

By: Raymond

H.B. No. 3501

A BILL TO BE ENTITLED

AN ACT

1
2 relating to customs brokers and export documentation; providing
3 penalties.

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

5 SECTION 1. Section 151.157, Tax Code, is amended by
6 amending Subsections (a), (b), and (c) and by adding Subsections
7 (a-1) and (f-1) to read as follows:

8 (a) A customs broker, or an authorized employee of a customs
9 broker, licensed by the comptroller under this section may issue
10 documentation for the purpose of showing the exemption of tangible
11 personal property under Section 151.307(b)(2) only as provided by
12 this section and in accordance with [under] procedures established
13 by the comptroller by rule.

14 (a-1) The comptroller shall maintain a password-protected
15 website that a customs broker, or an authorized employee of a
16 customs broker, licensed under this section must use to prepare
17 documentation to show the exemption of tangible personal property
18 under Section 151.307(b)(2). The comptroller shall require a
19 customs broker or authorized employee to use the website to
20 actually produce the documentation after providing all necessary
21 information. The comptroller shall use the information provided by
22 a customs broker or authorized employee under this subsection as
23 necessary to enforce this section and Section 151.307.

24 (b) The comptroller may issue a license to a customs broker

1 for the purpose described by Subsection (a). A customs broker may
2 not obtain more than one license. The comptroller may issue the
3 license [~~for each place of business of the broker~~] if the broker:

4 (1) applies to the comptroller for the license;

5 (2) pays the license fee to [~~set by~~] the comptroller in
6 the amount required by Subsection (c);

7 (3) posts the bond or security in the amount required
8 by Subsection (d); and

9 (4) complies with any rules of the comptroller to
10 administer this section and to prevent the evasion of the tax under
11 this chapter and local sales and use taxes.

12 (c) A customs broker must pay to the comptroller an annual
13 license fee of \$_____ [~~The comptroller shall set the fee for a~~
14 ~~license in an amount that does not exceed \$100 for each customs~~
15 ~~broker~~], without regard to whether the broker has more than one
16 place of business. [~~The fee may be imposed only once for each~~
17 ~~broker.~~] The comptroller shall use the fees only for the
18 administration of this section, including costs of materials,
19 labor, and overhead.

20 (f-1) In addition to any other penalty provided by law, the
21 comptroller may require a customs broker to pay to the comptroller
22 the amount of any tax refunded if the customs broker did not comply
23 with this section or the rules adopted by the comptroller under this
24 section in relation to the refunded tax.

25 SECTION 2. Section 151.158(g), Tax Code, is amended to read
26 as follows:

27 (g) The comptroller shall charge an amount not to exceed

1 [~~five cents~~] for each stamp. The comptroller shall
2 use the money from the sale of the stamps only for costs related to
3 producing the stamps, including costs of materials, labor, and
4 overhead, and for costs related to the administration of Section
5 151.157.

6 SECTION 3. Sections 151.712(b) and (f), Tax Code, are
7 amended to read as follows:

8 (b) A person who provides proof of documentation that
9 tangible personal property has been exported outside of the United
10 States or a person who may benefit from the provision of the proof
11 of documentation, including a customs broker, authorized employee,
12 authorized independent contractor, seller of the property or agent
13 or employee of the seller, or a consumer of the property or agent or
14 employee of the consumer, may not sell or buy the proof of
15 documentation, including stamps required for the documentation.
16 This subsection does not apply to a customs broker who accepts a fee
17 for providing documentation under Section 151.307(b) if the customs
18 broker provides the documentation in accordance with Section
19 151.157 and rules adopted by the comptroller.

20 (f) In addition to any monetary penalty under this section,
21 the comptroller shall [~~may suspend or~~] revoke under Section 151.157
22 the license of a customs broker who violates this section. A person
23 whose license is revoked under this subsection may not apply for a
24 new license under Section 151.157 before the first anniversary of
25 the date on which the previous license was revoked.

26 SECTION 4. (a) Except as otherwise provided by this
27 section, this Act takes effect September 1, 2003.

1 (b) Not later than October 1, 2003, the comptroller shall
2 require each customs broker that has been licensed for more than one
3 year under Section 151.157, Tax Code, to pay the annual license fee
4 required by Section 151.157(c), Tax Code, as amended by this Act.

5 (c) Not later than October 1, 2003, the comptroller shall
6 determine if a customs broker has more than one license issued under
7 Section 151.157, Tax Code. If the comptroller determines that a
8 customs broker has more than one license, the comptroller shall
9 require the customs broker to apply for a new license under Section
10 151.157, Tax Code, as amended by this Act, and shall revoke all
11 previous licenses effective January 1, 2004.

12 (d) Section 151.158(g), Tax Code, as amended by this Act,
13 takes effect January 1, 2004, except that not later than November 1,
14 2003, the comptroller shall print or manufacture new export stamps
15 that comply with that subsection and make those stamps available to
16 customs brokers licensed under Section 151.157, Tax Code. Export
17 stamps printed or manufactured in compliance with Section
18 151.158(g), Tax Code, as amended by this Act, may not be used on
19 export documentation before January 1, 2004. On or after January 1,
20 2004, only export stamps printed or manufactured in accordance with
21 that subsection may be used on export documentation.

22 (e) Sections 151.157(a-1) and (f-1), Tax Code, as added by
23 this Act, and Sections 151.712(b) and (f), Tax Code, as amended by
24 this Act, take effect January 1, 2004.

25 (f) The changes in law made by this Act do not affect taxes
26 imposed before January 1, 2004. Taxes imposed before January 1,
27 2004, are governed by the law in effect on that date, and that law is

H.B. No. 3501

1 continued in effect for purposes of the liability for and
2 collection of those taxes.