

BILL ANALYSIS

C.S.H.B. 3923
By: Wray
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A ready-mix concrete truck, interested parties note, is a critical and highly specialized piece of equipment used in the manufacture of concrete, a time-sensitive and complex manufacturing process that, once started, cannot be stopped and continues from the plant, to the delivery address, and back to the plant. Without this continuous mixing the mixed materials could harden prematurely or damage the concrete or truck. C.S.H.B. 3923 seeks to acknowledge the unique nature of the concrete manufacturing process and to allow that manufacturing process and the specialized equipment it requires to be taken into account in the computation of a taxable entity's cost of goods sold for purposes of determining the entity's franchise tax liability.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3923 amends the Tax Code to authorize a taxable entity that transports ready-mixed concrete to subtract distribution costs regardless of whether the taxable entity owns the ready-mixed concrete as cost of goods sold for purposes of determining the taxable margin on which the entity's franchise tax liability is based.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3923 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 171.1012(a)(2), Tax Code, is amended to read as follows: (2) "Production" includes construction,	No equivalent provision. (But see SECTION 1 below.)

installation, manufacture, development, mining, extraction, improvement, creation, raising, or growth. The term includes the manufacture of a good while in transit.

SECTION 2. Section 171.1012(d), Tax Code, is amended to read as follows:

(d) In addition to the amounts includable under Subsection (c), the cost of goods sold includes the following costs in relation to the taxable entity's goods:

- (1) deterioration of the goods;
- (2) obsolescence of the goods;
- (3) spoilage and abandonment, including the costs of rework labor, reclamation, and scrap;
- (4) if the property is held for future production, preproduction direct costs allocable to the property, including costs of purchasing the goods and of storage and handling the goods, as provided by Subsections (c)(4) and (c)(5);
- (5) postproduction direct costs allocable to the property, including storage and handling costs, as provided by Subsections (c)(4) and (c)(5);
- (6) the cost of insurance on a plant or a facility, machinery, equipment, or materials directly used in the production of the goods;
- (7) the cost of insurance on the produced goods;
- (8) the cost of utilities, including electricity, gas, and water, directly used in the production of the goods;
- (9) the costs of quality control, including replacement of defective components pursuant to standard warranty policies, inspection directly allocable to the production of the goods, and repairs and maintenance of goods; ~~and~~
- (10) licensing or franchise costs, including fees incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right directly associated with the goods produced; and
- (11) production costs allocable to the manufacturing of a good while in transit.

SECTION 3. Section 622.011(a), Transportation Code, is amended to read as follows:

- (a) In this subchapter, "ready-mixed concrete truck" means:
- (1) a vehicle designed exclusively to

No equivalent provision. (*But see SECTION 1 below.*)

No equivalent provision.

transport or manufacture ready-mixed concrete and includes a vehicle designed exclusively to transport while manufacturing [~~and manufacture~~] ready-mixed concrete; [Ø]
(2) a concrete pump truck; or
(3) a volumetric ready-mix concrete truck.

No equivalent provision. (But see SECTIONS 1 and 2 above.)

SECTION 4. The changes in law made by this Act to Section 171.1012, Tax Code, apply only to a report originally due on or after January 1, 2016.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 1. Section 171.1012, Tax Code, is amended by adding Subsection (r) to read as follows:

(r) Notwithstanding Subsection (e)(3) or (6) or any other provision of this section, a taxable entity that transports ready-mixed concrete may subtract as cost of goods sold distribution costs regardless of whether the taxable entity owns the ready-mixed concrete.

SECTION 2. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2016.