

SENATE AMENDMENTS

2nd Printing

By: Jackson

H.B. No. 142

A BILL TO BE ENTITLED

AN ACT

1
2 relating to imposition of local sales and use taxes on items shipped
3 or delivered from one transit authority to another transit
4 authority by certain retailers.

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

6 SECTION 1. Section 322.107, Tax Code, is amended to read as
7 follows:

8 Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING
9 ENTITY. (a) There are exempted from the sales tax of a taxing
10 entity the receipts of the sale of a taxable item that, under a
11 sales contract, is shipped to a point outside the entity by means
12 of:

- 13 (1) facilities operated by the retailer;
14 (2) delivery by the retailer to a carrier for shipment
15 to a consignee at that point; or
16 (3) delivery by the retailer to a forwarding agent for
17 shipment outside the entity.

18 (b) This section does not apply to tangible personal
19 property that is:

- 20 (1) sold by a retailer:
21 (A) whose only place of business in this state is
22 located in a taxing entity; and
23 (B) whose total receipts subject to taxation
24 under Chapter 151 during the preceding fiscal year were less than

1 \$10,000; and

2 (2) shipped or delivered directly to a purchaser in
3 another taxing entity.

4 SECTION 2. The change in law made by this Act does not
5 affect tax liability accruing before the effective date of this
6 Act. That liability continues in effect as if this Act had not been
7 enacted, and the former law is continued in effect for the
8 collection of taxes due and for civil and criminal enforcement of
9 the liability for those taxes.

10 SECTION 3. This Act takes effect September 1, 2007.

ADOPTED

MAY 21 2007

Atty. Gen. Spaw
Secretary of the Senate

By: *Carmon*

H.B. No. 142

Substitute the following for ___B. No. _____:

By: *Devell*

C.S. ___B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to imposition of local sales and use taxes on certain taxable items shipped outside a transit authority.

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

SECTION 1. The following provisions of the Tax Code are repealed:

- (1) Section 322.105(d); and
- (2) Section 322.107.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2007.

3
4

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

May 16, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB142 by Jackson, Jim (Relating to imposition of local sales and use taxes on certain taxable items shipped outside a transit authority.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would repeal Sections 322.105(d) and 322.107 of the Tax Code, relating to the imposition of local sales and use taxes on certain taxable items shipped outside a transit authority.

Under current law, the local sales and use tax imposed by a transit authority is based upon the destination to which the taxable items are delivered. When the taxable items are delivered to a destination in which no local sales and use tax is imposed by another transit authority, then no transit sales or use tax is collected. When the taxable items are delivered to a destination in which a local sales and use tax is imposed by another transit authority, the seller collects the sales and use tax imposed by the transit authority at the destination, unless doing so would result in a total local sales and use tax of more than two percent.

According to the Comptroller of Public Accounts, the bill would eliminate the sales and use tax exemption from sales tax imposed by a transit authority when the taxable items are shipped outside of the authority's boundaries. The bill would require the seller to collect the sales and use tax in the same manner for taxable items regardless of where they are delivered, by collecting the sales and use tax based upon the location of the seller.

The bill would take effect September 1, 2007.

Local Government Impact

According to the Comptroller of Public Accounts, the amount of taxable items that are shipped into and out of transit authorities is unknown; therefore, the impact on units of local governments cannot be estimated since the amount of tangible personal property that would be subject to tax or to a different tax rate cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, EB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB142 by Jackson, Jim (Relating to imposition of local sales and use taxes on items shipped or delivered from one transit authority to another transit authority by certain retailers.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Section 322.107 of the Tax code, relating to imposition of local sales and use taxes on items shipped or delivered from one transit authority to another transit authority by certain retailers. The bill would remove the tangible personal property exemption for items that are sold by a retailer whose only place of business is located in the taxing entity and whose total receipts subject to state sales and use tax in the preceding fiscal year were less than \$10,000, and that are shipped or delivered directly to a purchaser in another taxing entity.

Under the provisions of the bill, sellers would be required to collect the sales and use tax based upon the location of the seller unless the taxable items were shipped to a destination without a sales and use tax imposed by a transit authority. The transit authorities would receive additional revenue from goods shipped out of their boundaries and into another transit authority's boundaries, but they would lose revenue from the goods shipped from within another transit authority's boundaries into their own boundaries. The amount of taxable items that are shipped into and out of transit authorities is unknown.

The bill would take effect September 1, 2007.

Local Government Impact

The impact on units of local governments cannot be determined since the amount of tangible personal property that would be subject to tax or to a different tax rate cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, EB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 13, 2007

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB142 by Jackson, Jim (Relating to imposition of local sales and use taxes on items shipped or delivered from one transit authority to another transit authority by certain retailers.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Section 322.107 of the Tax code, relating to imposition of local sales and use taxes on items shipped or delivered from one transit authority to another transit authority by certain retailers. The bill would remove the tangible personal property exemption for items that are sold by a retailer whose only place of business is located in the taxing entity and whose total receipts subject to state sales and use tax in the preceding fiscal year were less than \$10,000, and that are shipped or delivered directly to a purchaser in another taxing entity.

Under the provisions of the bill, sellers would be required to collect the sales and use tax based upon the location of the seller unless the taxable items were shipped to a destination without a sales and use tax imposed by a transit authority. The transit authorities would receive additional revenue from goods shipped out of their boundaries and into another transit authority's boundaries, but they would lose revenue from the goods shipped from within another transit authority's boundaries into their own boundaries. The amount of taxable items that are shipped into and out of transit authorities is unknown.

The bill would take effect September 1, 2007.

Local Government Impact

The impact on units of local governments cannot be determined since the amount of tangible personal property that would be subject to tax or to a different tax rate cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, EB