

By: Lyne, et al.

H.B. No. 2237

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the taxation and titling of certain off-road vehicles.

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

4 SECTION 1. Section 152.001, Tax Code, is amended by
5 amending Subdivision (3) and adding Subdivision (20) to read as
6 follows:

7 (3) "Motor vehicle [~~Vehicle~~]" includes:

8 (A) a self-propelled vehicle designed to
9 transport persons or property on a public highway;

10 (B) a trailer and semitrailer, including a van,
11 flatbed, tank, dumpster, dolly, jeep, stinger, auxiliary axle, or
12 converter gear; [~~and~~]

13 (C) a house trailer as defined by Chapter 501,
14 Transportation Code; and

15 (D) an off-road vehicle that is not required to
16 be registered under Chapter 502, Transportation Code.

17 (20) "Off-road vehicle" means:

18 (A) an all-terrain vehicle or a recreational
19 off-highway vehicle, as those terms are defined by Section 502.001,
20 Transportation Code, provided that the vehicle may be designed by
21 the manufacturer primarily for farming; or

22 (B) a motorcycle designed by the manufacturer for
23 off-highway use.

24 SECTION 2. Section 152.091, Tax Code, is amended to read as

1 follows:

2 Sec. 152.091. FARM OR TIMBER USE. (a) The taxes imposed by
3 this chapter do not apply to the sale or use of ~~[a]~~:

4 (1) a farm machine, a trailer, a ~~[or]~~ semitrailer, or
5 an off-road vehicle for use primarily for farming and ranching,
6 including the rearing of poultry, and use in feedlots; or

7 (2) a machine, a trailer, a ~~[or]~~ semitrailer, or an
8 off-road vehicle for use primarily for timber operations.

9 (b)(1) The taxes imposed by this chapter do not apply to the
10 purchase of ~~[a]~~:

11 (A) a farm machine, a trailer, a ~~[or]~~
12 semitrailer, or an off-road vehicle that is to be leased for use
13 primarily for farming and ranching, including the rearing of
14 poultry, and use in feedlots; or

15 (B) a machine, a trailer, a ~~[or]~~ semitrailer, or
16 an off-road vehicle that is to be leased for use primarily for
17 timber operations.

18 (2) The exemption provided by this subsection applies
19 only if the person purchasing the machine, trailer, ~~[or]~~
20 semitrailer, or off-road vehicle to be leased presents the tax
21 assessor-collector a form prescribed and provided by the
22 comptroller showing:

23 (A) the identification of the motor vehicle;

24 (B) the name and address of the lessor and the
25 lessee; and

26 (C) verification by the lessee that the machine,
27 trailer, ~~[or]~~ semitrailer, or off-road vehicle will be used

1 primarily for:

2 (i) farming and ranching, including the
3 rearing of poultry, and use in feedlots; or

4 (ii) timber operations.

5 (3) If a motor vehicle for which the tax has not been
6 paid ceases to be leased for use primarily for farming and ranching,
7 including the rearing of poultry, and use in feedlots or timber
8 operations, the owner shall notify the comptroller on a form
9 provided by the comptroller and shall pay the sales or use tax on
10 the motor vehicle based on the owner's book value of the motor
11 vehicle. The tax is imposed at the same percentage rate that is
12 provided by Section 152.021(b).

13 (c) The taxes imposed by this chapter do not apply to the
14 rental of a farm machine, a trailer, [~~or~~] a semitrailer, or an
15 off-road vehicle for use primarily for farming and ranching,
16 including the rearing of poultry, and use in feedlots, or a machine,
17 a trailer, [~~or~~] a semitrailer, or an off-road vehicle for use
18 primarily for timber operations. The tax that would have been
19 remitted on gross rental receipts without this exemption shall be
20 deemed to have been remitted for the purpose of calculating the
21 minimum gross rental receipts imposed by Section 152.026. The
22 exemption provided by this subsection applies only if the owner of
23 the motor vehicle obtains in good faith an exemption certificate
24 from the person to whom the vehicle is being rented.

25 (d) For purposes of this section, a machine or an off-road
26 vehicle is used "primarily for timber operations" if the machine or
27 off-road vehicle is a self-propelled motor vehicle that is

1 specially adapted to perform a specialized function in the
2 production of timber, including land preparation, planting,
3 maintenance, and gathering of trees commonly grown for commercial
4 timber. The term does not include a self-propelled motor vehicle
5 used to transport timber or timber products.

6 SECTION 3. Subchapter B, Chapter 501, Transportation Code,
7 is amended by adding Section 501.0225 to read as follows:

8 Sec. 501.0225. CERTIFICATE OF TITLE REQUIRED FOR OFF-ROAD
9 VEHICLE. A person who purchases, imports, or otherwise acquires an
10 off-road vehicle, as defined by Section 152.001, Tax Code, that is
11 not required to be registered under Chapter 502 may not operate or
12 permit the operation of the vehicle in this state, or sell or
13 dispose of the vehicle in this state, until the person obtains a
14 certificate of title for the vehicle. This section does not apply
15 to:

16 (1) an off-road vehicle that is exempt from motor
17 vehicle sales and use taxation under Section 152.091, Tax Code; or

18 (2) an off-road vehicle acquired and sold or disposed
19 of by a lienholder exercising a statutory or contractual lien right
20 with regard to the vehicle, except that this section does apply to
21 the purchaser of that vehicle.

22 SECTION 4. Section 501.0225, Transportation Code, as added
23 by this Act, applies only to a person who purchases, imports, or
24 otherwise acquires an off-road vehicle on or after the effective
25 date of this Act. A person who purchases, imports, or otherwise
26 acquires an off-road vehicle before the effective date of this Act
27 is governed by the law in effect immediately before the effective

1 date of this Act, and the former law is continued in effect for that
2 purpose.

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

9 SECTION 6. This Act takes effect September 1, 2011.