

BILL ANALYSIS

C.S.S.B. 776
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that the United States Constitution prohibits state governments from taxing goods exported to foreign nations. One of the ways Texas may comply with this constitutional constraint is by rebating state sales taxes on a purchases made by foreign shoppers who prove the purchase is bound for export via documentation issued by a licensed customs broker. Unfortunately, the current rebate system is plagued by fraud and a lack of enforcement, despite legislative attempts to address abuse.

Among other provisions, C.S.S.B. 776 seeks to eliminate fraud by requiring the comptroller to authorize the use of hard copy export certificates issued when the online system is down and by expanding the steps taken to ensure that purchases are actually bound for export.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 776 amends the Tax Code to authorize, rather than require, the comptroller of public accounts to provide an alternate method for the preparation of proof of export documentation showing the exemption of tangible personal property exported outside the United States for use in those instances when the comptroller's password-protected website used by a customs broker or the broker's authorized employee to prepare such documentation is unavailable as a result of technical or communication problems. The bill authorizes a customs broker or authorized employee to use the alternate method only if the comptroller provides prior authorization for each use. The bill, in provisions authorizing the comptroller to suspend or revoke a customs broker's documentation license for issuing false documentation, removes language limiting the basis for such suspension or revocation to the issuance of false documentation for a specified purpose. The bill adds a specific penalty to the amount of any refunded tax that the comptroller is authorized to require a customs broker to repay for failure to comply either with documentation requirements for the exemption of exported property or with applicable comptroller rules.

C.S.S.B. 776, in a provision authorizing a licensed customs broker or the broker's authorized employee to issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States, adds to the actions required to verify that a purchaser is transporting property to a destination outside of the territorial limits of the United States the actions of requiring that a passport, laser visa identification card, or foreign voter registration picture identification indicating that the purchaser of the property resides in a foreign country have a unique identification number for that purchaser and requiring the broker or the broker's authorized employee, in addition to the purchaser, to sign a form containing certain information. The bill specifies that the form be prepared or approved by the comptroller and that it be signed by the purchaser and the broker or the broker's authorized employee in the

presence of each other.

C.S.S.B. 776 requires the comptroller to limit to six the number of receipts for which a single proof of export documentation may be issued. The bill adds to the information required to be included in such documentation a declaration signed by the customs broker or the broker's authorized employee stating that the customs broker or authorized employee inspected the property and the original receipt for the property. The bill removes the specification that a penalty for a customs broker who does not comply with provisions or rules adopted by the comptroller relating to the documentation requirements for the exemption of exported property and who is required to repay the refunded tax is a penalty in an amount equal to the amount of the refunded tax. The bill increases from \$1.60 to \$2.10 the amount the comptroller is required to charge for each export stamp. The bill requires the comptroller to use \$1.60 of the money from the sale of stamps only for costs related to producing the stamps, including costs of materials, labor, and overhead. The bill requires the comptroller to use the remaining 50 cents only for enforcement of the laws relating to customs brokers.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 776 differs from the original by authorizing the comptroller of public accounts to provide an alternate method for the preparation of proof of export documentation showing the exemption of tangible personal property exported outside the United States for use in those instances when the comptroller's password-protected website used by a customs broker or the broker's authorized employee to prepare such documentation is unavailable as a result of technical or communication problems, whereas the original removes the requirement that the comptroller provide such an alternate method. The substitute contains a provision not included in the original authorizing a customs broker or authorized employee to use the alternate method only if the comptroller provides prior authorization for each use.

C.S.S.B. 776 contains provisions not included in the original adding to and revising certain actions required of a customs broker or a broker's authorized employee to verify that a purchaser is transporting property to a destination outside of the territorial limits of the United States.

C.S.S.B. 776 contains a provision not included in the original requiring the comptroller to limit to six the number of receipts for which a single proof of export documentation may be issued.