

By: Duncan

S.B. No. 326

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the exemption from ad valorem taxation of certain
3 tangible personal property stored temporarily at a location in this
4 state.

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

6 SECTION 1. Section 11.253(a), Tax Code, is amended by
7 amending Subdivision (2) and adding Subdivisions (5) and (6) to
8 read as follows:

9 (2) "Goods-in-transit" means tangible personal
10 property that:

11 (A) is acquired in or imported into this state to
12 be forwarded to another location in this state or outside this
13 state;

14 (B) is stored under a contract of bailment by a
15 public warehouse operator ~~[detained]~~ at one or more public
16 warehouse facilities ~~[a location]~~ in this state that are not in any
17 way owned or controlled by ~~[in which]~~ the owner of the personal
18 property ~~[does not have a direct or indirect ownership interest]~~
19 for the account of ~~[assembling, storing, manufacturing,~~
20 ~~processing, or fabricating purposes by]~~ the person who acquired or
21 imported the property;

22 (C) is transported to another location in this
23 state or outside this state not later than 175 days after the date
24 the person acquired the property in or imported the property into

1 this state; and

2 (D) does not include oil, natural gas, petroleum
3 products, aircraft, dealer's motor vehicle inventory, dealer's
4 vessel and outboard motor inventory, dealer's heavy equipment
5 inventory, or retail manufactured housing inventory.

6 (5) "Bailee" and "warehouse" have the meanings
7 assigned by Section 7.102, Business & Commerce Code.

8 (6) "Public warehouse operator" means a person that:

9 (A) is both a bailee and a warehouse; and

10 (B) stores under a contract of bailment, at one
11 or more public warehouse facilities, tangible personal property
12 that is owned by other persons solely for the account of those
13 persons and not for the operator's account.

14 SECTION 2. Section 11.253, Tax Code, is amended by amending
15 Subsections (e) and (h) and adding Subsections (j-1) and (j-2) to
16 read as follows:

17 (e) In determining the market value of goods-in-transit
18 that in the preceding year were [~~assembled,~~ stored~~],~~ [~~manufactured,~~
19 ~~processed, or fabricated~~] in this state, the chief appraiser shall
20 exclude the cost of equipment, machinery, or materials that entered
21 into and became component parts of the goods-in-transit but were
22 not themselves goods-in-transit or that were not transported to
23 another location in this state or outside this state before the
24 expiration of 175 days after the date they were brought into this
25 state by the property owner or acquired by the property owner in
26 this state. For component parts held in bulk, the chief appraiser
27 may use the average length of time a component part was held by the

1 owner of the component parts during the preceding year at a location
2 in this state that was not owned by or under the control of the owner
3 of the component parts in determining whether the component parts
4 were transported to another location in this state or outside this
5 state before the expiration of 175 days.

6 (h) The chief appraiser by written notice delivered to a
7 property owner who claims an exemption under this section may
8 require the property owner to provide copies of property records so
9 the chief appraiser can determine the amount and value of
10 goods-in-transit and that the location in this state where the
11 goods-in-transit were detained for storage [~~assembling, storing,~~
12 ~~manufacturing, processing, or fabricating purposes~~] was not owned
13 by or under the control of the owner of the goods-in-transit. If
14 the property owner fails to deliver the information requested in
15 the notice before the 31st day after the date the notice is
16 delivered to the property owner, the property owner forfeits the
17 right to claim or receive the exemption for that year.

18 (j-1) Notwithstanding Subsection (j) or official action
19 that was taken under that subsection before September 1, 2011, to
20 tax goods-in-transit exempt under Subsection (b) and not exempt
21 under other law, a taxing unit may not tax such goods-in-transit in
22 a tax year that begins on or after January 1, 2012, unless the
23 governing body of the taxing unit takes action on or after September
24 1, 2011, in the manner required for official action by the governing
25 body, to provide for the taxation of the goods-in-transit. The
26 official action to tax the goods-in-transit must be taken before
27 January 1 of the first tax year in which the governing body proposes

1 to tax goods-in-transit. Before acting to tax the exempt property,
2 the governing body of the taxing unit must conduct a public hearing
3 as required by Section 1-n(d), Article VIII, Texas Constitution.
4 If the governing body of a taxing unit provides for the taxation of
5 the goods-in-transit as provided by this subsection, the exemption
6 prescribed by Subsection (b) does not apply to that unit. The
7 goods-in-transit remain subject to taxation by the taxing unit
8 until the governing body of the taxing unit, in the manner required
9 for official action, rescinds or repeals its previous action to tax
10 goods-in-transit or otherwise determines that the exemption
11 prescribed by Subsection (b) will apply to that taxing unit.

12 (j-2) Notwithstanding Subsection (j-1), if under Subsection
13 (j) the governing body of a taxing unit, before September 1, 2011,
14 took action to provide for the taxation of goods-in-transit and
15 pledged the taxes imposed on the goods-in-transit for the payment
16 of a debt of the taxing unit, the tax officials of the taxing unit
17 may continue to impose the taxes against the goods-in-transit until
18 the debt is discharged, if cessation of the imposition would impair
19 the obligation of the contract by which the debt was created.

20 SECTION 3. Section 11.253(a)(2), Tax Code, as amended by
21 this Act, applies only to an ad valorem tax year that begins on or
22 after January 1, 2012.

23 SECTION 4. (a) Except as provided by Subsection (b) of this
24 section, this Act takes effect January 1, 2012.

25 (b) Section 2 of this Act takes effect September 1, 2011.