

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 29, 2003

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB109 by Chavez (Relating to customs brokers.), **As Passed 2nd House**

| |
|---|
| No significant fiscal implication to the State is anticipated. |
|---|

Fiscal Analysis

The bill would amend Chapter 151 of the Tax Code to require the Comptroller to maintain a password-protected website that customs brokers would use to prepare documentation to show the sales tax exemption for tangible personal property exported outside the United States.

Customs brokers would be required to pay to the Comptroller an annual license fee of \$300 for each location from which the broker intended to issue exemption certificates. In the event of a license being issued, the required bond or security would be \$5,000, plus an additional \$1,000 for each place of business. Brokers would have to report quarterly to the Comptroller the total value of tangible personal property and the total amount of corresponding tax for which the broker issued exemption certificates, and the total amount of tax refunded in accordance with exemption certificates.

The Comptroller could suspend or revoke a license issued to a customs broker if the broker did not comply with the requirements relating to issuing documentation showing exportation of property, or if the broker knowingly or intentionally issued documentation that was false to obtain a refund of taxes paid on tangible personal property not exported, or to assist another person in obtaining a refund. In addition to any other penalty provided by law, the Comptroller could require a customs broker to pay the amount of any tax refunded if the broker did not comply with the documentation requirements.

The bill would amend Chapter 151 of the Tax Code to establish under what conditions a customs broker could issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States. Documentation could be issued if the broker watched the property cross the border of the United States, watched the property being placed on a common carrier for delivery outside the United States, or verified that the purchaser was transporting the property to a destination outside the United States.

To use the third method for issuing documentation, a customs broker would have to examine picture identification of the purchaser, require the purchaser to produce the property and the original receipt for the property, require the purchaser to state the foreign country destination of the property, require the purchaser to state the date and time when the property would be expected to arrive in the foreign country, require the purchaser to sign a form stating the required information and documentation was provided and notifying the purchaser of the liabilities if the property was not properly exported or if a refund was improperly obtained, and require the purchaser to produce proper travel documentation.

The Comptroller would charge \$1.60 for each export stamp used by customs brokers. Revenue from the sale of export stamps could only be used to cover costs related to the administration of the customs broker program. Any unspent money would be deposited to the credit of the General Revenue Fund 0001.

The bill would amend Section 151.307(c) of the Tax Code to require a person claiming the sales tax

exemption for tangible personal property exported beyond the territorial limits of the United States to sign documentation certifying that delivery of the property was made outside the United States. The documentation would include language regarding penalties for providing false information to customs brokers.

The Comptroller would be required to revoke the license of a broker who violated the statutes governing the program. A person whose license was revoked could not apply for a new license before the first anniversary of the date on which the license was revoked.

The bill would take effect January 1, 2004.

Methodology

Under current law, proof of export may be shown in several ways. One acceptable method is documentation provided by a U.S. Customs Broker. If this method is used, certain conditions must be met.

The bill would create provisions authorizing three possible options, for customs brokers, for certification of delivery of goods made to points outside the territorial limits of the U.S. The options would include: 1) a visual verification of the property crossing the border; 2) visual verification of property being placed on a common carrier for delivery outside the U.S; or 3) verification that the purchaser of the property is a foreign national transporting the property to a destination outside of the U.S.

For the purposes of this analysis, it was assumed that, to the degree that the third method would be used, losses would occur due to the more lenient nature of the certification process. Presently, a customs broker is responsible for verification; the bill would provide the option that the purchaser state that the item was destined for an international location, along with the expected date and time of arrival.

There are approximately 800 customs broker locations currently in operation in Texas. These locations use approximately 2.5 million export stamps each year. The number of locations was multiplied by the \$300 annual license fee, and the number of stamps was multiplied by the \$1.60 fee per stamp. The increased revenue from license and stamp fees would offset the decreased revenue from the certification process. Therefore, there would be no significant impact to the state.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JK, EB, WP, SM