

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hilderbran

H.B. No. 268

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used on a farm, ranch, or timber operation.

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

SECTION 1. Subchapter E, Chapter 151, Tax Code, is amended by adding Section 151.1551 to read as follows:

Sec. 151.1551. EXEMPTION NUMBER REQUIRED FOR TIMBER ITEMS AND CERTAIN AGRICULTURAL PROPERTY. (a) To qualify for an exemption for an item under Section 151.316(a)(3), (6), (7), (10), or (12) or an item or tangible personal property under Section 151.316(b) or 151.3162(b), an exemption number must be stated on the exemption certificate provided by the purchaser.

(b) A person is eligible for an exemption number if the person uses or intends to use an item or property listed under Subsection (a) that qualifies for an exemption under Section 151.316 on a farm or ranch, as those terms are defined by Section 151.316(c), or that qualifies for an exemption under Section 151.3162 on a timber operation.

(c) A person who is eligible may apply to the comptroller for an exemption number. The application must:

(1) be on a form prescribed by the comptroller;

(2) if applicable, state the types of crops, livestock, or other agricultural products that are produced for

1 sale on the farm or ranch on which the applicant will use or employ  
2 the item or property listed under Subsection (a) or state that the  
3 item or property will be used in relation to a timber operation;

4 (3) if applicable, state the name and address of the  
5 business owned or operated or to be owned or operated by the  
6 applicant in relation to which the applicant will use the exempt  
7 item or property; and

8 (4) contain any other information required by the  
9 comptroller.

10 (d) The comptroller by rule shall develop and implement a  
11 procedure by which an applicant may submit an application described  
12 by Subsection (c) electronically.

13 (e) The comptroller by rule shall establish a uniform date  
14 on which all exemption numbers issued under this section must be  
15 renewed, regardless of the date on which an exemption number is  
16 initially issued. The rules must require exemption numbers to be  
17 renewed every four years.

18 (f) The comptroller may not issue an exemption number that  
19 contains an individual's social security number.

20 (g) The comptroller, after adequate written notice and a  
21 hearing, may suspend or revoke the exemption number issued to a  
22 person who fails to comply with this chapter or with a rule adopted  
23 under this chapter. At the hearing the person must show cause why  
24 the person's exemption number should not be suspended or revoked.

25 (h) The comptroller shall give written notice of the  
26 suspension or revocation of an exemption number under Subsection  
27 (g) to the person to whom the number was issued. The notice may be

1 personally served on the person or sent by mail to the person's  
2 address as shown in the comptroller's records.

3 (i) If the comptroller revokes a person's exemption number  
4 under Subsection (g), the person may not be issued a new exemption  
5 number unless the comptroller is satisfied that the person will  
6 comply with this chapter and the rules adopted under this chapter.  
7 The comptroller may prescribe the terms under which a suspended  
8 exemption number may be reinstated.

9 (j) A taxpayer may appeal the suspension or revocation of an  
10 exemption number in the same manner that appeals are made from a  
11 final deficiency determination.

12 (k) The comptroller by rule shall develop and operate an  
13 online system to enable a seller of an item or property described by  
14 Subsection (a) to search and verify the validity of the exemption  
15 number stated on an exemption certificate. A seller is not required  
16 to use the online system.

17 (l) An exemption certificate that states an exemption  
18 number is sufficient documentation of the seller's receipt of the  
19 certificate in good faith for purposes of Sections 151.054 and  
20 151.104.

21 SECTION 2. Section 151.316(a), Tax Code, as amended by  
22 Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st  
23 Legislature, Regular Session, 2009, is reenacted and amended to  
24 read as follows:

25 (a) Subject to Section 151.1551, the [The] following items  
26 are exempted from the taxes imposed by this chapter:

27 (1) horses, mules, and work animals;

1           (2) animal life the products of which ordinarily  
2 constitute food for human consumption;

3           (3) feed for farm and ranch animals;

4           (4) feed for animals that are held for sale in the  
5 regular course of business;

6           (5) seeds and annual plants the products of which:

7               (A) ordinarily constitute food for human  
8 consumption;

9               (B) are to be sold in the regular course of  
10 business; or

11              (C) are used to produce feed for animals exempted  
12 by this section;

13           (6) fertilizers, fungicides, insecticides,  
14 herbicides, defoliants, and desiccants exclusively used or  
15 employed on a farm or ranch in the production of:

16               (A) food for human consumption;

17               (B) feed for animal life; or

18               (C) other agricultural products to be sold in the  
19 regular course of business;

20           (7) machinery and equipment exclusively used or  
21 employed on a farm or ranch in the building or maintaining of roads  
22 or water facilities or in the production of:

23               (A) food for human consumption;

24               (B) grass;

25               (C) feed for animal life; or

26               (D) other agricultural products to be sold in the  
27 regular course of business;

1           (8) machinery and equipment exclusively used in, and  
2 pollution control equipment required as a result of, the  
3 processing, packing, or marketing of agricultural products by an  
4 original producer at a location operated by the original producer  
5 for processing, packing, or marketing the producer's own products  
6 if:

7                   (A) 50 percent or more of the products processed,  
8 packed, or marketed at or from the location are produced by the  
9 original producer and not purchased or acquired from others; and

10                   (B) the producer does not process, pack, or  
11 market for consideration any agricultural products that belong to  
12 other persons in an amount greater than five percent of the total  
13 agricultural products processed, packed, or marketed by the  
14 producer;

15           (9) ice exclusively used by commercial fishing boats  
16 in the storing of aquatic species including but not limited to  
17 shrimp, other crustaceans, finfish, mollusks, and other similar  
18 creatures;

19           (10) tangible personal property, including a tire,  
20 sold or used to be installed as a component part of a motor vehicle,  
21 machinery, or other equipment exclusively used or employed on a  
22 farm or ranch in the building or maintaining of roads or water  
23 facilities or in the production of:

24                   (A) food for human consumption;

25                   (B) grass;

26                   (C) feed for animal life; or

27                   (D) other agricultural products to be sold in the

1 regular course of business;

2 (11) machinery and equipment exclusively used in an  
3 agricultural aircraft operation, as defined by 14 C.F.R. Section  
4 137.3; and

5 (12) tangible personal property incorporated into a  
6 structure that is used for the disposal of poultry carcasses in  
7 accordance with Section 26.303, Water Code.

8 SECTION 3. Section 151.316(b), Tax Code, is amended to read  
9 as follows:

10 (b) Subject to Section 151.1551, tangible [~~Tangible~~]  
11 personal property sold or used to be installed as a component of an  
12 underground irrigation system is exempt from the taxes imposed by  
13 this chapter if the system is exclusively used or employed on a farm  
14 or ranch in the production of:

15 (1) food for human consumption;

16 (2) grass;

17 (3) feed or forage for:

18 (A) animal life the products of which ordinarily  
19 constitute food for human consumption; or

20 (B) horses, mules, and work animals; or

21 (4) other agricultural products to be sold in the  
22 regular course of business.

23 SECTION 4. Section 151.3162(b), Tax Code, is amended to  
24 read as follows:

25 (b) Subject to Section 151.1551, the [~~The~~] following items  
26 are exempted from the tax imposed by this chapter:

27 (1) seedlings of trees grown for commercial timber;

1           (2) defoliants, desiccants, equipment, fertilizers,  
2 fungicides, herbicides, insecticides, and machinery exclusively  
3 used in the production of timber to be sold in the regular course of  
4 business;

5           (3) machinery and equipment used in, and pollution  
6 control equipment required as a result of, the processing, packing,  
7 or marketing of timber products by an original producer if:

8                   (A) the processing, packing, or marketing occurs  
9 at or from a location operated by the original producer;

10                   (B) at least 50 percent of the value of the timber  
11 products processed, packed, or marketed at or from the location is  
12 attributable to products produced by the original producer and not  
13 purchased or acquired from others; and

14                   (C) the original producer does not process, pack,  
15 or market for consideration timber products that belong to another  
16 person with a value greater than five percent of the total value of  
17 the timber products processed, packed, or marketed by the producer;  
18 and

19           (4) tangible personal property sold or used to be  
20 installed as a component of an underground irrigation system  
21 exclusively used in the production of timber to be sold in the  
22 regular course of business.

23           SECTION 5. Section 152.091, Tax Code, is amended by adding  
24 Subsection (a-1) and amending Subsections (b) and (c) to read as  
25 follows:

26           (a-1) In addition to the other requirements prescribed by  
27 this section, the exemption provided by Subsection (a) applies only

1 if the person purchasing or using the machine, trailer, or  
2 semitrailer provides an exemption certificate with an exemption  
3 number issued to the purchaser or user under Section 151.1551.

4 (b)(1) The taxes imposed by this chapter do not apply to the  
5 purchase of a:

6 (A) farm machine, trailer, or semitrailer that is  
7 to be leased for use primarily for farming and ranching, including  
8 the rearing of poultry, and use in feedlots; or

9 (B) machine, trailer, or semitrailer that is to  
10 be leased for use primarily for timber operations.

11 (2) The exemption provided by this subsection applies  
12 only if the person purchasing the machine, trailer, or semitrailer  
13 to be leased presents the tax assessor-collector a form prescribed  
14 and provided by the comptroller showing:

15 (A) the identification of the motor vehicle;

16 (B) the name and address of the lessor and the  
17 lessee; ~~and~~

18 (C) an exemption number issued to the purchaser  
19 under Section 151.1551; and

20 (D) verification by the lessee that the machine,  
21 trailer, or semitrailer will be used primarily for:

22 (i) farming and ranching, including the  
23 rearing of poultry, and use in feedlots; or

24 (ii) timber operations.

25 (3) If a motor vehicle for which the tax has not been  
26 paid ceases to be leased for use primarily for farming and ranching,  
27 including the rearing of poultry, and use in feedlots or timber



1 operations, the owner shall notify the comptroller on a form  
2 provided by the comptroller and shall pay the sales or use tax on  
3 the motor vehicle based on the owner's book value of the motor  
4 vehicle. The tax is imposed at the same percentage rate that is  
5 provided by Section 152.021(b).

6 (c) The taxes imposed by this chapter do not apply to the  
7 rental of a farm machine, a trailer, or a semitrailer for use  
8 primarily for farming and ranching, including the rearing of  
9 poultry, and use in feedlots, or a machine, a trailer, or a  
10 semitrailer for use primarily for timber operations. The tax that  
11 would have been remitted on gross rental receipts without this  
12 exemption shall be deemed to have been remitted for the purpose of  
13 calculating the minimum gross rental receipts imposed by Section  
14 152.026. The exemption provided by this subsection applies only if  
15 the owner of the motor vehicle obtains in good faith an exemption  
16 certificate from the person to whom the vehicle is being rented that  
17 includes an exemption number issued under Section 151.1551.

18 SECTION 6. Notwithstanding Section 151.1551, Tax Code, as  
19 added by this Act, a person is not required to state an exemption  
20 number on an exemption certificate or on a form prescribed by the  
21 comptroller of public accounts to qualify for an exemption under  
22 Section 151.316, 151.3162, or 152.091, Tax Code, that is claimed  
23 before January 1, 2012.

24 SECTION 7. The change in law made by this Act does not  
25 affect tax liability accruing before January 1, 2012. That  
26 liability continues in effect as if this Act had not been enacted,  
27 and the former law is continued in effect for the collection of

1 taxes due and for civil and criminal enforcement of the liability  
2 for those taxes.

3 SECTION 8. To the extent of any conflict, this Act prevails  
4 over another Act of the 82nd Legislature, Regular Session, 2011,  
5 relating to nonsubstantive additions to and corrections in enacted  
6 codes.

7 SECTION 9. This Act takes effect September 1, 2011.

# ADOPTED

MAY 19 2011

*Atty Gen*  
Secretary of the Senate

No. 268

By: *Seliger*

Substitute the following for H.B. No. 268:

By: *Al Seliger*

C.S. H.B. No. 268

## A BILL TO BE ENTITLED

### AN ACT

1  
2 relating to the exemption from sales and use taxes, including the  
3 motor vehicle sales and use tax, for timber and certain items used  
4 in or on a farm, ranch, timber operation, or agricultural aircraft  
5 operation.

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

7 SECTION 1. Subchapter E, Chapter 151, Tax Code, is amended  
8 by adding Section 151.1551 to read as follows:

9 Sec. 151.1551. REGISTRATION NUMBER REQUIRED FOR TIMBER AND  
10 CERTAIN AGRICULTURAL ITEMS. (a) This section applies to an  
11 exemption provided by:

12 (1) Sections 151.316(a)(6), (7), (8), (10), (11), and  
13 (12);

14 (2) Section 151.316(b) for tangible personal property  
15 used in the production of agricultural products for sale;

16 (3) Section 151.3162(b) for tangible personal  
17 property used in the production of timber for sale;

18 (4) Sections 151.317(a)(5) and (10) for electricity  
19 used in agriculture or timber operations; and

20 (5) Section 151.3111 for services performed on  
21 tangible personal property exempted under Section 151.316(a)(6),  
22 (7), (8), (10), (11), or (12), 151.316(b), or 151.3162(b).

23 (b) To claim an exemption to which this section applies, a  
24 registration number issued by the comptroller must be stated on the

1 exemption certificate provided by the purchaser of the item.

2 (c) A person is eligible to apply for a registration number  
3 if the person is engaged in the production of agricultural products  
4 or timber for sale or in an agricultural aircraft operation as  
5 defined by 14 C.F.R. Section 137.3.

6 (d) A person who is eligible may apply to the comptroller  
7 for a registration number. The application must:

8 (1) be on a form prescribed by the comptroller;

9 (2) if applicable, state the types of crops,  
10 livestock, or other agricultural products that are produced for  
11 sale on the farm or ranch on which the applicant will use or employ  
12 the item described by Subsection (a) or state that the item will be  
13 used in relation to a timber operation or an agricultural aircraft  
14 operation as defined by 14 C.F.R. Section 137.3;

15 (3) as applicable, state the name and address of the  
16 farm, ranch, timber operation, or other business owned or operated  
17 by the applicant in relation to which the applicant will use the  
18 item; and

19 (4) contain any other information required by the  
20 comptroller.

21 (e) The comptroller shall develop and implement a procedure  
22 by which an applicant may submit an application described by  
23 Subsection (d) electronically.

24 (f) The comptroller by rule shall establish a uniform date  
25 on which all registration numbers issued under this section must be  
26 renewed, regardless of the date on which a registration number is  
27 initially issued. The rules must require registration numbers to

1 be renewed every four years.

2 (g) The comptroller may not issue a registration number that  
3 contains an individual's social security number.

4 (h) The comptroller, after written notice and a hearing, may  
5 revoke the registration number issued to a person who fails to  
6 comply with this chapter or with a rule adopted under this chapter.  
7 A person whose registration number the comptroller proposes to  
8 revoke under this section is entitled to 20 days' written notice of  
9 the time and place of the hearing on the revocation. The notice  
10 must state the reason the comptroller is seeking to revoke the  
11 person's registration number. At the hearing the person must show  
12 cause why the person's registration number should not be revoked.

13 (i) The comptroller shall give written notice of the  
14 revocation of a registration number under Subsection (h) to the  
15 person to whom the number was issued. The notice may be personally  
16 served on the person or sent by mail to the person's address as  
17 shown in the comptroller's records.

18 (j) If the comptroller revokes a person's registration  
19 number under Subsection (h), the comptroller may not revive the  
20 registration number unless the comptroller is satisfied that the  
21 person will comply with this chapter and the rules adopted under  
22 this chapter. The comptroller may prescribe the terms under which a  
23 revoked registration number may be revived.

24 (k) Following the revocation of a registration number by the  
25 comptroller, the person who held the registration number must, on  
26 the next transaction with each seller to whom the person previously  
27 issued a claim for exemption with a registration number, notify

1 that seller that the person's registration number is no longer  
2 valid. The failure of a person to notify a seller as required by  
3 this subsection is considered a failure and refusal to pay the taxes  
4 imposed by this chapter by the person required to make the  
5 notification.

6 (l) The comptroller shall develop and operate an online  
7 system to enable a seller of an item described by Subsection (a) to  
8 search and verify the validity of the registration number stated on  
9 an exemption certificate. A seller is not required to use the  
10 online system.

11 (m) An exemption certificate that states a registration  
12 number issued by the comptroller to claim an exemption to which this  
13 section applies is sufficient documentation of the seller's receipt  
14 of the certificate in good faith for purposes of Sections 151.054  
15 and 151.104.

16 (n) The comptroller by rule shall establish procedures by  
17 which a seller may accept a blanket exemption certificate with a  
18 registration number issued by the comptroller to claim exemptions  
19 to which this section applies.

20 (o) A use of an item purchased using an exemption  
21 certificate with a registration number issued under this section in  
22 a manner or for a purpose other than the manner or purpose that  
23 qualified the sale, lease, rental, or other consumption of the item  
24 for the exemption may result in the revocation of the number.

25 (p) A person eligible for a registration number who, at the  
26 time of purchasing, leasing, renting, or otherwise consuming an  
27 item for which the person may otherwise claim an exemption to which

1 this section applies, has not obtained a registration number from  
2 the comptroller must pay the tax on the item to the seller at the  
3 time of the transaction. The person may then apply for a  
4 registration number and, on receipt of the number, may apply to the  
5 comptroller for a refund of the tax paid, subject to the statute of  
6 limitations. The comptroller by rule shall establish procedures  
7 for processing the refund requests. Tax collected by a seller under  
8 this subsection is not tax collected in error, and Section 111.104  
9 does not apply to a refund request submitted under this subsection.

10 SECTION 2. Section 151.3111(a), Tax Code, is amended to  
11 read as follows:

12 (a) Subject to Section 151.1551, a [A] service that is  
13 performed on tangible personal property that, if sold, leased, or  
14 rented, at the time of the performance of the service, would be  
15 exempted under this chapter because of the nature of the property,  
16 its use, or a combination of its nature and use, is exempted from  
17 this chapter.

18 SECTION 3. Section 151.316(a), Tax Code, as amended by  
19 Chapters 1162 (H.B. 3144) and 1373 (S.B. 958), Acts of the 81st  
20 Legislature, Regular Session, 2009, is reenacted and amended to  
21 read as follows:

22 (a) Subject to Section 151.1551, the [The] following items  
23 are exempted from the taxes imposed by this chapter:

- 24 (1) horses, mules, and work animals;  
25 (2) animal life the products of which ordinarily  
26 constitute food for human consumption;  
27 (3) feed for farm and ranch animals;

1           (4) feed for animals that are held for sale in the  
2 regular course of business;

3           (5) seeds and annual plants the products of which:  
4           (A) ordinarily constitute food for human  
5 consumption;  
6           (B) are to be sold in the regular course of  
7 business; or  
8           (C) are used to produce feed for animals exempted  
9 by this section;

10          (6) fertilizers, fungicides, insecticides,  
11 herbicides, defoliant, and desiccants exclusively used or  
12 employed on a farm or ranch in the production of:  
13          (A) food for human consumption;  
14          (B) feed for animal life; or  
15          (C) other agricultural products to be sold in the  
16 regular course of business;

17          (7) machinery and equipment exclusively used or  
18 employed on a farm or ranch in the building or maintaining of roads  
19 or water facilities or in the production of:  
20          (A) food for human consumption;  
21          (B) grass;  
22          (C) feed for animal life; or  
23          (D) other agricultural products to be sold in the  
24 regular course of business;

25          (8) machinery and equipment exclusively used in, and  
26 pollution control equipment required as a result of, the  
27 processing, packing, or marketing of agricultural products by an



1 original producer at a location operated by the original producer  
2 for processing, packing, or marketing the producer's own products  
3 if:

4 (A) 50 percent or more of the products processed,  
5 packed, or marketed at or from the location are produced by the  
6 original producer and not purchased or acquired from others; and

7 (B) the producer does not process, pack, or  
8 market for consideration any agricultural products that belong to  
9 other persons in an amount greater than five percent of the total  
10 agricultural products processed, packed, or marketed by the  
11 producer;

12 (9) ice exclusively used by commercial fishing boats  
13 in the storing of aquatic species including but not limited to  
14 shrimp, other crustaceans, finfish, mollusks, and other similar  
15 creatures;

16 (10) tangible personal property, including a tire,  
17 sold or used to be installed as a component part of a motor vehicle,  
18 machinery, or other equipment exclusively used or employed on a  
19 farm or ranch in the building or maintaining of roads or water  
20 facilities or in the production of:

21 (A) food for human consumption;

22 (B) grass;

23 (C) feed for animal life; or

24 (D) other agricultural products to be sold in the  
25 regular course of business;

26 (11) machinery and equipment exclusively used in an  
27 agricultural aircraft operation, as defined by 14 C.F.R. Section

1 137.3; and

2 (12) tangible personal property incorporated into a  
3 structure that is used for the disposal of poultry carcasses in  
4 accordance with Section 26.303, Water Code.

5 SECTION 4. Section 151.316(b), Tax Code, is amended to read  
6 as follows:

7 (b) Subject to Section 151.1551, tangible [~~Tangible~~]  
8 personal property sold or used to be installed as a component of an  
9 underground irrigation system is exempt from the taxes imposed by  
10 this chapter if the system is exclusively used or employed on a farm  
11 or ranch in the production of:

12 (1) food for human consumption;

13 (2) grass;

14 (3) feed or forage for:

15 (A) animal life the products of which ordinarily  
16 constitute food for human consumption; or

17 (B) horses, mules, and work animals; or

18 (4) other agricultural products to be sold in the  
19 regular course of business.

20 SECTION 5. Section 151.3162(b), Tax Code, is amended to  
21 read as follows:

22 (b) Subject to Section 151.1551, the [~~The~~] following items  
23 are exempted from the tax imposed by this chapter:

24 (1) seedlings of trees grown for commercial timber;

25 (2) defoliants, desiccants, equipment, fertilizers,  
26 fungicides, herbicides, insecticides, and machinery exclusively  
27 used in the production of timber to be sold in the regular course of

1 business;

2 (3) machinery and equipment used in, and pollution  
3 control equipment required as a result of, the processing, packing,  
4 or marketing of timber products by an original producer if:

5 (A) the processing, packing, or marketing occurs  
6 at or from a location operated by the original producer;

7 (B) at least 50 percent of the value of the timber  
8 products processed, packed, or marketed at or from the location is  
9 attributable to products produced by the original producer and not  
10 purchased or acquired from others; and

11 (C) the original producer does not process, pack,  
12 or market for consideration timber products that belong to another  
13 person with a value greater than five percent of the total value of  
14 the timber products processed, packed, or marketed by the producer;  
15 and

16 (4) tangible personal property sold or used to be  
17 installed as a component of an underground irrigation system  
18 exclusively used in the production of timber to be sold in the  
19 regular course of business.

20 SECTION 6. Section 151.317(a), Tax Code, is amended to read  
21 as follows:

22 (a) Subject to Section 151.1551 and Subsection (d) of this  
23 section, gas and electricity are exempted from the taxes imposed by  
24 this chapter when sold for:

25 (1) residential use;

26 (2) use in powering equipment exempt under Section  
27 151.318 or 151.3185 by a person processing tangible personal

1 property for sale as tangible personal property, other than  
2 preparation or storage of prepared food described by Section  
3 151.314(c-2);

4 (3) use in lighting, cooling, and heating in the  
5 manufacturing area during the actual manufacturing or processing of  
6 tangible personal property for sale as tangible personal property,  
7 other than preparation or storage of prepared food described by  
8 Section 151.314(c-2);

9 (4) use directly in exploring for, producing, or  
10 transporting, a material extracted from the earth;

11 (5) use in agriculture, including dairy or poultry  
12 operations and pumping for farm or ranch irrigation;

13 (6) use directly in electrical processes, such as  
14 electroplating, electrolysis, and cathodic protection;

15 (7) use directly in the off-wing processing, overhaul,  
16 or repair of a jet turbine engine or its parts for a certificated or  
17 licensed carrier of persons or property;

18 (8) use directly in providing, under contracts with or  
19 on behalf of the United States government or foreign governments,  
20 defense or national security-related electronics, classified  
21 intelligence data processing and handling systems, or  
22 defense-related platform modifications or upgrades;

23 (9) a direct or indirect use, consumption, or loss of  
24 electricity by an electric utility engaged in the purchase of  
25 electricity for resale; or

26 (10) use in timber operations, including pumping for  
27 irrigation of timberland.

1 SECTION 7. Section 152.091, Tax Code, is amended by adding  
2 Subsection (b-1) and amending Subsection (c) to read as follows:

3 (b-1) In addition to the other requirements prescribed by  
4 this section, to claim an exemption provided by Subsection (a) or  
5 (b) the person purchasing, using, or leasing the machine, trailer,  
6 or semitrailer must provide an exemption certificate with a  
7 registration number issued by the comptroller under Section  
8 151.1551.

9 (c) The taxes imposed by this chapter do not apply to the  
10 rental of a farm machine, a trailer, or a semitrailer for use  
11 primarily for farming and ranching, including the rearing of  
12 poultry, and use in feedlots, or a machine, a trailer, or a  
13 semitrailer for use primarily for timber operations. The tax that  
14 would have been remitted on gross rental receipts without this  
15 exemption shall be deemed to have been remitted for the purpose of  
16 calculating the minimum gross rental receipts imposed by Section  
17 152.026. The exemption provided by this subsection applies only if  
18 the owner of the motor vehicle obtains in good faith an exemption  
19 certificate from the person to whom the vehicle is being rented. To  
20 claim the exemption, the person renting the vehicle must also  
21 provide on the certificate a registration number issued by the  
22 comptroller under Section 151.1551.

23 SECTION 8. Notwithstanding Section 151.1551, Tax Code, as  
24 added by this Act, a person is not required to state a registration  
25 number on an exemption certificate or on a form prescribed by the  
26 comptroller of public accounts to claim an exemption to which  
27 Section 151.1551, Tax Code, as added by this Act, applies or an item

1 under Section 152.091, Tax Code, that is claimed before January 1,  
2 2012.

3       SECTION 9. The change in law made by this Act does not  
4 affect tax liability accruing before January 1, 2012. That  
5 liability continues in effect as if this Act had not been enacted,  
6 and the former law is continued in effect for the collection of  
7 taxes due and for civil and criminal enforcement of the liability  
8 for those taxes.

9       SECTION 10. To the extent of any conflict, this Act prevails  
10 over another Act of the 82nd Legislature, Regular Session, 2011,  
11 relating to nonsubstantive additions to and corrections in enacted  
12 codes.

13       SECTION 11. This Act takes effect September 1, 2011.

# ADOPTED

MAY 19 2011

*Atty Gen*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Schiger*

1 Amend C.S.H.B. No. 268 (senate committee printing) as  
2 follows:

3 (1) In SECTION 3 of the bill, in amended Section  
4 151.316(a)(11), Tax Code (page 3, line 63), strike "and" and  
5 substitute "[~~and~~]".

6 (2) In SECTION 3 of the bill, in amended Section  
7 151.316(a)(12), Tax Code (page 3, line 66), between "Code" and the  
8 period, insert the following:

9 ; and

10 (13) tangible personal property incorporated into or  
11 attached to a structure that is located on a commercial dairy farm,  
12 is used or employed exclusively for the production of milk, and is:

13 (A) a free-stall dairy barn; or

14 (B) a dairy structure used solely for maternity  
15 purposes

16 (3) In SECTION 9 of the bill (page 5, line 35), strike "The"  
17 and substitute "(a) Except as provided by Subsection (b) of this  
18 section, the".

19 (4) In SECTION 9 of the bill (page 5, between lines 40 and  
20 41), insert the following:

21 (b) Section 151.316(a)(13), Tax Code, as added by this Act,  
22 does not affect tax liability accruing before the effective date of  
23 this Act. That liability continues in effect as if that section had  
24 not been enacted, and the former law is continued in effect for the  
25 collection of taxes due and for civil and criminal enforcement of  
26 the liability for those taxes.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 20, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB268** by Hilderbran (Relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used in or on a farm, ranch, timber operation, or agricultural aircraft operation.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, As Passed 2nd House: a positive impact of \$1,394,000 through the biennium ending August 31, 2013.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$320,000
2013	\$1,074,000
2014	\$1,112,000
2015	\$1,144,000
2016	\$790,000

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain from General Revenue Fund 1</b>	<b>Probable Revenue Gain from Cities</b>	<b>Probable Revenue Gain from Transit Authorities</b>	<b>Probable Revenue Gain from Counties and Special Districts</b>
2012	\$1,189,000	\$232,000	\$72,000	\$41,000
2013	\$1,225,000	\$239,000	\$75,000	\$42,000
2014	\$1,263,000	\$246,000	\$77,000	\$43,000
2015	\$1,295,000	\$252,000	\$79,000	\$44,000
2016	\$1,325,000	\$258,000	\$81,000	\$45,000

<b>Fiscal Year</b>	<b>Probable (Cost) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	(\$869,000)	2.0
2013	(\$151,000)	2.0
2014	(\$151,000)	2.0
2015	(\$151,000)	2.0
2016	(\$535,000)	2.0

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code, regarding the sales and use tax.

The bill would require purchasers of certain items used in an agricultural or timber operation to apply



for a registration number from the Comptroller's Office before claiming a sales and use tax exemption. The registration number must be shown on the purchaser's exemption certificate.

Persons applying for a registration number must be engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3. An application for a registration number must be on a form prescribed by the Comptroller's Office, and provide the name and address of the business owned, the type of crops, livestock or other agricultural products sold, if applicable, and any other data the Comptroller deems necessary. Registration numbers would be subject to renewal every four years.

The bill would make conforming changes elsewhere in Chapter 151, and in Chapter 152, of the Tax Code.

The bill would amend Section 151.316 (a) by adding a new Subdivision (13) to exempt from sales and use tax tangible personal property incorporated into or attached to a dairy free stall barn or a dairy structure used solely for maternity purposes if the structure is located on a commercial dairy farm and is used exclusively for the production of milk.

This bill would take effect September 1, 2011.

### **Methodology**

The bill's provisions requiring a registration number when purchasing certain agriculture-related items, and when claiming an exemption, would deter some of the improper uses of exemption certificates identified by Comptroller's Office auditors. Data on the sales of items affected by the provisions of this bill were gathered from public and private sources; adjusted to represent the share of those sales not related to agriculture use, but using an exemption certificate; and extrapolated through 2016.

The administrative cost estimate reflects the funds that would be necessary to hire 2 FTEs and contract for seasonal employees to administer the agricultural exemption program, web development and programming, and security controls.

The proposed amendment to Section 151.316, regarding commercial dairy farms, is consistent with current administrative practice, and therefore would have no significant fiscal implications.

### **Technology**

There would be a one-time technology cost of \$323,000.00 in fiscal year 2012 for development, programming and project management.

### **Local Government Impact**

There would be a proportional gain of sales and use tax revenue to local taxing jurisdictions.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

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

**May 12, 2011**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

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

**IN RE: HB268** by Hilderbran (relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used in or on a farm, ranch, timber operation, or agricultural aircraft operation.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, Committee Report 2nd House, Substituted: a positive impact of \$1,394,000 through the biennium ending August 31, 2013.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$320,000
2013	\$1,074,000
2014	\$1,112,000
2015	\$1,144,000
2016	\$790,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>Cities</i>	Probable Revenue Gain from <i>Transit Authorities</i>	Probable Revenue Gain from <i>Counties and Special Districts</i>
2012	\$1,189,000	\$232,000	\$72,000	\$41,000
2013	\$1,225,000	\$239,000	\$75,000	\$42,000
2014	\$1,263,000	\$246,000	\$77,000	\$43,000
2015	\$1,295,000	\$252,000	\$79,000	\$44,000
2016	\$1,325,000	\$258,000	\$81,000	\$45,000

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	(\$869,000)	2.0
2013	(\$151,000)	2.0
2014	(\$151,000)	2.0
2015	(\$151,000)	2.0
2016	(\$535,000)	2.0

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code, regarding the sales and use tax.

The bill would require purchasers of certain items used in an agricultural or timber operation to apply for a registration number from the Comptroller's Office before claiming a sales and use tax exemption. The registration number must be shown on the purchaser's exemption certificate.

Persons applying for a registration number must be engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3. An application for a registration number must be on a form prescribed by the Comptroller's Office, and provide the name and address of the business owned, the type of crops, livestock or other agricultural products sold, if applicable, and any other data the Comptroller deems necessary. Registration numbers would be subject to renewal every four years.

The bill would make conforming changes elsewhere in Chapter 151, and in Chapter 152, of the Tax Code.

This bill would take effect September 1, 2011.

### **Methodology**

The bill's provisions requiring a registration number when purchasing certain agriculture-related items, and when claiming an exemption, would deter some of the improper uses of exemption certificates identified by Comptroller's Office auditors. Data on the sales of items affected by the provisions of this bill were gathered from public and private sources; adjusted to represent the share of those sales not related to agriculture use, but using an exemption certificate; and extrapolated through 2016.

The administrative cost estimate reflects the funds that would be necessary to hire 2 FTEs and contract for seasonal employees to administer the agricultural exemption program, web development and programming, and security controls.

### **Technology**

There would be a one-time technology cost of \$323,000.00 in fiscal year 2012 for development, programming and project management.

### **Local Government Impact**

There would be a proportional gain of sales and use tax revenue to local taxing jurisdictions.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

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

**April 29, 2011**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

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

**IN RE: HB268** by Hilderbran (Relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used on a farm, ranch, or timber operation.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, As Engrossed: a positive impact of \$1,380,000 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$311,000
2013	\$1,069,000
2014	\$1,109,000
2015	\$1,139,000
2016	\$785,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>Cities</i>	Probable Revenue Gain from <i>Transit Authorities</i>	Probable Revenue Gain from <i>Counties and other Special Districts</i>
2012	\$1,180,000	\$230,000	\$70,000	\$40,000
2013	\$1,220,000	\$240,000	\$70,000	\$40,000
2014	\$1,260,000	\$250,000	\$80,000	\$40,000
2015	\$1,290,000	\$250,000	\$80,000	\$40,000
2016	\$1,320,000	\$260,000	\$80,000	\$50,000

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	(\$869,000)	2.0
2013	(\$151,000)	2.0
2014	(\$151,000)	2.0
2015	(\$151,000)	2.0
2016	(\$535,000)	2.0

**Fiscal Analysis**

This bill would amend Chapter 151, regarding sales and use taxes, and Chapter 152, regarding motor vehicle taxes, of the Tax Code,

The bill would add new Section 151.1551 to require purchasers of certain agriculture items who claim a sales and use tax exemption to apply for an exemption number from the Comptroller's Office. The exemption number must be shown on the purchaser's exemption certificate.

Persons applying for an exemption number must use or intend to use certain items exempt under Section 151.316 on a farm or ranch as defined by Section 151.316(c) of the Code, or exempt under Section 151.3162 on a timber operation. An application for an exemption number must be on a form from the Comptroller's Office, and if applicable state the name and address of the business owned or operated in relation to which the exempt property will be used, state the type of crops, livestock or other agricultural products produced for sale, or state that the property will be used on a timber operation, and include any other data the Comptroller deems necessary. Exemption numbers would be subject to renewal every four years. An exemption certificate that states an exemption number would be sufficient documentation that the seller's receipt of the exemption certificate in good faith.

An exemption number as provided under Section 151.1551 would also be required in order to claim an exemption for a machine, trailer, or semitrailer under Section 152.091 of the Tax Code.

This bill would take effect September 1, 2011.

### **Methodology**

The bill's provisions requiring an exemption number when purchasing certain agriculture-related items, and claiming an exemption, would deter some of the improper uses of exemption certificates identified by Comptroller's Office auditors. Data on the sales of items affected by the provisions of this bill were gathered from public and private sources; adjusted to represent the share of those sales not related to agriculture use, but using an exemption certificate; and extrapolated through 2016.

The administrative cost estimate reflects the funds that would be necessary to hire 2 FTEs and contract for seasonal employees to administer the agricultural exemption program, web development and programming, and security controls.

### **Technology**

There would be a one-time technology cost of \$323,000 in fiscal year for development, programming and project management.

### **Local Government Impact**

There would be a proportional gain of sales and use tax revenue to local taxing jurisdictions.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

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

**March 31, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

**IN RE: HB268** by Hilderbran (relating to the exemption from sales and use taxes; including the motor vehicle sales and use tax, for timber and certain items used on a farm, ranch, or timber operation.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, Committee Report 1st House, Substituted: a positive impact of \$1,380,000 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$311,000
2013	\$1,069,000
2014	\$1,109,000
2015	\$1,139,000
2016	\$785,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue Gain from Cities	Probable Revenue Gain from Transit Authorities	Probable Revenue Gain from Counties and other Special Districts
2012	\$1,180,000	\$230,000	\$70,000	\$40,000
2013	\$1,220,000	\$240,000	\$70,000	\$40,000
2014	\$1,260,000	\$250,000	\$80,000	\$40,000
2015	\$1,290,000	\$250,000	\$80,000	\$40,000
2016	\$1,320,000	\$260,000	\$80,000	\$50,000

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$869,000)	2.0
2013	(\$151,000)	2.0
2014	(\$151,000)	2.0
2015	(\$151,000)	2.0
2016	(\$535,000)	2.0

**Fiscal Analysis**

This bill would amend Chapter 151, regarding sales and use taxes, and Chapter 152, regarding motor vehicle taxes, of the Tax Code,

The bill would add new Section 151.1551 to require purchasers of certain agriculture items who claim a sales and use tax exemption to apply for an exemption number from the Comptroller's Office. The exemption number must be shown on the purchaser's exemption certificate.

Persons applying for an exemption number must use or intend to use certain items exempt under Section 151.316 on a farm or ranch as defined by Section 151.316(c) of the Code, or exempt under Section 151.3162 on a timber operation. An application for an exemption number must be on a form from the Comptroller's Office, and if applicable state the name and address of the business owned or operated in relation to which the exempt property will be used, state the type of crops, livestock or other agricultural products produced for sale, or state that the property will be used on a timber operation, and include any other data the Comptroller deems necessary. Exemption numbers would be subject to renewal every four years. An exemption certificate that states an exemption number would be sufficient documentation that the seller's receipt of the exemption certificate in good faith.

An exemption number as provided under Section 151.1551 would also be required in order to claim an exemption for a machine, trailer, or semitrailer under Section 152.091 of the Tax Code.

This bill would take effect September 1, 2011.

### **Methodology**

The bill's provisions requiring an exemption number when purchasing certain agriculture-related items, and claiming an exemption, would deter some of the improper uses of exemption certificates identified by Comptroller's Office auditors. Data on the sales of items affected by the provisions of this bill were gathered from public and private sources; adjusted to represent the share of those sales not related to agriculture use, but using an exemption certificate; and extrapolated through 2016.

The administrative cost estimate reflects the funds that would be necessary to hire 2 FTEs and contract for seasonal employees to administer the agricultural exemption program, web development and programming, and security controls.

### **Technology**

There would be a one-time technology cost of \$323,000 in fiscal year for development, programming and project management.

### **Local Government Impact**

There would be a proportional gain of sales and use tax revenue to local taxing jurisdictions.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

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

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

**March 20, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

**IN RE: HB268** by Hilderbran (Relating to the exemption from the sales and use tax for certain agricultural items.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, As Introduced: a positive impact of \$1,175,000 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$212,000
2013	\$963,000
2014	\$998,000
2015	\$1,028,000
2016	\$671,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>Cities</i>	Probable Revenue (Loss) from <i>Transit Authorities</i>	Probable Revenue (Loss) from <i>Counties and Special Districts</i>
2012	\$1,081,000	\$211,000	\$66,000	\$37,000
2013	\$1,114,000	\$217,000	\$68,000	\$38,000
2014	\$1,149,000	\$224,000	\$70,000	\$39,000
2015	\$1,179,000	\$230,000	\$72,000	\$40,000
2016	\$1,206,000	\$235,000	\$73,000	\$41,000

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	(\$869,000)	2.0
2013	(\$151,000)	2.0
2014	(\$151,000)	2.0
2015	(\$151,000)	2.0
2016	(\$535,000)	2.0

**Fiscal Analysis**

The bill would amend Chapter 151 of the Tax Code, regarding the sales and use tax.



The bill would require purchasers of certain agriculture items who claim a sales and use tax exemption to apply for an exemption number from the Comptroller's Office. The exemption number must be shown on the purchaser's exemption certificate.

Persons applying for an exemption number must own or operate a farm or ranch as defined by Section 151.316(c) of the Code. An application for an exemption number must be on a form from the Comptroller's Office, and provide the name and address of the business owned, the type of crops, livestock or other agricultural products sold, and any other data the Comptroller deems necessary. Exemption numbers would be subject to renewal every four years.

The bill would take effect September 1, 2011.

### **Methodology**

The bill's provisions requiring an exemption number when purchasing certain agriculture-related items, and claiming an exemption, would deter some of the improper uses of exemption certificates identified by Comptroller's Office auditors. Data on the sales of items affected by the provisions of this bill were gathered from public and private sources; adjusted to represent the share of those sales not related to agriculture use, but using an exemption certificate; and extrapolated through 2016.

The CPA estimate an administrative cost that would be necessary to hire 2 FTEs and contract for seasonal employees to administer the agricultural exemption program, web development and programming, and security controls.

### **Technology**

There would be a one-time technology cost of \$323,000 in fiscal year 2012 for programming and project management.

### **Local Government Impact**

There would be a propotional gain of sales tax revenue to units of local government.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD

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

**TAX/FEE EQUITY NOTE**

**82ND LEGISLATIVE REGULAR SESSION**

**March 31, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

**IN RE:** **HB268** by Hilderbran (relating to the exemption from sales and use taxes; including the motor vehicle sales and use tax, for timber and certain items used on a farm, ranch, or timber operation.), **Committee Report 1st House, Substituted**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

**Source Agencies:**

**LBB Staff:** JOB, KK

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

**TAX/FEE EQUITY NOTE**

**82ND LEGISLATIVE REGULAR SESSION**

**March 20, 2011**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

**IN RE: HB268** by Hilderbran (Relating to the exemption from the sales and use tax for certain agricultural items.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

**Source Agencies:**

**LBB Staff:** JOB, KK