

By: Raymond

H.B. No. 3435

A BILL TO BE ENTITLED

AN ACT

relating to honesty in state taxation.

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

SECTION 1. Subtitle A, Title 2, Tax Code, is amended by adding Chapter 102 to read as follows:

CHAPTER 102. HONESTY IN STATE TAXATION

Sec. 102.001. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that this state has hidden from taxpayers the enactment and increase of state taxes by describing the taxes by other names such as "fees," "surcharges," "assessments," and "penalties." It is the intent of the legislature to establish honesty in state taxation and to appropriately identify state taxes.

Sec. 102.002. DEFINITIONS. In this chapter:

(1) "Regulatory tax" means a fee, levy, surcharge, assessment, penalty, or other charge of any kind imposed by this state for a primary purpose other than to raise revenue for general purposes, including:

(A) a charge imposed for a specific benefit conferred or privilege granted directly to the taxpayer that is not provided to a person who did not pay the charge and that does not exceed the reasonable cost to this state of conferring the benefit or granting the privilege;

(B) a charge imposed for a specific state service

1 or product provided directly to the taxpayer that is not provided to
2 a person who did not pay the charge and that does not exceed the
3 reasonable cost to this state of providing the service or product;

4 (C) a charge imposed for the reasonable
5 regulatory cost to this state related to the issuance of a license
6 or permit, the performance of an investigation, inspection, or
7 audit, or the enforcement of a state law or order;

8 (D) a charge imposed for the purchase, rental,
9 lease, or other use of state property; and

10 (E) a fine, penalty, or other monetary charge
11 imposed by this state for or in connection with a violation of a
12 state law or order.

13 (2) "State agency" means:

14 (A) a board, commission, department, or other
15 agency in the executive branch of state government that is created
16 by the constitution or a statute of this state, including an
17 institution of higher education as defined by Section 61.003,
18 Education Code, other than a public junior college;

19 (B) the legislature or a legislative agency; or

20 (C) the supreme court, the court of criminal
21 appeals, a court of appeals, or a state judicial agency.

22 Sec. 102.003. USE OF HONEST STATE TAXATION TERMINOLOGY
23 REQUIRED IN LEGISLATION. The legislature and the Texas Legislative
24 Council are directed to:

25 (1) not identify a state tax, including a state
26 regulatory tax, as another type of state charge such as a "fee,"
27 "surcharge," "assessment," or "penalty" in any new statute or

1 resolution; and

2 (2) change a reference to a state charge that is not
3 correctly identified as a state tax in the course of otherwise
4 amending the state law containing the reference.

5 Sec. 102.004. USE OF HONEST STATE TAXATION TERMINOLOGY
6 REQUIRED IN STATE RULES, MATERIALS, PUBLICATIONS, AND ELECTRONIC
7 MEDIA. A state agency:

8 (1) may not identify a state tax, including a state
9 regulatory tax, as another type of state charge such as a "fee,"
10 "surcharge," "assessment," or "penalty" when proposing or adopting
11 the agency's rules, reference materials, publications, and
12 electronic media; and

13 (2) shall change a reference to a state charge that is
14 not correctly identified as a state tax when amending the agency's
15 rules, reference materials, publications, and electronic media.

16 SECTION 2. Chapter 325, Government Code, is amended by
17 adding Section 325.0124 to read as follows:

18 Sec. 325.0124. REVIEW OF STATE AGENCIES FOR HONEST STATE
19 TAXATION TERMINOLOGY. As part of its review of a state agency, the
20 commission shall consider and make recommendations regarding
21 statutory revisions necessary to correctly identify state charges
22 as state taxes.

23 SECTION 3. This Act takes effect September 1, 2011.