

By: Swinford

H.B. No. 4

A BILL TO BE ENTITLED

AN ACT

relating to motor vehicle sales and use taxes.

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

SECTION 1. Section 152.002, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 2. Section 152.041(a), Tax Code, is amended to read as follows:

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

SECTION 3. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0412 to read as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Transportation based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is

1 appropriate if a private-party transaction value for the motor
2 vehicle is not available from a regional guidebook described by
3 this subsection.

4 (b) If the amount paid for a motor vehicle subject to the tax
5 imposed by this chapter is equal to or greater than 80 percent of
6 the standard presumptive value of the vehicle, a county tax
7 assessor-collector shall compute the tax on the amount paid.

8 (c) If the amount paid for a motor vehicle subject to the tax
9 imposed by this chapter is less than 80 percent of the standard
10 presumptive value of the vehicle, a county tax assessor-collector
11 shall compute the tax on the amount that is equal to 80 percent of
12 the standard presumptive value of the vehicle, unless the purchaser
13 establishes the value of the vehicle as provided by Subsection (d).

14 (d) A county tax assessor-collector shall compute the tax
15 imposed by this chapter on the value of a motor vehicle if the value
16 is shown on:

17 (1) documentation, including a receipt or invoice,
18 provided by the seller to the purchaser of the vehicle, but only if
19 the seller is a motor vehicle dealer operating under Subchapter B,
20 Chapter 503, Transportation Code; or

21 (2) an appraisal certified by an adjuster licensed
22 under Chapter 4101, Insurance Code, or by a motor vehicle dealer
23 operating under Subchapter B, Chapter 503, Transportation Code.

24 (d-1) An appraisal described by Subsection (d)(2):

25 (1) must be on a form prescribed by the comptroller for
26 that purpose; and

27 (2) must be obtained by the purchaser of the vehicle

1 not later than the 20th day after the date of purchase.

2 (e) On request, a motor vehicle dealer operating under
3 Subchapter B, Chapter 503, Transportation Code, shall provide a
4 certified appraisal of the value of a motor vehicle. The
5 comptroller by rule shall establish a fee that a dealer may charge
6 for providing the certified appraisal. The county tax
7 assessor-collector shall retain a copy of a certified appraisal
8 received under this section for a period prescribed by the
9 comptroller.

10 (f) The Texas Department of Transportation shall maintain
11 information on the standard presumptive values of motor vehicles as
12 part of the department's registration and title system. The
13 department shall update the information at least quarterly each
14 calendar year and publish, electronically or otherwise, the updated
15 information. The department may charge a person a reasonable fee
16 for access to the publication.

17 (g) This section does not apply to a transaction described
18 by Section 152.024 or 152.025.

19 (h) This section does not apply to a motor vehicle disposed
20 of in accordance with Chapter 2303, Occupations Code, Chapter 70,
21 Property Code, or Chapter 683, Transportation Code.

22 (i) This section does not apply to a motor vehicle that is
23 eligible for a specialty license plate under Section 504.501,
24 Transportation Code.

25 SECTION 4. (a) Subchapter A, Chapter 5, Insurance Code, is
26 amended by adding Article 5.07-2 to read as follows:

27 Art. 5.07-2. VALUATION OF TOTALED MOTOR VEHICLE. (a) For

1 purposes of this article, "standard presumptive value" has the
2 meaning assigned by Section 152.0412(a), Tax Code.

3 (b) If an insurer determines that a motor vehicle covered
4 under an automobile insurance policy issued by the insurer is an
5 active or constructive total loss, the insurer shall assign the
6 motor vehicle a value that is equal to or greater than the standard
7 presumptive value of that vehicle.

8 (c) In settling a liability claim by a third party against
9 an insured for property damage claimed by the third party, if the
10 insurer determines that the third party's motor vehicle is an
11 active or constructive total loss, the insurer shall assign the
12 third party's motor vehicle a value that is equal to or greater than
13 the standard presumptive value of that vehicle.

14 (d) This article expires April 1, 2007.

15 (b) Chapter 1952, Insurance Code, as effective April 1,
16 2007, is amended by adding Subchapter H to read as follows:

17 SUBCHAPTER H. VALUATION OF TOTALED MOTOR VEHICLE

18 Sec. 1952.351. DEFINITION. In this subchapter, "standard
19 presumptive value" has the meaning assigned by Section 152.0412(a),
20 Tax Code.

21 Sec. 1952.352. VALUATION OF TOTALED MOTOR VEHICLE. (a) If
22 an insurer determines that a motor vehicle covered under an
23 automobile insurance policy issued by the insurer is an active or
24 constructive total loss, the insurer shall assign the motor vehicle
25 a value that is equal to or greater than the standard presumptive
26 value of that vehicle.

27 (b) In settling a liability claim by a third party against

1 an insured for property damage claimed by the third party, if the
2 insurer determines that the third party's motor vehicle is an
3 active or constructive total loss, the insurer shall assign the
4 third party's motor vehicle a value that is equal to or greater than
5 the standard presumptive value of that vehicle.

6 SECTION 5. Not later than October 1, 2006, the Texas
7 Department of Transportation shall:

8 (1) establish standard presumptive values for motor
9 vehicles as provided by Section 152.0412, Tax Code, as added by this
10 Act;

11 (2) modify the department's registration and title
12 system as needed to include that information and administer that
13 section;

14 (3) make that information available through the system
15 to all county tax assessor-collectors; and

16 (4) publish that information and make the published
17 information available to an insurer or other requesting person.

18 SECTION 6. The changes in law made by this Act do not affect
19 tax liability accruing before the effective date of this Act. That
20 liability continues in effect as if this Act had not been enacted,
21 and the former law is continued in effect for the collection of
22 taxes due and for civil and criminal enforcement of the liability
23 for those taxes.

24 SECTION 7. (a) Except as provided by Subsection (b) of this
25 section, this Act takes effect July 1, 2006, if this Act receives a
26 vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

1 Act does not receive the vote necessary for effect on that date,
2 this Act takes effect on the first day of the first month that
3 begins on or after the 91st day after the last day of the
4 legislative session.

5 (b) Section 152.0412, Tax Code, Article 5.07-2, Insurance
6 Code, and Subchapter H, Chapter 1952, Insurance Code, as added by
7 this Act, take effect October 1, 2006.