

By: McCall

H.B. No. 2196

A BILL TO BE ENTITLED

AN ACT

relating to the imposition and collection of an ad valorem tax recovery fee by persons engaged in the business of leasing or renting certain vehicles, machinery, or equipment and to the ad valorem taxation of the inventory of a heavy equipment dealer.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 49 to read as follows:

CHAPTER 49. LEASE OR RENTAL OF CERTAIN VEHICLES, MACHINERY, OR EQUIPMENT

Sec. 49.001. DEFINITION. In this chapter, "qualified property" means:

(1) a nonregistered vehicle that weighs more than 3,000 pounds; or

(2) property that is described by code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Bureau of the Census.

Sec. 49.002. APPLICABILITY. (a) This chapter applies only to:

(1) a person engaged primarily in the business of leasing or renting qualified property in this state to others; and

(2) qualified property owned by the person that has taxable situs in this state for ad valorem tax purposes.

(b) This chapter does not apply to an item of qualified

1 property that is operated during the term of the lease or rental  
2 agreement by only:

3 (1) the owner of the property; or

4 (2) an employee or agent of the property owner.

5 Sec. 49.003. IMPOSITION AND COLLECTION OF AD VALOREM TAX  
6 RECOVERY FEE. For the purpose of paying all or part of the ad  
7 valorem taxes imposed on the qualified property, a person who  
8 leases or rents qualified property to another person shall impose  
9 and collect an ad valorem tax recovery fee from the lessee or renter  
10 of the qualified property.

11 Sec. 49.004. TAX RECOVERY FEE RATE. The rate of the ad  
12 valorem tax recovery fee is three percent of the gross lease or  
13 rental receipts received from the lease or rental of the qualified  
14 property.

15 Sec. 49.005. NOTICE OF AD VALOREM TAX RECOVERY FEE. Notice  
16 of the ad valorem tax recovery fee and the rate of the fee must be  
17 clearly stated in the lease or rental agreement covering qualified  
18 property.

19 Sec. 49.006. DISPOSITION OF EXCESS RECOVERY FEES. (a) The  
20 ad valorem tax recovery fees collected in a calendar year by a  
21 person may be used only to pay the ad valorem taxes imposed on a  
22 person's qualified property in that year or to make escrow payments  
23 under Section 23.1242, Tax Code. If after using the fees for those  
24 purposes there remains an amount of the fees in excess of those  
25 taxes or escrow payments, the person shall pay the excess amount to  
26 the assessor-collector of taxes for the county that imposed ad  
27 valorem taxes on the property during the applicable ad valorem tax

1 year. The excess proceeds must be paid on or before February 15 of  
2 the tax year following the tax year in which the taxes were imposed.

3 (b) As soon as practicable following receipt of any amount  
4 under Subsection (a), the assessor-collector of taxes for the  
5 county shall distribute those proceeds to the taxing units that  
6 imposed ad valorem taxes on the qualified property in the preceding  
7 tax year in proportion to the amount of taxes each taxing unit  
8 imposed in that year on the property.

9 Sec. 49.007. PERSON NOT CONSIDERED TO BE HEAVY EQUIPMENT  
10 DEALER. A person who is required by this chapter to impose and  
11 collect an ad valorem tax recovery fee is not for that reason  
12 considered to be a heavy equipment dealer for purposes of Section  
13 23.1241 or 23.1242, Tax Code, even if the person sells qualified  
14 property as part of the person's business.

15 SECTION 2. Section 23.1241(a), Tax Code, is amended by  
16 adding Subdivision (6-a) and amending Subdivision (8) to read as  
17 follows:

18 (6-a) "Sale" includes a lease or rental of an item of  
19 heavy equipment from a dealer that is subject to an option to  
20 purchase by the lessee or renter.

21 (8) "Subsequent sale" means a [~~dealer-financed~~] sale  
22 of an item of heavy equipment, including a dealer-financed sale,  
23 that, at the time of the sale, has been the subject of a  
24 [~~dealer-financed~~] sale from the same dealer's heavy equipment  
25 inventory in the same calendar year.

26 SECTION 3. Section 23.1242(a)(2), Tax Code, is amended to  
27 read as follows:

1           (2) "Dealer's heavy equipment inventory,"  
2 "declaration," "dealer," "sale," "sales price," "subsequent sale,"  
3 and "total annual sales" have the meanings assigned those terms by  
4 Section 23.1241.

5           SECTION 4. Section 23.1242, Tax Code, is amended by adding  
6 Subsection (a-1) to read as follows:

7           (a-1) Notwithstanding Subsection (a)(4), for the 2007 tax  
8 year, "unit property tax factor" is calculated by subtracting 33  
9 cents from the aggregate ad valorem tax rate imposed in the 2006 tax  
10 year at the location where a dealer's heavy equipment inventory is  
11 located on January 1, 2007, and dividing the resulting amount by 12.  
12 This subsection expires January 1, 2009.

13           SECTION 5. Chapter 49, Business & Commerce Code, as added by  
14 this Act, applies only to a lease or rental agreement covering  
15 qualified property, as defined by that chapter, that is entered  
16 into on or after the effective date of this Act.

17           SECTION 6. This Act takes effect September 1, 2007.