

By: Pitts

H.B. No. 3643

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the remittance of mixed beverage taxes and taxes and
3 fees on certain alcoholic beverages.

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

5 SECTION 1. Section 34.04, Alcoholic Beverage Code, is
6 amended by amending Subsection (b) and adding Subsections (c), (d),
7 and (e) to read as follows:

8 (b) The preparation and service of alcoholic beverages by
9 the holder of an airline beverage permit is exempt from the tax
10 imposed by Chapter 151, Tax Code [~~the Limited Sales, Excise and Use~~
11 ~~Tax Act~~]. An airline beverage service fee of five cents is imposed
12 on each individual serving of an alcoholic beverage served by the
13 permittee inside the state. The fee accrues at the time the
14 container containing an alcoholic beverage is delivered to the
15 passenger. The permittee may absorb the cost of the fee or may
16 collect it from the passenger. Subject to Subsections (c) and (e),
17 the [~~The~~] permittee shall remit the fees to the commission each
18 month under a reporting system prescribed by the commission.

19 (c) A permittee shall remit not later than the last workday
20 of August of each odd-numbered year the portion prescribed by this
21 subsection of the fees and taxes described by this section that
22 accrue during that month and that would otherwise have been due in
23 September under the reporting system in effect on January 1, 2011.
24 The remittance must be accompanied by a report containing estimates

1 for the month of August of the information ordinarily required on
2 the report if it were filed in September. A remittance under this
3 subsection must be equal to one of the following amounts, at the
4 permittee's election:

5 (1) 90 percent of the estimated amount of the taxes and
6 fees the permittee is required to collect and remit for the August
7 reporting period; or

8 (2) the amount of taxes and fees the permittee
9 actually collected and remitted in August of the preceding year.

10 (d) The report and payment required by Subsection (c) may be
11 made in conjunction with the report and payment ordinarily required
12 during August under the reporting system prescribed by the
13 commission.

14 (e) A permittee who files a report required by Subsection
15 (c) shall file a supplemental report not later than September 15 of
16 each odd-numbered year that reports the total amount of taxes and
17 fees collected for the month of August of that year and the amount
18 required to be remitted. If the payment made under Subsection (c)
19 is less than the amount required to be remitted, the supplemental
20 report must be accompanied by a payment for the difference between
21 the amount required to be remitted and the amount of the payment
22 made under Subsection (c). If the payment made under Subsection (c)
23 exceeds the amount required to be remitted, the supplemental report
24 must state the amount of the overpayment. The permittee filing the
25 supplemental report may take a credit in the amount of the
26 overpayment against the next payment due under the reporting system
27 prescribed by the commission.

1 SECTION 2. Section 48.04, Alcoholic Beverage Code, is
2 amended by amending Subsection (b) and adding Subsections (c), (d),
3 and (e) to read as follows:

4 (b) The preparation and service of alcoholic beverages by
5 the holder of a passenger train beverage permit is exempt from the
6 tax imposed by Chapter 151, Tax Code [~~the Limited Sales, Excise, and~~
7 ~~Use Tax Act (Section 151.001 et seq., Tax Code)~~]. A passenger train
8 service fee of five cents is imposed on each individual serving of
9 an alcoholic beverage served by the permittee inside the state. The
10 fee accrues at the time the container containing an alcoholic
11 beverage is delivered to the passenger. Subject to Subsections (c)
12 and (e), the [~~The~~] permittee shall remit the fees to the commission
13 each month under a reporting system prescribed by the commission.

14 (c) A permittee shall remit not later than the last workday
15 of August of each odd-numbered year the portion prescribed by this
16 subsection of the fees and taxes described by this section that
17 accrue during that month and that would otherwise have been due in
18 September under the reporting system in effect on January 1, 2011.
19 The remittance must be accompanied by a report containing estimates
20 for the month of August of the information ordinarily required on
21 the report if it were filed in September. A remittance under this
22 subsection must be equal to one of the following amounts, at the
23 permittee's election:

24 (1) 90 percent of the estimated amount of the taxes and
25 fees the permittee is required to collect and remit for the August
26 reporting period; or

27 (2) the amount of taxes and fees the permittee

1 actually collected and remitted in August of the preceding year.

2 (d) The report and payment required by Subsection (c) may be
3 made in conjunction with the report and payment ordinarily required
4 during August under the reporting system prescribed by the
5 commission.

6 (e) A permittee who files a report required by Subsection
7 (c) shall file a supplemental report not later than September 15 of
8 each odd-numbered year that reports the total amount of taxes and
9 fees collected for the month of August of that year and the amount
10 required to be remitted. If the payment made under Subsection (c)
11 is less than the amount required to be remitted, the supplemental
12 report must be accompanied by a payment for the difference between
13 the amount required to be remitted and the amount of the payment
14 made under Subsection (c). If the payment made under Subsection (c)
15 exceeds the amount required to be remitted, the supplemental report
16 must state the amount of the overpayment. The permittee filing the
17 supplemental report may take a credit in the amount of the
18 overpayment against the next payment due under the reporting system
19 prescribed by the commission.

20 SECTION 3. Section 201.07, Alcoholic Beverage Code, is
21 amended to read as follows:

22 Sec. 201.07. DUE DATE. (a) Subject to Subsections (b) and
23 (d), the [The] tax on liquor is due and payable on the 15th of the
24 month following the first sale, together with a report on the tax
25 due.

26 (b) Each permittee who is liable for the taxes imposed by
27 this subchapter shall file not later than the last workday of August

1 of each odd-numbered year the report that would otherwise have been
2 due on or before September 15 of that year under Subsection (a)
3 without accounting for any credit or discount to which the
4 permittee is entitled. The report must contain estimates for the
5 month of August of the information ordinarily required on the
6 report if it were filed in September, other than information
7 relating to any credit or discount to which the permittee is
8 entitled. The permittee must remit with the report a payment equal
9 to one of the following amounts, at the permittee's election:

10 (1) 90 percent of the estimated amount of tax for which
11 the permittee is liable for the month of August without accounting
12 for any credit or discount to which the permittee is entitled; or

13 (2) the amount of tax the permittee actually collected
14 and remitted in August of the preceding year.

15 (c) The report and payment required by Subsection (b) may be
16 filed in conjunction with the report and payment required by
17 Subsection (a) that is due on or before August 15 of an odd-numbered
18 year.

19 (d) A permittee who files a report required by Subsection
20 (b) shall file a supplemental report not later than September 15 of
21 each odd-numbered year that reports the total amount of tax for
22 which the permittee is liable for the month of August of that year
23 and the amount required to be remitted, after accounting for any
24 credit or discount to which the permittee is entitled. If the
25 payment made under Subsection (b) is less than the amount required
26 to be remitted, the supplemental report must be accompanied by a
27 payment for the difference between the amount required to be

1 remitted and the amount of the payment made under Subsection (b).
2 If the payment made under Subsection (b) exceeds the amount
3 required to be remitted, the supplemental report must state the
4 amount of the overpayment. The permittee filing the supplemental
5 report may take a credit in the amount of the overpayment against
6 the next payment due under Subsection (a).

7 SECTION 4. Section 201.43, Alcoholic Beverage Code, is
8 amended by amending Subsection (b) and adding Subsections (c), (d),
9 and (e) to read as follows:

10 (b) Subject to Subsections (c) and (e), the [The] tax is due
11 and payable on the 15th day of the month following the month in
12 which the taxable first sale occurs, together with a report on the
13 tax due.

14 (c) Each permittee who is liable for the tax imposed by this
15 subchapter shall file not later than the last workday of August of
16 each odd-numbered year the report that would otherwise have been
17 due on or before September 15 of that year under Subsection (b)
18 without accounting for any credit or discount to which the
19 permittee is entitled. The report must contain estimates for the
20 month of August of the information ordinarily required on the
21 report if it were filed in September, other than information
22 relating to any credit or discount to which the permittee is
23 entitled. The permittee must remit with the report a payment equal
24 to one of the following amounts, at the permittee's election:

25 (1) 90 percent of the estimated amount of tax the
26 permittee is required to collect and remit during August without
27 accounting for any credit or discount to which the permittee is

1 entitled; or

2 (2) the amount of tax the permittee actually collected
3 and remitted in August of the preceding year.

4 (d) The report and payment required by Subsection (c) may be
5 filed in conjunction with the report and payment required by
6 Subsection (b) that is due on or before August 15 of an odd-numbered
7 year.

8 (e) A permittee who files a report required by Subsection
9 (c) shall file a supplemental report not later than September 15 of
10 each odd-numbered year that reports the total amount of tax for
11 which the permittee is liable for the month of August of that year
12 and the amount required to be remitted, after accounting for any
13 credit or discount to which the permittee is entitled. If the
14 payment made under Subsection (c) is less than the amount required
15 to be remitted, the supplemental report must be accompanied by a
16 payment for the difference between the amount required to be
17 remitted and the amount of the payment made under Subsection (c).
18 If the payment made under Subsection (c) exceeds the amount
19 required to be remitted, the supplemental report must state the
20 amount of the overpayment. The permittee filing the supplemental
21 report may take a credit in the amount of the overpayment against
22 the next payment due under Subsection (b).

23 SECTION 5. Section 203.03, Alcoholic Beverage Code, is
24 amended by amending Subsection (b) and adding Subsections (c), (d),
25 and (e) to read as follows:

26 (b) Subject to Subsections (c) and (e), the [The] tax is due
27 and payable on the 15th day of the month following the month in

1 which the taxable first sale occurs, together with a report on the
2 tax due.

3 (c) Each licensee who is liable for the tax imposed by this
4 chapter shall file not later than the last workday of August of each
5 odd-numbered year the report that would otherwise have been due on
6 or before September 15 of that year under Subsection (b) without
7 accounting for any credit or discount to which the licensee is
8 entitled. The report must contain estimates for the month of August
9 of the information ordinarily required on the report if it were
10 filed in September, other than information relating to any credit
11 or discount to which the licensee is entitled. The licensee must
12 remit with the report a payment equal to one of the following
13 amounts, at the licensee's election:

14 (1) 90 percent of the estimated amount of tax for which
15 the licensee is liable for the month of August without accounting
16 for any credit or discount to which the licensee is entitled; or

17 (2) the amount of tax the licensee actually collected
18 and remitted in August of the preceding year.

19 (d) The report and payment required by Subsection (c) may be
20 filed in conjunction with the report and payment required by
21 Subsection (b) that is due on or before August 15 of an odd-numbered
22 year.

23 (e) A licensee who files a report required by Subsection (c)
24 shall file a supplemental report not later than September 15 of each
25 odd-numbered year that reports the total amount of tax for which the
26 licensee is liable for the month of August of that year and the
27 amount required to be remitted, after accounting for any credit or

1 discount to which the licensee is entitled. If the payment made
2 under Subsection (c) is less than the amount required to be
3 remitted, the supplemental report must be accompanied by a payment
4 for the difference between the amount required to be remitted and
5 the amount of the payment made under Subsection (c). If the payment
6 made under Subsection (c) exceeds the amount required to be
7 remitted, the supplemental report must state the amount of the
8 overpayment. The licensee filing the supplemental report may take
9 a credit in the amount of the overpayment against the next payment
10 due under Subsection (b).

11 SECTION 6. Subchapter B, Chapter 183, Tax Code, is amended
12 by adding Section 183.024 to read as follows:

13 Sec. 183.024. DUE DATES OF CERTAIN RETURNS AND PAYMENTS.

14 (a) This section applies to the reporting and remittance of taxes
15 imposed under this subchapter during August of each odd-numbered
16 year and prevails to the extent of a conflict with Section 183.022
17 or 183.023.

18 (b) A permittee shall file with the comptroller not later
19 than the last workday of August of each odd-numbered year the tax
20 return that would otherwise have been due on or before September 20
21 of that year under Section 183.022 without accounting for any
22 credit or allowance to which the permittee is entitled. The return
23 must contain estimates for the month of August of the information
24 ordinarily required on the return if it were filed in September,
25 other than information relating to any credit or allowance to which
26 the permittee is entitled. The permittee must remit with the return
27 a payment equal to one of the following amounts, at the permittee's

1 election:

2 (1) 90 percent of the estimated amount of tax imposed
3 on the permittee during August without accounting for any credit or
4 allowance to which the permittee is entitled; or

5 (2) the amount of tax actually imposed on the
6 permittee and remitted in August of the preceding year.

7 (c) The return and payment required by Subsection (b) may be
8 filed in conjunction with the return and payment required by
9 Sections 183.022 and 183.023 that is due on or before August 20 of
10 an odd-numbered year.

11 (d) A permittee who files a return required by Subsection
12 (b) shall file a supplemental return not later than September 20 of
13 each odd-numbered year that reports the total amount of tax
14 collected for the month of August of that year and the amount
15 required to be remitted, after accounting for any credit or
16 allowance to which the permittee is entitled. If the payment made
17 under Subsection (b) is less than the amount required to be
18 remitted, the supplemental return must be accompanied by a payment
19 for the difference between the amount required to be remitted and
20 the amount of the payment made under Subsection (b). If the payment
21 made under Subsection (b) exceeds the amount required to be
22 remitted, the supplemental return must state the amount of the
23 overpayment. The permittee filing the supplemental return may take
24 a credit in the amount of the overpayment against the next payment
25 due under Section 183.023.

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 3643

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2011.