

By: Cook of Navarro, Chisum, Rose, Paxton,
Keffer, et al.

H.B. No. 11

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the filing of sales reports with the comptroller by
3 wholesalers and distributors of certain alcohol and tobacco
4 products.

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

6 SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended
7 by adding Section 151.433 to read as follows:

8 Sec. 151.433. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF
9 BEER, WINE, AND MALT LIQUOR. (a) In this section:

10 (1) "Distributor" means a person required to hold a
11 general, local, or branch distributor's license under the Alcoholic
12 Beverage Code.

13 (2) "Retailer" means a person required to hold the
14 following:

15 (A) a wine and beer retailer's permit under
16 Chapter 25, Alcoholic Beverage Code;

17 (B) a wine and beer retailer's off-premise permit
18 under Chapter 26, Alcoholic Beverage Code;

19 (C) a retail dealer's on-premise license under
20 Chapter 69, Alcoholic Beverage Code; or

21 (D) a retail dealer's off-premise license under
22 Chapter 71, Alcoholic Beverage Code, except for a dealer who also
23 holds a package store permit under Chapter 22, Alcoholic Beverage
24 Code.

1 (3) "Wholesaler" means a person required to hold the
2 following under the Alcoholic Beverage Code:

3 (A) a wholesaler's permit;

4 (B) a general Class B wholesaler's permit; or

5 (C) a local Class B wholesaler's permit.

6 (b) The comptroller may, when considered necessary by the
7 comptroller for the administration of a tax under this chapter,
8 require each wholesaler or distributor of beer, wine, or malt
9 liquor to file with the comptroller a report each month of sales to
10 retailers in this state.

11 (c) The wholesaler or distributor shall file the report on
12 or before the 25th day of each month. The report must contain the
13 following information for the preceding calendar month's sales in
14 relation to each retailer:

15 (1) the name of the retailer and the address of the
16 retailer's outlet location to which the wholesaler or distributor
17 delivered beer, wine, or malt liquor, including the city and zip
18 code;

19 (2) the taxpayer number assigned by the comptroller to
20 the retailer, if the wholesaler or distributor is in possession of
21 the number;

22 (3) the permit or license number assigned to the
23 retailer by the Texas Alcoholic Beverage Commission; and

24 (4) the monthly net sales made to the retailer by
25 outlet by the wholesaler or distributor, including the quantity and
26 units of beer, wine, and malt liquor sold to the retailer.

27 (d) Except as provided by this subsection, the wholesaler or

1 distributor shall file the report with the comptroller
2 electronically. The comptroller may establish procedures for
3 allowing an alternative method of filing for a wholesaler or
4 distributor who demonstrates to the comptroller an inability to
5 comply with the electronic reporting requirement. If the
6 comptroller determines that another technological method of filing
7 the report is more efficient than electronic filing, the
8 comptroller may establish procedures requiring its use by
9 wholesalers and distributors.

10 (e) Except as provided by Section 111.006, information
11 contained in a report required to be filed by this section is
12 confidential and not subject to disclosure under Chapter 552,
13 Government Code.

14 (f) If a person fails to file a report required by this
15 section or fails to file a complete report, the comptroller may
16 suspend or cancel one or more permits issued to the person under
17 Section 151.203 and may impose a civil or criminal penalty, or both,
18 under Section 151.7031 or 151.709.

19 (g) If a person fails to file a report required by this
20 section or fails to file a complete report, the comptroller may
21 notify the Texas Alcoholic Beverage Commission of the failure and
22 the commission may take administrative action against the person
23 for the failure under the Alcoholic Beverage Code.

24 SECTION 2. Subchapter F, Chapter 154, Tax Code, is amended
25 by adding Section 154.212, Tax Code, to read as follows:

26 Sec. 154.212. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF
27 CIGARETTES. (a) The comptroller may, when considered necessary by

1 the comptroller for the administration of a tax under this chapter,
2 require each wholesaler or distributor of cigarettes to file with
3 the comptroller a report each month of sales to retailers in this
4 state.

5 (b) The wholesaler or distributor shall file the report on
6 or before the 25th day of each month. The report must contain the
7 following information for the preceding calendar month's sales in
8 relation to each retailer:

9 (1) the name of the retailer and the address of the
10 retailer's outlet location to which the wholesaler or distributor
11 delivered cigarettes, including city and zip code;

12 (2) the taxpayer number assigned by the comptroller to
13 the retailer, if the wholesaler or distributor is in possession of
14 the number;

15 (3) the cigarette permit number of the outlet location
16 to which the wholesaler or distributor delivered cigarettes; and

17 (4) the monthly net sales made to the retailer by the
18 wholesaler or distributor, including the quantity and units of
19 cigarettes in stamped packages sold to the retailer.

20 (c) Except as provided by this subsection, the wholesaler or
21 distributor shall file the report with the comptroller
22 electronically. The comptroller may establish procedures for
23 allowing an alternative method of filing for a wholesaler or
24 distributor who demonstrates to the comptroller an inability to
25 comply with the electronic reporting requirement. If the
26 comptroller determines that another technological method of filing
27 the report is more efficient than electronic filing, the

1 comptroller may establish procedures requiring its use by
2 wholesalers and distributors.

3 (d) Except as provided by Section 111.006, information
4 contained in a report required to be filed by this section is
5 confidential and not subject to disclosure under Chapter 552,
6 Government Code.

7 SECTION 3. Subchapter D, Chapter 155, Tax Code, is amended
8 by adding Section 155.105 to read as follows:

9 Sec. 155.105. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF
10 CIGARS AND TOBACCO PRODUCTS. (a) The comptroller may, when
11 considered necessary by the comptroller for the administration of a
12 tax under this chapter, require each wholesaler or distributor of
13 cigars and tobacco products to file with the comptroller a report
14 each month of sales to retailers in this state.

15 (b) The wholesaler or distributor shall file the report on
16 or before the 25th day of each month. The report must contain the
17 following information for the preceding calendar month's sales in
18 relation to each retailer:

19 (1) the name of the retailer and the address of the
20 retailer's outlet location to which the wholesaler or distributor
21 delivered cigars or tobacco products, including the city and zip
22 code;

23 (2) the taxpayer number assigned by the comptroller to
24 the retailer, if the wholesaler or distributor is in possession of
25 the number;

26 (3) the tobacco permit number of the outlet location
27 to which the wholesaler or distributor delivered cigars or tobacco

1 products; and

2 (4) the monthly net sales made to the retailer by the
3 wholesaler or distributor, including the quantity and units of
4 cigars and tobacco products sold to the retailer.

5 (c) Except as provided by this subsection, the wholesaler or
6 distributor shall file the report with the comptroller
7 electronically. The comptroller may establish procedures for
8 allowing an alternative method of filing for a wholesaler or
9 distributor who demonstrates to the comptroller an inability to
10 comply with the electronic reporting requirement. If the
11 comptroller determines that another technological method of filing
12 the report is more efficient than electronic filing, the
13 comptroller may establish procedures requiring its use by
14 wholesalers and distributors.

15 (d) Except as provided by Section 111.006, information
16 contained in a report required to be filed by this section is
17 confidential and not subject to disclosure under Chapter 552,
18 Government Code.

19 SECTION 4. This Act takes effect September 1, 2007.