifle;

8 (E) a functional grenade launcher;

9 (F) a barrel shroud; or

10 (G) a threaded barrel;

11 (2) a semiautomatic rifle that has a fixed magazine
12 with the capacity to accept more than 10 rounds of ammunition,
13 except for an attached tubular device designed to accept, and
14 capable of operating only with, .22 caliber rimfire ammunition;

15 (3) any part, combination of parts, component, device,
16 attachment, or accessory that is designed or functions to
17 accelerate the rate of fire of a semiautomatic firearm but not
18 convert the semiautomatic firearm into a machine gun;

19 (4) a semiautomatic pistol that has the capacity to
20 use a magazine that is not a fixed magazine and has:

21 (A) a threaded barrel;

22 (B) a second pistol grip;

23 (C) a barrel shroud;

24 (D) the capacity to accept a detachable magazine
25 at a location outside of the pistol grip;

26 (E) a design that is identical, or nearly
27 identical, to a design intended for a machine gun;

- 1 (F) a manufactured weight of 50 ounces or more
2 when unloaded;
- 3 (G) a stabilizing brace or similar component; or
4 (H) a buffer tube or other part that protrudes
5 horizontally behind the pistol grip;
- 6 (5) a semiautomatic pistol with a fixed magazine that
7 has the capacity to accept more than 10 rounds;
- 8 (6) a semiautomatic shotgun that:
- 9 (A) either:
- 10 (i) has a fixed magazine with the capacity
11 to accept more than five rounds; or
- 12 (ii) does not have a fixed magazine; and
- 13 (B) has:
- 14 (i) a folding, telescoping, or detachable
15 stock;
- 16 (ii) a pistol grip or bird's head grip;
17 (iii) the ability to accept a detachable
18 magazine;
- 19 (iv) a forward grip; or
20 (v) a functional grenade launcher;
- 21 (7) a shotgun with a revolving cylinder;
- 22 (8) a belt-fed semiautomatic firearm, including a TNW
23 Firearms model M2HB firearm or FN America model M249S series
24 firearm;
- 25 (9) any combination of parts from which a firearm
26 described by Subdivisions (1) through (8) can be assembled; or
- 27 (10) the frame or receiver of a rifle or shotgun

1 described by Subdivision (1), (2), (3), (4), or (8).

2 (b) The term "semiautomatic assault weapon" does not
3 include a firearm that is:

- 4 (1) manually operated by bolt or lever action; or
5 (2) capable only of firing rimfire ammunition.

6 Sec. 165.0004. TAXABLE ASSAULT WEAPON. In this chapter,
7 "taxable assault weapon" means a:

- 8 (1) large capacity ammunition feeding device; or
9 (2) semiautomatic assault weapon.

10 SUBCHAPTER B. ASSAULT WEAPON SALES TAX

11 Sec. 165.0051. SALES TAX IMPOSED. (a) A tax is imposed on
12 each sale of a taxable assault weapon in this state.

13 (b) The tax rate is 1,000 percent of the greater of the:

- 14 (1) sales price of the taxable assault weapon sold; or
15 (2) presumptive retail price of the taxable assault
16 weapon sold.

17 Sec. 165.0052. APPLICABILITY OF SALES TAX. (a) The tax
18 imposed under Section 165.0051 is in addition to the tax imposed
19 under Subchapter C, Chapter 151.

20 (b) Except as provided by Section 165.0152, the tax imposed
21 under Section 165.0051 does not apply to a sale unless the tax
22 imposed under Subchapter C, Chapter 151, applies to the sale.

23 SUBCHAPTER C. ASSAULT WEAPON USE TAX

24 Sec. 165.0101. USE TAX IMPOSED. (a) A tax is imposed on the
25 storage, use, or other consumption in this state of a taxable
26 assault weapon purchased from a retailer for storage, use, or other
27 consumption in this state.

1 (b) The tax rate is 1,000 percent of the greater of the:

2 (1) sales price of the taxable assault weapon stored,
3 used, or otherwise consumed in this state; or

4 (2) presumptive retail price of the taxable assault
5 weapon stored, used, or otherwise consumed in this state.

6 Sec. 165.0102. APPLICABILITY OF USE TAX. (a) The tax
7 imposed under Section 165.0101 is in addition to the tax imposed
8 under Subchapter D, Chapter 151.

9 (b) Except as provided by Section 165.0152, the tax imposed
10 under Section 165.0101 does not apply to the storage, use, or other
11 consumption of a taxable assault weapon unless the tax imposed
12 under Subchapter D, Chapter 151, applies to the storage, use, or
13 other consumption.

14 SUBCHAPTER D. APPLICATION OF OTHER LAW

15 Sec. 165.0151. ADMINISTRATION OF TAX. (a) Except as
16 provided by this chapter:

17 (1) the taxes imposed under this chapter are
18 administered, imposed, collected, and enforced in the same manner
19 as the taxes under Chapter 151 are administered, imposed,
20 collected, and enforced; and

21 (2) the provisions of Chapter 151 applicable to the
22 sales tax imposed under Subchapter C, Chapter 151, and the use tax
23 imposed under Subchapter D, Chapter 151, apply to the sales and use
24 taxes imposed under this chapter.

25 (b) Except as provided by Section 165.0152, a change in the
26 law relating to the taxation of the sale or use of a taxable assault
27 weapon under Chapter 151 also applies to the sales or use tax

1 imposed under this chapter.

2 Sec. 165.0152. EXEMPTIONS. (a) Sections 151.302(a),
3 151.303, 151.307, 151.309, and 151.330 apply to the sales and use
4 taxes imposed under this chapter.

5 (b) Except as provided by Subsection (a), the provisions of
6 Subchapter H, Chapter 151, do not apply to the sales and use taxes
7 imposed under this chapter.

8 SUBCHAPTER E. REPORTS AND RECORDS

9 Sec. 165.0201. REPORTS. (a) A person required to file a
10 report under Section 151.403 who is also required to collect or pay
11 a tax under this chapter shall file with the comptroller a report
12 stating:

13 (1) for sales tax purposes, the make, model, sales
14 price, and presumptive retail price of each taxable assault weapon
15 sold by the seller during the reporting period;

16 (2) for use tax purposes, the make, model, sales
17 price, and presumptive retail price of each taxable assault weapon
18 sold by the retailer during the reporting period for storage, use,
19 or other consumption in this state;

20 (3) the make, model, sales price, and presumptive
21 retail price of each taxable assault weapon subject to the use tax
22 that was acquired during the reporting period for storage, use, or
23 other consumption in this state by a purchaser who did not pay the
24 tax to a retailer;

25 (4) the amount of the taxes due under this chapter for
26 the reporting period; and

27 (5) any other information the comptroller requires.

1 (b) The report required by this section for a reporting
2 period is due on the same date that the tax payment for the period is
3 due.

4 Sec. 165.0202. RECORDS. (a) A person required to file a
5 report under Section 151.403 who is also required to collect or pay
6 a tax under this chapter shall keep a complete record of:

7 (1) the make, model, sales price, and presumptive
8 retail price of each taxable assault weapon sold during each
9 reporting period;

10 (2) the make, model, sales price, and presumptive
11 retail price of each taxable assault weapon purchased during each
12 reporting period;

13 (3) all sales and use taxes, and any money represented
14 to be sales or use tax, collected under this chapter during each
15 reporting period; and

16 (4) any other information the comptroller requires.

17 (b) A person shall keep the records required by Subsection
18 (a) for the period required by Section 151.025(b).

19 SUBCHAPTER F. DISPOSITION OF PROCEEDS

20 Sec. 165.0251. DEPOSIT AND USE OF PROCEEDS. The
21 comptroller shall deposit the proceeds from taxes imposed under
22 this chapter to the credit of an account in the general revenue fund
23 that may be appropriated only to the Texas Education Agency for the
24 purpose of providing funding to public schools to improve campus
25 safety.

26 SECTION 2. This Act takes effect September 1, 2023.