

By: Creighton
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S.B. No. 761

A BILL TO BE ENTITLED

AN ACT

relating to the taxation of fireworks.

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

SECTION 1. Section 151.801, Tax Code, is amended by amending Subsections (a) and (d) and adding Subsection (c-2) to read as follows:

(a) Except for the amounts allocated under Subsections (b), ~~and~~ (c), and (c-2), all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(c-2) An amount equal to the revenue derived from the collection of taxes at the rate of two percent on each sale at retail of fireworks shall be deposited to the credit of the rural volunteer fire department insurance fund established under Section 614.075, Government Code.

(d) The comptroller shall determine the amount to be deposited to the highway fund under Subsection (b) according to available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. The comptroller shall determine the amounts to be deposited to the funds or accounts under Subsection (c) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of sporting goods. The comptroller shall determine the

1 amount to be deposited to the fund under Subsection (c-2) according
2 to available statistical data indicating the estimated or actual
3 total receipts in this state from taxes imposed on sales at retail
4 of fireworks. If satisfactory data are not available, the
5 comptroller may require taxpayers who make taxable sales or uses of
6 those lubricants, ~~or~~ of sporting goods, or of fireworks to report
7 to the comptroller as necessary to make the allocation required by
8 Subsection (b), ~~or~~ (c), or (c-2).

9 SECTION 2. Section 151.801(e), Tax Code, is amended by
10 adding Subdivision (3) to read as follows:

11 (3) "Fireworks" means any composition or device that
12 is designed to produce a visible or audible effect by combustion,
13 explosion, deflagration, or detonation that is classified as
14 Division 1.4G explosives by the United States Department of
15 Transportation in 49 C.F.R. Part 173 as of September 1, 1999. The
16 term does not include:

17 (A) a toy pistol, toy cane, toy gun, or other
18 device that uses a paper or plastic cap;

19 (B) a model rocket or model rocket motor
20 designed, sold, and used for the purpose of propelling a
21 recoverable aero model;

22 (C) a propelling or expelling charge consisting
23 of a mixture of sulfur, charcoal, and potassium nitrate;

24 (D) a novelty or trick noisemaker;

25 (E) a pyrotechnic signaling device or distress
26 signal for marine, aviation, or highway use in an emergency
27 situation;

1 (F) a fusee or railway torpedo for use by a
2 railroad;

3 (G) a blank cartridge for use in a radio,
4 television, film, or theater production, for signal or ceremonial
5 purposes in athletic events, or for industrial purposes; or

6 (H) a pyrotechnic device for use by a military
7 organization.

8 SECTION 3. Section 614.072(h), Government Code, is amended
9 to read as follows:

10 (h) Administration costs associated with the program during
11 a state fiscal year may not exceed seven percent of the total
12 deposited to the credit of the fund as required by Section
13 151.801(c-2) [~~revenue collected from the tax imposed under Chapter~~
14 ~~161~~], Tax Code, during the previous fiscal year.

15 SECTION 4. Section 614.075(a), Government Code, is amended
16 to read as follows:

17 (a) The rural volunteer fire department insurance fund is an
18 account in the general revenue fund and is composed of money
19 deposited as required by Section 151.801(c-2) [~~collected under~~
20 ~~Chapter 161~~], Tax Code, and contributions to the fund from any other
21 source.

22 SECTION 5. Chapter 161, Tax Code, is repealed.

23 SECTION 6. The changes in law made by this Act do not affect
24 tax liability accruing before the effective date of this Act. That
25 liability continues in effect as if this Act had not been enacted,
26 and the former law is continued in effect for the collection of
27 taxes due and for civil and criminal enforcement of the liability

1 for those taxes.

2 SECTION 7. This Act takes effect September 1, 2015.