

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 10, 2011**

**TO:** Honorable Tommy Williams, Chair, Senate Committee on Transportation & Homeland Security

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

**IN RE: SB1280** by Estes (Relating to the taxation and titling of certain off-road vehicles.), **As Introduced**

**Depending on the number of off-road vehicles sold in the State, the bill would result in an indeterminate change in motor vehicle sales tax revenue.**

This 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, a recreational off-highway vehicle, 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. 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.

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. 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.

The bill defines an off-road vehicle using Transportation Code, Section 502.001(1)(D) and (19-a)(D), which states that an all-terrain vehicle and a recreational off-highway vehicle cannot be designed by the manufacturer primarily for farming or lawn care. This is in conflict with the exemption provided in Chapter 152 for vehicles used primarily for farming, ranching, or timber operations. This could mean that all-terrain vehicles and recreational off-highway vehicles designed for work on the farm, ranch or in timber operations would remain under Chapter 151, along with riding lawn mowers, golf carts, and off-road work related type equipment.

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 maybe 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**

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.

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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