

By: Howard of Fort Bend

H.B. No. 1358

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the exclusion of certain flow-through funds by
3 qualified courier and logistics companies in determining total
4 revenue for purposes of the franchise tax.

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

6 SECTION 1. Section 171.1011, Tax Code, is amended by adding
7 Subsection (g-7) to read as follows:

8 (g-7) A taxable entity that is a qualified courier and
9 logistics company shall exclude from its total revenue, to the
10 extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3),
11 subcontracting payments made by the taxable entity to nonemployee
12 agents for the performance of delivery services on behalf of the
13 taxable entity. For purposes of this subsection, "qualified
14 courier and logistics company" means a taxable entity that:

15 (1) receives at least 80 percent of the taxable
16 entity's annual total revenue from its entire business from a
17 combination of at least two of the following courier and logistics
18 services:

19 (A) expedited same-day delivery of an envelope,
20 package, parcel, roll of architectural drawings, box, or pallet;

21 (B) temporary storage and delivery of the
22 property of another entity, including an envelope, package, parcel,
23 roll of architectural drawings, box, or pallet; and

24 (C) brokerage of same-day or expedited courier

1 and logistics services to be completed by a person or entity under a
2 contract that includes a contractual obligation by the taxable
3 entity to make payments to the person or entity for those services;

4 (2) during all or part of the period on which margin is
5 based, is registered as a motor carrier under Chapter 643,
6 Transportation Code, and if the taxable entity operates on an
7 interstate basis, is registered as a motor carrier or broker under
8 the unified carrier registration system, as defined by Section
9 643.001, Transportation Code, during all or part of that period;

10 (3) maintains an automobile liability insurance
11 policy covering individuals operating vehicles owned, hired, or
12 otherwise used in the taxable entity's business, with a combined
13 single limit for each occurrence of at least \$1 million;

14 (4) maintains at least \$25,000 of cargo insurance;

15 (5) maintains a permanent nonresidential office from
16 which the courier and logistics services are provided or arranged;

17 (6) has at least five full-time employees during all
18 or part of the period on which margin is based;

19 (7) other than office equipment used in the conduct of
20 the taxable entity's business, does not own in the taxable entity's
21 entire business more than 20 percent of the equipment used to
22 directly provide courier and logistics services, including
23 bicycles, cars, trucks, vans, or tractor trailers;

24 (8) is not doing business as a livery service, floral
25 delivery service, motor coach service, taxicab service, building
26 supply delivery service, water supply service, fuel or energy
27 supply service, restaurant supply service, or commercial moving and

1 storage company; and

2 (9) is not delivering items that the taxable entity or
3 an affiliated entity sold.

4 SECTION 2. This Act applies only to a report originally due
5 on or after the effective date of this Act.

6 SECTION 3. This Act takes effect January 1, 2012.