

By: Zaffirini

S.B. No. 776

A BILL TO BE ENTITLED

AN ACT

1
2 relating to customs brokers.

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

4 SECTION 1. Sections 151.157(a-1), (f), and (f-1), Tax Code,
5 are amended to read as follows:

6 (a-1) The comptroller shall maintain a password-protected
7 website that a customs broker, or an authorized employee of a
8 customs broker, licensed under this section must use to prepare
9 documentation to show the exemption of tangible personal property
10 under Section 151.307(b)(2). The comptroller shall require a
11 customs broker or authorized employee to use the website to
12 actually produce the documentation after providing all necessary
13 information. The comptroller shall use the information provided by
14 a customs broker or authorized employee under this subsection as
15 necessary to enforce this section and Section 151.307. [~~The
16 comptroller shall provide an alternate method to prepare
17 documentation to show the exemption of tangible personal property
18 under Section 151.307(b)(2) in those instances when the
19 password-protected website is unavailable due to technical or
20 communication problems.~~]

21 (f) The comptroller may suspend or revoke a license issued
22 under this section if the customs broker does not comply with
23 Section 151.1575(c) or issues documentation that is false [~~to
24 obtain a refund of taxes paid on tangible personal property not~~

1 ~~exported or to assist another person in obtaining such a refund~~].
2 The comptroller may determine the length of suspension or
3 revocation necessary for the enforcement of this chapter and the
4 comptroller's rules. A proceeding to suspend or revoke a license
5 under this subsection is a contested case under Chapter 2001,
6 Government Code. Judicial review is by trial de novo. The district
7 courts of Travis County have exclusive original jurisdiction of a
8 suit under this section.

9 (f-1) In addition to any other penalty provided by law, the
10 comptroller may require a customs broker to pay to the comptroller
11 the amount of any tax refunded and the amount of any penalty imposed
12 under Section 151.1575(c) if the customs broker did not comply with
13 this section or the rules adopted by the comptroller under this
14 section [~~in relation to the refunded tax~~].

15 SECTION 2. Sections 151.1575(b) and (c), Tax Code, are
16 amended to read as follows:

17 (b) A customs broker licensed by the comptroller or an
18 authorized employee of the customs broker may issue and deliver
19 documentation under Subsection (a) at any time after the tangible
20 personal property is purchased and the broker or employee completes
21 the process required by Subsection (a). The customs broker or
22 authorized employee may issue or deliver documentation only for
23 property that is listed on a single receipt. The documentation must
24 include:

- 25 (1) the name and address of the customs broker;
- 26 (2) the license number of the customs broker;
- 27 (3) the name and address of the purchaser;

1 (4) the name and address of the place at which the
2 property was purchased;

3 (5) the date and time of the sale;

4 (6) a description and the quantity of the property;

5 (7) the sales price of the property;

6 (8) the foreign country destination of the property,
7 which may not be the place of export;

8 (9) the date and time:

9 (A) at which the customs broker or authorized
10 employee watched the property cross the border of the United
11 States;

12 (B) at which the customs broker or authorized
13 employee watched the property being placed on a common carrier for
14 delivery outside the territorial limits of the United States; or

15 (C) the property is expected to arrive in the
16 foreign country destination, as stated by the purchaser;

17 (10) a declaration signed by the customs broker or an
18 authorized employee of the customs broker stating that:

19 (A) the customs broker is a licensed Texas
20 customs broker; and

21 (B) the customs broker or authorized employee
22 inspected the property and the original receipt for the property;
23 and

24 (11) an export certification stamp issued by the
25 comptroller.

26 (c) The comptroller may require a customs broker to pay the
27 comptroller the amount of any tax refunded if the customs broker

1 does not comply with this section, Section 151.157, or the rules
2 adopted by the comptroller under this section or Section 151.157.
3 In addition to the amount of the refunded tax, the comptroller may
4 require the customs broker to pay a penalty of of [~~in an amount equal~~
5 ~~to the amount of the refunded tax, but~~] not less than \$500 nor more
6 than \$5,000. The comptroller and the state may deduct any penalties
7 to be paid by a customs broker from the broker's posted bond.

8 SECTION 3. Section 151.158(g), Tax Code, is amended to read
9 as follows:

10 (g) The comptroller shall charge \$3.20 [~~\$1.60~~] for each
11 stamp. The comptroller shall use the money from the sale of the
12 stamps only for costs related to producing the stamps, including
13 costs of materials, labor, and overhead. Any unspent money shall be
14 deposited to the credit of the general revenue fund. Customs
15 brokers who return unused stamps to the comptroller's office on a
16 quarterly basis shall get credit towards the purchase of new
17 stamps.

18 SECTION 4. The change in law made by this Act applies only
19 to documentation issued on or after the effective date of this Act.
20 Documentation issued before the effective date of this Act is
21 governed by the law in effect on the date the documentation was
22 issued, and that law is continued in effect for that purpose.

23 SECTION 5. This Act takes effect September 1, 2011.