

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 25, 2011

TO: Honorable Larry Phillips, Chair, House Committee on Transportation

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2237 by Lyne (Relating to the taxation and titling of certain off-road vehicles.),
Committee Report 1st House, Substituted

Depending on the number of off-road vehicles sold, there could be an indeterminate revenue impact to the State.

The bill would amend the Tax Code and the Transportation Code relating to the taxation and titling of certain off-road vehicles.

The bill would amend Chapter 152 of the Tax Code, regarding motor vehicle taxes, to add to the definition of a motor vehicle an "off-road vehicle" that is not required to be registered under Chapter 502 of the Transportation Code, and to add a definition for "off-road vehicle" to mean an all-terrain vehicle or a recreational off-highway vehicle as defined in Section 502.001, provided that the vehicle could be designed by the manufacturer primarily for farming, and a motorcycle designed for off-highway use.

The bill would amend this chapter's tax exemption provisions to add an exemption for an off-road vehicle meeting the farm or timber use exemption criteria.

The bill would amend the Chapter 501 of the Transportation Code to require that an off-road vehicle not required to be registered under Chapter 502 of this code be titled, unless the off-road vehicle was exempt under the farm or timber use provisions from the motor vehicle sales and use tax, or, the vehicle was acquired and sold or disposed of by a lienholder exercising a statutory or contractual lien right with regard to the vehicle.

Recreational vehicles used off-road have typically been taxed under Chapter 151 of the Tax Code, the sales and use tax. This bill would add off-road vehicle to the definition of a motor vehicle and make all-terrain vehicles, recreational off-highway vehicles and off-highway use motorcycles subject to the 6.25 percent motor vehicle sales and use tax found in Chapter 152 of the Tax Code.

Items taxed under Chapter 151 are subject to a 6.25 percent state tax plus local option sales taxes of up to 2 percent. As local option taxes do not exist in Chapter 152, the bill's provisions would result in a loss of revenue to any local entity with a local sales tax option. Because the number of units sold, transaction price and local option tax rate is unknown, this portion of the bill cannot be determined.

Additionally, under Chapter 152, off-road vehicles could be transferred by gift, or by even-trade, and transaction prices would be subject to standard presumptive value.

Off-road vehicles taxed under Chapter 151 may be eligible for an exemption from the tax if used exclusively for the building of roads and water facilities, or in the production of food for humans, grass, feed for animals or other agricultural products. Off-road vehicles taxed under Chapter 152 may be eligible for an exemption from the tax if used primarily for farming and ranching, including the rearing of poultry, and in feedlots or in timber operations. This is a more liberal standard than currently allowed in Chapter 151 and could result in a greater number of exemptions granted. Because

the number of units sold and transaction prices are unknown, this portion of the bill cannot be determined.

The bill would add a new requirement under the Transportation Code that any off-road vehicle would be required to obtain a certificate of title unless the transaction was tax exempt, or, acquired and sold or disposed of by a lien-holder exercising a statutory or contractual lien right. The fee for a certificate of title is \$33 in a non-attainment county and \$28 in every other county. Of each fee collected, \$5 goes to the county; \$5 to General Revenue Fund 0001; \$3 to the State Highway Fund 0006; and, the remaining balance to the Texas Mobility Fund 0365, except that of every \$33 fee, \$5 collected before September 1, 2015 would be deposited to the Texas Emissions Reduction Plan Fund 5071. Because the number of units sold is not known, the fiscal impact from this portion of the bill cannot be determined.

There is potential for circumstances resulting in no tax paid, for units brought in from out-of-state or units sold among individuals. In these cases there may be noncompliant purchasers who do not go to the county tax office to secure a title and pay the motor vehicle sales tax.

The bill would take effect September 1, 2011.

Local Government Impact

Motor vehicle sales and use tax is collected by a county tax assessor-collector for which a 5 percent commission is earned. Any off-road vehicles subject to the motor vehicle sales and use tax would add to a county's commission earnings. Because the number of units sold and transaction price are unknown, this portion of the bill cannot be determined.

Source Agencies: 304 Comptroller of Public Accounts

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