

By: Pitts

H.B. No. 3774

A BILL TO BE ENTITLED

AN ACT

relating to the administration, collection, enforcement of various taxes and fees; providing penalties.

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

SECTION 1. Section 111.00455, Tax Code, is amended by amending subsection (b) to read as follows:

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.703(d) [~~151.7031~~];

(F) the refusal or failure to settle under Section 111.101; or

1 (G) a request for or revocation of an exemption
2 from taxation; and

3 (4) any other hearing not related to the collection,
4 receipt, administration, or enforcement of the amount of a tax or
5 fee imposed, or the penalty or interest associated with that
6 amount.

7 SECTION 2. Section 151.433, Tax Code, is amended by
8 amending subsection (f) to read as follows:

9 (f) If a person fails to file a report required by this
10 section or fails to file a complete report, the comptroller may
11 suspend or cancel one or more permits issued to the person under
12 Section 151.203 and may impose a civil or criminal penalty, or both,
13 under Section 151.703(d) [~~151.7031~~] or 151.709.

14 SECTION 3. Section 151.703, Tax Code, is amended by adding
15 subsection (d) to read as follows:

16 (d) A person who fails to file a report when due as required
17 by this chapter shall pay an additional penalty of \$50. The penalty
18 provided by this subsection is assessed without regard to whether
19 the taxpayer subsequently files the report or whether no taxes were
20 due from the taxpayer for the reporting period under the required
21 report.

22 SECTION 4. Section 152.045, Tax Code, is amended by adding
23 subsection (d) to read as follows:

24 (d) an owner of a motor vehicle subject to the tax on gross
25 rental receipts who is required to file a report under this chapter,
26 who fails to timely file the report as required by this chapter,
27 shall pay an additional penalty of \$ 50. The penalty provided by

1 this section is assessed without regard to whether the person
2 subsequently files the report or whether no taxes were due for the
3 reporting period under the required report.

4 SECTION 5. Section 152.047, Tax Code, is amended by adding
5 subsection (j) to read as follows:

6 (j) A seller of a motor vehicle who is required to file a
7 report under this chapter on a seller financed sale, who fails to
8 timely file the report as required by this chapter, shall pay an
9 additional penalty of \$ 50. The penalty provided by this section is
10 assessed without regard to whether the seller subsequently files
11 the report or whether no taxes were due under the required report.

12 SECTION 6. Section 156.202, Tax Code, is amended by
13 amending subsection (c) and adding subsection (d) to read as
14 follows:

15 (c) The minimum penalty under subsections (a) and (b) [~~this~~
16 ~~section~~] is \$ 1.

17 (d) A person who fails to file a report when due as required
18 by this chapter shall pay an additional penalty of \$50. The penalty
19 provided by this subsection is assessed without regard to whether
20 the person subsequently files the report or whether no taxes were
21 due for the reporting period under the required report.

22 SECTION 7. Section 162.401, Tax Code, is amended by adding
23 subsection (c) to read as follows:

24 (c) A person who fails to file a report when due as required
25 by this chapter shall pay an additional penalty of \$50. The penalty
26 provided by this subsection is assessed without regard to whether
27 the person subsequently files the report or whether no taxes were

1 due for the reporting period under the required report.

2 SECTION 8. Section 171.362, Tax Code, is amended by
3 amending subsection (c) and adding subsection (f) to read as
4 follows:

5 (c) The minimum penalty under subsections (a) and (b) [~~this~~
6 ~~section~~] is \$ 1.

7 (f) A person who fails to file a report when due as required
8 by this chapter shall pay an additional penalty of \$50. The penalty
9 provided by this subsection is assessed without regard to whether
10 the person subsequently files the report or whether no taxes were
11 due for the reporting period under the required report.

12 SECTION 9. Subchapter B, Chapter 183, Tax Code, is amended
13 by adding Section 183.024 to read as follows:

14 Sec. 183.024. FAILURE TO REPORT OR PAY TAX.

15 (a) A person who fails to file a report as required by this
16 chapter or who fails to pay a tax imposed by this chapter when due
17 shall pay five percent of the amount due as a penalty, and if the
18 person fails to file the report or pay the tax within 30 days after
19 the day on which the tax or report is due, the person shall pay an
20 additional five percent.

21 (b) The minimum penalty provided by Subsection (a) of this
22 section is \$ 1.

23 (c) A delinquent tax draws interest beginning 60 days from
24 the due date.

25 (d) A person who fails to file a report when due as required
26 by this chapter shall pay an additional penalty of \$50. The penalty
27 provided by this subsection is assessed without regard to whether

1 the person subsequently files the report or whether no taxes were
2 due for the reporting period under the required report.

3 SECTION 10. Section 771.0712, Health and Safety Code, is
4 amended by adding subsections (c) and (d) to read as follows:

5 (c) A seller who does not file a report as provided by this
6 section or who possesses a fee collected or payable under this
7 section and who does not remit the fee to the comptroller at the
8 time and in the manner required by this section and the rules of the
9 comptroller shall pay a penalty of five percent of the amount of the
10 fee due and payable. If the seller does not file the report or pay
11 the fee before the 30th day after the date on which the fee or report
12 is due, the seller shall pay a penalty of an additional five percent
13 of the amount of the fee due and payable.

14 (d) A seller who fails to file a report when due as required
15 by this section shall pay an additional penalty of \$50. The penalty
16 provided by this subsection is assessed without regard to whether
17 the seller subsequently files the report or whether no fees were due
18 for the reporting period under the required report.

19 SECTION 11. The following law is repealed:

20 (1) Section 151.7031, Tax Code.

21 SECTION 12. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2011.