

By: Creighton

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 amount

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