

By: Wray

H.B. No. 4039

A BILL TO BE ENTITLED

AN ACT

relating to mixed beverage taxes; repealing a tax; increasing the rate of a tax.

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

SECTION 1. Section 1504.256(b), Government Code, is amended to read as follows:

(b) The total amount of mixed beverage tax receipts pledged under Subsection (a) may not exceed an amount equal to 1-1/2 percent of the sales [~~gross receipts~~] subject to taxation under Chapter 183, Tax Code, by [~~from~~] permittees within the municipality.

SECTION 2. Section 111.0625(b), Tax Code, is amended to read as follows:

(b) The comptroller by rule shall require a taxpayer who paid \$10,000 or more during the preceding fiscal year in the category of payments described by this subsection to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year. This subsection applies only to:

- (1) state and local sales and use taxes;
- (2) direct payment sales taxes;
- (3) gas severance taxes;
- (4) oil severance taxes;

- 1 (5) franchise taxes;
- 2 (6) gasoline taxes;
- 3 (7) diesel fuel taxes;
- 4 (8) hotel occupancy taxes;
- 5 (9) insurance premium taxes;
- 6 (10) mixed beverage sales [~~gross receipts~~] taxes; and
- 7 (11) motor vehicle rental taxes [~~, and~~
- 8 [~~(12) telecommunications infrastructure fund~~
- 9 ~~assessments~~].

10 SECTION 3. Section 151.308(a), Tax Code, is amended to read
11 as follows:

12 (a) The following are exempted from the taxes imposed by
13 this chapter:

- 14 (1) oil as taxed by Chapter 202;
- 15 (2) sulphur as taxed by Chapter 203;
- 16 (3) motor fuels and special fuels as defined, taxed,
17 or exempted by Chapter 162;
- 18 (4) cement as taxed by Chapter 181;
- 19 (5) motor vehicles, trailers, and semitrailers as
20 defined, taxed, or exempted by Chapter 152, other than a mobile
21 office or an oilfield portable unit, as those terms are defined by
22 Section 152.001;
- 23 (6) mixed beverages, ice, or nonalcoholic beverages
24 and the preparation or service of these items if [~~the receipts are~~
25 ~~taxable by Subchapter B, Chapter 183, or~~] the items are taxable by
26 Subchapter B-1, Chapter 183;
- 27 (7) alcoholic beverages when sold to the holder of a

1 private club registration permit or to the agent or employee of the
2 holder of a private club registration permit if the holder or agent
3 or employee is acting as the agent of the members of the club and if
4 the beverages are to be served on the premises of the club;

5 (8) oil well service as taxed by Subchapter E, Chapter
6 191; and

7 (9) insurance premiums subject to gross premiums
8 taxes.

9 SECTION 4. Section 183.041(b), Tax Code, is amended to read
10 as follows:

11 (b) The rate of the tax is 14 [~~8-25~~] percent of the sales
12 price of the item sold, prepared, or served.

13 SECTION 5. Section 183.042, Tax Code, is amended to read as
14 follows:

15 Sec. 183.042. DISCLOSURE OF TAX. A permittee may provide
16 that a sales invoice, billing, service check, ticket, or other
17 receipt to a customer for the purchase of an item subject to
18 taxation under this subchapter include:

19 (1) a statement that mixed beverage sales tax is
20 included in the sales price;

21 (2) a separate statement of the amount of tax imposed
22 under this subchapter on that item; or

23 ~~(3) [a statement of the mixed beverage taxes,~~
24 ~~consisting of the combined amount of the tax to be paid by the~~
25 ~~permittee under Subchapter B in relation to that item and the amount~~
26 ~~of tax imposed under this subchapter on that item; or~~

27 [~~4~~] a statement of the combined amount of taxes

1 imposed under this subchapter and Chapter 151 on all items listed on
2 the invoice, billing, service check, ticket, or other receipt.

3 SECTION 6. Section 183.043(c), Tax Code, is amended to read
4 as follows:

5 (c) A sale to a permittee of an item described by Section
6 183.041(a) [~~183.021~~] is not a sale for resale for purposes of
7 Section 151.302 if the item is mixed with or becomes a component
8 part of a mixed beverage subject to taxation under this subchapter
9 that is served without any consideration paid to the permittee.

10 SECTION 7. Section 183.051(a), Tax Code, is amended to read
11 as follows:

12 (a) Not later than the last day of the month following a
13 calendar quarter, the comptroller shall calculate the total amount
14 of taxes received under Subchapter [~~Subchapters B and~~] B-1 during
15 the quarter from permittees outside an incorporated municipality
16 within each county and the total amount received from permittees
17 within each incorporated municipality in each county.

18 SECTION 8. Section 183.052, Tax Code, is amended to read as
19 follows:

20 Sec. 183.052. CONFLICT OF RULES. If a rule or policy
21 adopted by the Texas Alcoholic Beverage Commission conflicts with a
22 rule adopted by the comptroller for the application, enforcement,
23 or collection of the [~~a~~] tax imposed by this chapter, the
24 comptroller's rule prevails. A conflicting rule or policy adopted
25 by the commission is invalid to the extent of the inconsistency. If
26 the comptroller determines that a rule or policy adopted by the
27 commission conflicts with one adopted by the comptroller relating

1 to the application, enforcement, or collection of the [a] tax
2 imposed by this chapter, the comptroller shall notify the
3 commission in writing of the determination. After receipt of the
4 notification, the commission must amend or repeal the conflicting
5 rule or policy not later than the 90th day after the date of
6 notification.

7 SECTION 9. The following provisions are repealed:

8 (1) Section 183.001(b)(2), Tax Code; and

9 (2) Subchapter B, Chapter 183, Tax Code.

10 SECTION 10. For purposes of a pledge made under Section
11 1504.256, Government Code, by a municipality before the effective
12 date of this Act, a pledge of a percentage of gross receipts subject
13 to taxation under Chapter 183, Tax Code, means a pledge of a
14 percentage of sales subject to taxation under Chapter 183, Tax
15 Code.

16 SECTION 11. The changes in law made by this Act do 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 and enforcement of those taxes.

21 SECTION 12. This Act takes effect September 1, 2015.