

By: Chavez, Isett, Quintanilla, Hodge

H.B. No. 121

Substitute the following for H.B. No. 121:

By: Laubenberg

C.S.H.B. No. 121

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the exemption from ad valorem taxation of tangible
3 personal property held temporarily at a location in this state for
4 assembling, storing, manufacturing, processing, or fabricating
5 purposes.

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

7 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
8 adding Section 11.253 to read as follows:

9 Sec. 11.253. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) In
10 this section:

11 (1) "Business-use item" means an item intended for use
12 in the operation of a business and does not include inventory.

13 (2) "Dealer's motor vehicle inventory," "dealer's
14 vessel and outboard motor inventory," "dealer's heavy equipment
15 inventory," and "retail manufactured housing inventory" have the
16 meanings assigned by Subchapter B, Chapter 23.

17 (3) "Goods-in-transit" means tangible personal
18 property that:

19 (A) is acquired in or imported into this state to
20 be forwarded to another location in this state or outside this
21 state;

22 (B) is detained at a location in this state in
23 which the owner of the property does not have a direct or indirect
24 ownership interest for assembling, storing, manufacturing,

1 processing, or fabricating purposes by the person who acquired or
2 imported the property;

3 (C) is transported to another location in this
4 state or outside this state not later than 175 days after the date
5 the person acquired the property in or imported the property into
6 this state;

7 (D) does not include oil, natural gas, petroleum
8 products, aircraft, dealer's motor vehicle inventory, dealer's
9 vessel and outboard motor inventory, dealer's heavy equipment
10 inventory, or retail manufactured housing inventory; and

11 (E) does not include inventory held for retail
12 sale at the location of storage or a business-use item used or
13 possessed by the owner and returned to the same use after being
14 stored.

15 (4) "Location" means a physical address.

16 (5) "Petroleum product" means a liquid or gaseous
17 material that is an immediate derivative of the refining of oil or
18 natural gas.

19 (b) A person is entitled to an exemption from taxation of
20 the appraised value of that portion of the person's property that
21 consists of goods-in-transit.

22 (c) The exemption provided by Subsection (b) is subtracted
23 from the market value of the property determined under Section
24 23.01 or 23.12, as applicable, to determine the taxable value of the
25 property.

26 (d) Except as provided by Subsections (f) and (g), the chief
27 appraiser shall determine the appraised value of goods-in-transit

1 under this subsection. The chief appraiser shall determine the
2 percentage of the market value of tangible personal property owned
3 by the property owner and used for the production of income in the
4 preceding calendar year that was contributed by goods-in-transit.
5 For the first year in which the exemption applies to a taxing unit,
6 the chief appraiser shall determine that percentage as if the
7 exemption applied in the preceding year. The chief appraiser shall
8 apply that percentage to the market value of the property owner's
9 tangible personal property used for the production of income for
10 the current year to determine the appraised value of
11 goods-in-transit for the current year.

12 (e) In determining the market value of goods-in-transit
13 that in the preceding year were assembled, stored, manufactured,
14 processed, or fabricated in this state, the chief appraiser shall
15 exclude the cost of equipment, machinery, or materials that entered
16 into and became component parts of the goods-in-transit but were
17 not themselves goods-in-transit or that were not transported to
18 another location in this state or outside this state before the
19 expiration of 175 days after the date they were brought into this
20 state by the property owner or acquired by the property owner in
21 this state. For component parts held in bulk, the chief appraiser
22 may use the average length of time a component part was held by the
23 owner of the component parts during the preceding year at a location
24 in this state that was not owned by or under the control of the owner
25 of the component parts in determining whether the component parts
26 were transported to another location in this state or outside this
27 state before the expiration of 175 days.

1 (f) If the property owner was not engaged in transporting
2 goods-in-transit to another location in this state or outside this
3 state for the entire preceding year, the chief appraiser shall
4 calculate the percentage of the market value described in
5 Subsection (d) for the portion of the year in which the property
6 owner was engaged in transporting goods-in-transit to another
7 location in this state or outside this state.

8 (g) If the property owner or the chief appraiser
9 demonstrates that the method provided by Subsection (d)
10 significantly understates or overstates the market value of the
11 property qualified for an exemption under Subsection (b) in the
12 current year, the chief appraiser shall determine the market value
13 of the goods-in-transit to be exempt by determining, according to
14 the property owner's records and any other available information,
15 the market value of those goods-in-transit owned by the property
16 owner on January 1 of the current year, excluding the cost of
17 equipment, machinery, or materials that entered into and became
18 component parts of the goods-in-transit but were not themselves
19 goods-in-transit or that were not transported to another location
20 in this state or outside this state before the expiration of 175
21 days after the date they were brought into this state by the
22 property owner or acquired by the property owner in this state.

23 (h) The chief appraiser by written notice delivered to a
24 property owner who claims an exemption under this section may
25 require the property owner to provide copies of property records so
26 the chief appraiser can determine the amount and value of
27 goods-in-transit and that the location in this state where the

1 goods-in-transit were detained for assembling, storing,
2 manufacturing, processing, or fabricating purposes was not owned by
3 or under the control of the owner of the goods-in-transit. If the
4 property owner fails to deliver the information requested in the
5 notice before the 31st day after the date the notice is delivered to
6 the property owner, the property owner forfeits the right to claim
7 or receive the exemption for that year.

8 (i) Property that meets the requirements of this section
9 constitutes goods-in-transit regardless of whether the person who
10 owns the property on January 1 is the person who transports it to
11 another location in this state or outside this state.

12 (j) The governing body of a taxing unit, in the manner
13 required for official action by the governing body, may provide for
14 the taxation of goods-in-transit exempt under Subsection (b) and
15 not exempt under other law. The official action to tax the
16 goods-in-transit must be taken before January 1 of the first tax
17 year in which the governing body proposes to tax goods-in-transit.
18 Before acting to tax the exempt property, the governing body of the
19 taxing unit must conduct a public hearing as required by Section
20 1-n(d), Article VIII, Texas Constitution. If the governing body of
21 a taxing unit provides for the taxation of the goods-in-transit as
22 provided by this subsection, the exemption prescribed by Subsection
23 (b) does not apply to that unit. The goods-in-transit remain
24 subject to taxation by the taxing unit until the governing body of
25 the taxing unit, in the manner required for official action,
26 rescinds or repeals its previous action to tax goods-in-transit, or
27 otherwise determines that the exemption prescribed by Subsection

1 (b) will apply to that taxing unit.

2 (k) A property owner who receives the exemption from
3 taxation provided by Subsection (b) is not eligible to receive the
4 exemption from taxation provided by Section 11.251 for the same
5 property.

6 SECTION 2. Section 26.012(15), Tax Code, is amended to read
7 as follows:

8 (15) "Lost property levy" means the amount of taxes
9 levied in the preceding year on property value that was taxable in
10 the preceding year but is not taxable in the current year because
11 the property is exempt in the current year under a provision of this
12 code other than Section 11.251 or 11.253, the property has
13 qualified for special appraisal under Chapter 23 [~~of this code~~] in
14 the current year, or the property is located in territory that has
15 ceased to be a part of the unit since the preceding year.

16 SECTION 3. This Act applies only to taxes imposed for a tax
17 year beginning on or after the effective date of this Act.

18 SECTION 4. This Act takes effect January 1, 2006.