

1-1 By: Zaffirini S.B. No. 776
1-2 (In the Senate - Filed February 18, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Finance;
1-4 April 6, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 14, Nays 0; April 6, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 776 By: Zaffirini

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to customs brokers.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (a-1), (f), and (f-1), Section
1-13 151.157, Tax Code, are amended to read as follows:

1-14 (a-1) The comptroller shall maintain a password-protected
1-15 website that a customs broker, or an authorized employee of a
1-16 customs broker, licensed under this section must use to prepare
1-17 documentation to show the exemption of tangible personal property
1-18 under Section 151.307(b)(2). The comptroller shall require a
1-19 customs broker or authorized employee to use the website to
1-20 actually produce the documentation after providing all necessary
1-21 information. The comptroller shall use the information provided by
1-22 a customs broker or authorized employee under this subsection as
1-23 necessary to enforce this section and Section 151.307. [~~The
1-24 comptroller shall provide an alternate method to prepare
1-25 documentation to show the exemption of tangible personal property
1-26 under Section 151.307(b)(2) in those instances when the
1-27 password-protected website is unavailable due to technical or
1-28 communication problems.~~]

1-29 (f) The comptroller may suspend or revoke a license issued
1-30 under this section if the customs broker does not comply with
1-31 Section 151.1575(c) or issues documentation that is false [~~to
1-32 obtain a refund of taxes paid on tangible personal property not
1-33 exported or to assist another person in obtaining such a refund~~].
1-34 The comptroller may determine the length of suspension or
1-35 revocation necessary for the enforcement of this chapter and the
1-36 comptroller's rules. A proceeding to suspend or revoke a license
1-37 under this subsection is a contested case under Chapter 2001,
1-38 Government Code. Judicial review is by trial de novo. The district
1-39 courts of Travis County have exclusive original jurisdiction of a
1-40 suit under this section.

1-41 (f-1) In addition to any other penalty provided by law, the
1-42 comptroller may require a customs broker to pay to the comptroller
1-43 the amount of any tax refunded and the amount of any penalty imposed
1-44 under Section 151.1575(c) if the customs broker did not comply with
1-45 this section or the rules adopted by the comptroller under this
1-46 section [in relation to the refunded tax].

1-47 SECTION 2. Subsections (b) and (c), Section 151.1575, Tax
1-48 Code, are amended to read as follows:

1-49 (b) A customs broker licensed by the comptroller or an
1-50 authorized employee of the customs broker may issue and deliver
1-51 documentation under Subsection (a) at any time after the tangible
1-52 personal property is purchased and the broker or employee completes
1-53 the process required by Subsection (a). The documentation must
1-54 include:

- 1-55 (1) the name and address of the customs broker;
- 1-56 (2) the license number of the customs broker;
- 1-57 (3) the name and address of the purchaser;
- 1-58 (4) the name and address of the place at which the
1-59 property was purchased;
- 1-60 (5) the date and time of the sale;
- 1-61 (6) a description and the quantity of the property;
- 1-62 (7) the sales price of the property;
- 1-63 (8) the foreign country destination of the property,

2-1 which may not be the place of export;
2-2 (9) the date and time:
2-3 (A) at which the customs broker or authorized
2-4 employee watched the property cross the border of the United
2-5 States;
2-6 (B) at which the customs broker or authorized
2-7 employee watched the property being placed on a common carrier for
2-8 delivery outside the territorial limits of the United States; or
2-9 (C) the property is expected to arrive in the
2-10 foreign country destination, as stated by the purchaser;
2-11 (10) a declaration signed by the customs broker or an
2-12 authorized employee of the customs broker stating that:
2-13 (A) the customs broker is a licensed Texas
2-14 customs broker; and
2-15 (B) the customs broker or authorized employee
2-16 inspected the property and the original receipt for the property;
2-17 and
2-18 (11) an export certification stamp issued by the
2-19 comptroller.
2-20 (c) The comptroller may require a customs broker to pay the
2-21 comptroller the amount of any tax refunded if the customs broker
2-22 does not comply with this section, Section 151.157, or the rules
2-23 adopted by the comptroller under this section or Section 151.157.
2-24 In addition to the amount of the refunded tax, the comptroller may
2-25 require the customs broker to pay a penalty of [~~in an amount equal~~
2-26 ~~to the amount of the refunded tax, but~~] not less than \$500 nor more
2-27 than \$5,000. The comptroller and the statemay deduct any penalties
2-28 to be paid by a customs broker from the broker's posted bond.
2-29 SECTION 3. Subsection (g), Section 151.158, Tax Code, is
2-30 amended to read as follows:
2-31 (g) The comptroller shall charge \$2.10 [~~\$1.60~~] for each
2-32 stamp. The comptroller shall use \$1.60 of the money from the sale
2-33 of the stamps only for costs related to producing the stamps,
2-34 including costs of materials, labor, and overhead. The comptroller
2-35 shall use the remaining 50 cents only for enforcement of the laws
2-36 relating to customs brokers under this title. Any unspent money
2-37 shall be deposited to the credit of the general revenue fund.
2-38 Customs brokers who return unused stamps to the comptroller's
2-39 office on a quarterly basis shall get credit towards the purchase of
2-40 new stamps.
2-41 SECTION 4. The change in law made by this Act applies only
2-42 to documentation issued on or after the effective date of this Act.
2-43 Documentation issued before the effective date of this Act is
2-44 governed by the law in effect on the date the documentation was
2-45 issued, and that law is continued in effect for that purpose.
2-46 SECTION 5. This Act takes effect September 1, 2011.

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