

By: Frank

H.B. No. 2779

A BILL TO BE ENTITLED

AN ACT

relating to the taxation and titling of certain off-road vehicles;  
providing penalties.

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

SECTION 1. Section 152.001, Tax Code, is amended by  
amending Subdivision (3) and adding Subdivision (21) to read as  
follows:

(3) "Motor vehicle [~~Vehicle~~]" includes:

(A) a self-propelled vehicle designed to  
transport persons or property on a public highway;

(B) a trailer and semitrailer, including a van,  
flatbed, tank, dumpster, dolly, jeep, stinger, auxiliary axle, or  
converter gear; ~~and~~

(C) a house trailer as defined by Chapter 501,  
Transportation Code; and

(D) an off-road vehicle that is not required to  
be registered under Chapter 502, Transportation Code.

(21) "Off-road vehicle" means:

(A) an all-terrain vehicle or a recreational  
off-highway vehicle, as those terms are defined by Section 502.001,  
Transportation Code, provided that the vehicle may be designed by  
the manufacturer primarily for farming; or

(B) a motorcycle designed by the manufacturer for  
off-highway use.

1 SECTION 2. Subchapter A, Chapter 152, Tax Code, is amended  
2 by adding Section 152.004 to read as follows:

3 Sec. 152.004. APPLICABILITY OF REGISTRATION PROVISIONS TO  
4 CERTAIN MOTOR VEHICLES. A provision of this chapter requiring a  
5 motor vehicle to be registered or requiring a person to apply for  
6 registration of a motor vehicle does not apply to a motor vehicle  
7 that is not required to be registered under Chapter 502,  
8 Transportation Code.

9 SECTION 3. Section 152.022, Tax Code, is amended by  
10 amending Subsection (a) and adding Subsection (a-1) to read as  
11 follows:

12 (a) A use tax is imposed on a motor vehicle, other than an  
13 off-road vehicle, purchased at retail sale outside this state and  
14 used on the public highways of this state by a Texas resident or  
15 other person who is domiciled or doing business in this state.

16 (a-1) A use tax is imposed on a motor vehicle that is an  
17 off-road vehicle purchased at retail sale outside this state and  
18 used in this state by a Texas resident or other person who is  
19 domiciled or doing business in this state.

20 SECTION 4. Section 152.028, Tax Code, is amended by  
21 amending Subsection (a) and adding Subsection (a-1) to read as  
22 follows:

23 (a) A use tax is imposed on the operator of a motor vehicle,   
24 other than an off-road vehicle, that was purchased tax-free under  
25 Section 152.092 [~~of this code~~] and that is brought back into this  
26 state for use on the public highways of this state. The tax is  
27 imposed at the time the motor vehicle is brought back into this

1 state.

2 (a-1) A use tax is imposed on the operator of a motor vehicle  
3 that is an off-road vehicle that was purchased tax-free under  
4 Section 152.092 and that is brought back into this state for use in  
5 this state. The tax is imposed at the time the motor vehicle is  
6 brought back into this state.

7 SECTION 5. Section 152.0411, Tax Code, is amended by  
8 amending Subsection (c) and adding Subsection (c-1) to read as  
9 follows:

10 (c) Except as provided by Subsection (c-1), this [~~This~~]  
11 section applies only to the sale of a vehicle that is to be titled  
12 and registered in Texas. If a purchaser intends to register a  
13 vehicle outside Texas, the purchaser shall comply with the terms of  
14 Section 152.092.

15 (c-1) This section applies to the sale of a motor vehicle  
16 that is an off-road vehicle that is to be titled in this state. This  
17 section does not apply to the sale of a motor vehicle that is an  
18 off-road vehicle that is to be titled outside this state. If a  
19 purchaser intends to title a motor vehicle that is an off-road  
20 vehicle outside this state, the purchaser shall comply with Section  
21 152.092.

22 SECTION 6. Section 152.061, Tax Code, is amended by adding  
23 Subsection (d) to read as follows:

24 (d) An owner of a motor vehicle that is an off-road vehicle  
25 purchased for rental may furnish a rental certificate as provided  
26 by Subsection (a). The Texas Department of Motor Vehicles by rule  
27 shall provide procedures for accepting a rental certificate and

1 issuing a title for a rental off-road vehicle. A reference in this  
2 chapter to a motor vehicle registered as a rental vehicle applies to  
3 a rental off-road vehicle for which the owner has complied with this  
4 section and rules adopted under this section.

5 SECTION 7. Section 152.082, Tax Code, is amended to read as  
6 follows:

7 Sec. 152.082. SALE OF MOTOR VEHICLE TO OR USE OF MOTOR  
8 VEHICLE BY PUBLIC AGENCY. The taxes imposed by this chapter do not  
9 apply to the sale of a motor vehicle to or use of a motor vehicle by  
10 a public agency if:

11 (1) the motor vehicle is operated with an exempt  
12 license plate issued under Section 502.451 [~~502.201 or 502.206~~],  
13 Transportation Code; or

14 (2) the motor vehicle is an off-road vehicle.

15 SECTION 8. Section 152.083(b), Tax Code, is amended to read  
16 as follows:

17 (b) This exemption applies only if the person purchasing the  
18 motor vehicle to be leased presents the tax assessor-collector a  
19 form prescribed and provided by the comptroller and showing:

20 (1) the identification of the motor vehicle;

21 (2) the name and address of the lessor and the lessee;

22 and

23 (3) unless the motor vehicle is an off-road vehicle,

24 verification by an officer of the public agency to which the motor  
25 vehicle will be leased that the agency will operate the vehicle with

26 an exempt license plate issued under Section 502.451 [~~502.201 or~~

27 ~~502.206~~], Transportation Code.

1 SECTION 9. Section 152.091, Tax Code, is amended to read as  
2 follows:

3 Sec. 152.091. FARM OR TIMBER USE. (a) The taxes imposed by  
4 this chapter do not apply to the sale or use of ~~a~~:

5 (1) a farm machine, a trailer, a ~~or~~ semitrailer, or  
6 an off-road vehicle for use primarily for farming and ranching,  
7 including the rearing of poultry, and use in feedlots; or

8 (2) a machine, a trailer, a ~~or~~ semitrailer, or an  
9 off-road vehicle for use primarily for timber operations.

10 (b)(1) The taxes imposed by this chapter do not apply to the  
11 purchase of ~~a~~:

12 (A) a farm machine, a trailer, a ~~or~~  
13 semitrailer, or an off-road vehicle that is to be leased for use  
14 primarily for farming and ranching, including the rearing of  
15 poultry, and use in feedlots; or

16 (B) a machine, a trailer, a ~~or~~ semitrailer, or  
17 an off-road vehicle that is to be leased for use primarily for  
18 timber operations.

19 (2) The exemption provided by this subsection applies  
20 only if the person purchasing the machine, trailer, ~~or~~  
21 semitrailer, or off-road vehicle to be leased presents the tax  
22 assessor-collector a form prescribed and provided by the  
23 comptroller showing:

24 (A) the identification of the motor vehicle;

25 (B) the name and address of the lessor and the  
26 lessee; and

27 (C) verification by the lessee that the machine,

1 trailer, [~~or~~] semitrailer, or off-road vehicle will be used  
2 primarily for:

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

5 (ii) timber operations.

6 (3) If a motor vehicle for which the tax has not been  
7 paid ceases to be leased for use primarily for farming and ranching,  
8 including the rearing of poultry, and use in feedlots or timber  
9 operations, the owner shall notify the comptroller on a form  
10 provided by the comptroller and shall pay the sales or use tax on  
11 the motor vehicle based on the owner's book value of the motor  
12 vehicle. The tax is imposed at the same percentage rate that is  
13 provided by Section 152.021(b).

14 (b-1) In addition to the other requirements prescribed by  
15 this section, to claim an exemption provided by Subsection (a) or  
16 (b) the person purchasing, using, or leasing the machine, trailer,  
17 [~~or~~] semitrailer, or off-road vehicle must provide an exemption  
18 certificate with a registration number issued by the comptroller  
19 under Section 151.1551.

20 (c) The taxes imposed by this chapter do not apply to the  
21 rental of a farm machine, a trailer, [~~or~~] a semitrailer, or an  
22 off-road vehicle for use primarily for farming and ranching,  
23 including the rearing of poultry, and use in feedlots, or a machine,  
24 a trailer, [~~or~~] a semitrailer, or an off-road vehicle for use  
25 primarily for timber operations. The tax that would have been  
26 remitted on gross rental receipts without this exemption shall be  
27 deemed to have been remitted for the purpose of calculating the

1 minimum gross rental receipts imposed by Section 152.026. The  
2 exemption provided by this subsection applies only if the owner of  
3 the motor vehicle obtains in good faith an exemption certificate  
4 from the person to whom the vehicle is being rented. To claim the  
5 exemption, the person renting the vehicle must also provide on the  
6 certificate a registration number issued by the comptroller under  
7 Section 151.1551.

8 (d) For purposes of this section, a machine or an off-road  
9 vehicle is used "primarily for timber operations" if the machine or  
10 off-road vehicle is a self-propelled motor vehicle that is  
11 specially adapted to perform a specialized function in the  
12 production of timber, including land preparation, planting,  
13 maintenance, and gathering of trees commonly grown for commercial  
14 timber. The term does not include a self-propelled motor vehicle  
15 used to transport timber or timber products.

16 SECTION 10. Section 152.102(a), Tax Code, is amended to  
17 read as follows:

18 (a) A person commits an offense if the person knowingly  
19 operates a motor vehicle on a highway of this state, or knowingly  
20 operates a motor vehicle that is an off-road vehicle in this state,  
21 without paying the tax imposed by this chapter on the vehicle.

22 SECTION 11. Subchapter B, Chapter 501, Transportation Code,  
23 is amended by adding Section 501.0225 to read as follows:

24 Sec. 501.0225. CERTIFICATE OF TITLE REQUIRED FOR OFF-ROAD  
25 VEHICLE. A person who purchases, imports, or otherwise acquires an  
26 off-road vehicle, as defined by Section 152.001, Tax Code, may not  
27 operate or permit the operation of the vehicle in this state, or

1 sell or dispose of the vehicle in this state, until the person  
2 obtains a certificate of title for the vehicle, regardless of  
3 whether the vehicle is exempt from taxation under Chapter 152, Tax  
4 Code. This section does not apply to an off-road vehicle acquired  
5 and sold or disposed of by a lienholder exercising a statutory or  
6 contractual lien right with regard to the vehicle, except that this  
7 section does apply to the purchaser of that vehicle.

8         SECTION 12. Section 501.0225, Transportation Code, as added  
9 by this Act, applies only to a person who purchases, imports, or  
10 otherwise acquires an off-road vehicle on or after the effective  
11 date of this Act. A person who purchases, imports, or otherwise  
12 acquires an off-road vehicle before the effective date of this Act  
13 is governed by the law in effect immediately before the effective  
14 date of this Act, and the former law is continued in effect for that  
15 purpose.

16         SECTION 13. The change in law made by this Act does not  
17 affect tax liability accruing before the effective date of this  
18 Act. That liability continues in effect as if this Act had not been  
19 enacted, and the former law is continued in effect for the  
20 collection of taxes due and for civil and criminal enforcement of  
21 the liability for those taxes.

22         SECTION 14. Not later than December 1, 2013, the Texas  
23 Department of Motor Vehicles and the comptroller of public accounts  
24 shall adopt any rules necessary to implement the changes in law made  
25 by this Act.

26         SECTION 15. (a) Except as provided by Subsection (b) of  
27 this section, this Act takes effect January 1, 2014.



1 (b) Section 14 of this Act takes effect September 1, 2013.