

By: Miles

S.B. No. 2184

A BILL TO BE ENTITLED

AN ACT

relating to new capital investment in the state.

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

SECTION 1. Subchapter C, Title 2, Tax Code, is amended by amending Section 152.0411 and adding Section 152.0413 to read as follows:

Sec. 152.0411. COLLECTION BY SELLERS. (a) Except as provided by this section, a seller who makes a sale subject to the sales tax imposed by Section 152.021 shall add the amount of the tax to the sales price, and when the amount of the tax is added:

(1) it is a debt of the purchaser to the seller until paid; and

(2) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The seller shall collect the tax from the purchaser and remit it to the tax assessor-collector in the time and manner provided by law.

(c) This section applies only to the sale of a vehicle that is to be titled and registered in Texas. If a purchaser intends to register a vehicle outside Texas, the purchaser shall comply with the terms of Section 152.092.

(d) This section does not apply to a seller-financed sale.

(e) This section applies only to a sale in which the seller is a motor vehicle dealer who holds a dealer license issued under

1 Chapter 503, Transportation Code, or Chapter 2301, Occupations
2 Code, except as provided by Section 152.0413.

3 (f) This section does not apply to the sale of a motor
4 vehicle with a gross weight in excess of 11,000 pounds. The seller
5 of a motor vehicle with a gross weight in excess of 11,000 pounds
6 shall maintain records of the sale in the manner and form, and
7 containing the information, required by the comptroller.

8 Sec. 152.0413. COLLECTION BY VERIFIED INVESTED SELLERS.

9 (a) This section applies to the sale of a motor vehicle by an
10 entity that is :

11 (1) in good standing under the laws of the state in
12 which the entity was formed or organized, as evidenced by a
13 certificate issued by the secretary of state or the state official
14 having custody of the records pertaining to entities or other
15 organizations formed under the laws of that state; and

16 (2) owes no delinquent taxes to a taxing unit of this
17 state;

18 (3) made a new capital investment in this state
19 including a place of business and a facility for the servicing,
20 including warranty servicing, that shall be furnished with all the
21 equipment required to service;

22 (4) generates more than 100 jobs in this state;

23 (5) intends to remain regularly and actively engaged
24 in the business at a location specified; and

25 (6) intends that a bona fide employee will be at the
26 location to buy, sell, lease, or exchange vehicles during
27 reasonable and lawful business hours.

1 (b) This section does not apply to:

2 (1) a franchised dealer as defined by section
3 2301.002(16), Occupations Code; or

4 (2) a manufacturer that has granted a franchise the
5 right to sell and service new motor vehicles manufactured or
6 distributed by the manufacturer.

7 (c) After receiving verification from the Comptroller that
8 an entity meets the requirements of this section, an entity to which
9 this section applies is exempt from Subchapter B of Chapter 503,
10 Transportation Code, and Chapter 2301, Occupations Code.

11 (d) The owner of a motor vehicle or the owner's designated
12 agent may make a complaint concerning the purchase of the vehicle or
13 a defect in a motor vehicle that is covered by a manufacturer's
14 warranty agreement applicable to the vehicle. The complaint must be
15 made in writing to the applicable entity and must specify each
16 defect in the vehicle that is covered by the warranty.
17 Notwithstanding any other law the attorney general may enforce this
18 subsection.

19 (e) The comptroller shall adopt rules and promulgate forms
20 necessary to implement this section.

21 SECTION 2. Section 503.001, 503,062, 503.0626, 503.063, and
22 503.0631, Transportation Code, are amended to read as follows:

23 Sec. 503.001. DEFINITIONS. In this chapter:(1) "Board"
24 has the meaning assigned by Chapter 2301, Occupations Code.

25 (2) "Commission" means the board of the Texas Department of
26 Motor Vehicles.

27 (3) "Converter" has the meaning assigned by Chapter 2301,

1 Occupations Code.

2 (4) "Dealer" means a person who regularly and actively buys,
3 sells, or exchanges vehicles at an established and permanent
4 location. The term includes a franchised motor vehicle dealer, an
5 independent motor vehicle dealer, an independent mobility motor
6 vehicle dealer, and a wholesale motor vehicle dealer.

7 (5) "Department" means the Texas Department of Motor
8 Vehicles.

9 (6) "Drive-a-way operator" means a person who transports
10 and delivers a vehicle in this state from the manufacturer or
11 another point of origin to a location in this state using the
12 vehicle's own power or using the full-mount method, the
13 saddle-mount method, the tow-bar method, or a combination of those
14 methods.

15 (6-a) "Verified Invested Seller" has the meaning assigned
16 by Chapter 152, Tax Code.

17 (7) "Franchise" has the meaning assigned by Chapter 2301,
18 Occupations Code.

19 (8) "Franchised motor vehicle dealer" means a person
20 engaged in the business of buying, selling, or exchanging new motor
21 vehicles at an established and permanent place of business under a
22 franchise in effect with a motor vehicle manufacturer or
23 distributor.

24 (8-a) "Independent mobility motor vehicle dealer" has the
25 meaning assigned by Section 2301.002, Occupations Code.

26 (9) "Independent motor vehicle dealer" means a dealer other
27 than a franchised motor vehicle dealer, an independent mobility

1 motor vehicle dealer, or a wholesale motor vehicle dealer.

2 (10) "Manufacturer" means a person who manufactures,
3 distributes, or assembles new vehicles.

4 (11) "Motorcycle" has the meaning assigned by Section
5 502.001.

6 (12) "Motor vehicle" has the meaning assigned by Section
7 502.001.

8 (13) "Semitrailer" has the meaning assigned by Section
9 502.001.

10 (14) "Trailer" has the meaning assigned by Section 502.001.

11 (15) "Vehicle" means a motor vehicle, motorcycle, house
12 trailer, trailer, or semitrailer.

13 (16) "Wholesale motor vehicle auction" means the offering
14 of a motor vehicle for sale to the highest bidder during a
15 transaction that is one of a series of regular periodic
16 transactions that occur at a permanent location.

17 (17) "Wholesale motor vehicle dealer" means a dealer who
18 sells motor vehicles only to a person who is:

19 (A) the holder of a dealer's general distinguishing
20 number; or

21 (B) a foreign dealer authorized by a law of this state
22 or interstate reciprocity agreement to purchase a vehicle in this
23 state without remitting the motor vehicle sales tax.

24 Sec. 503.062. [~~DEALER'S~~] TEMPORARY TAGS. (a) A dealer or
25 verified invested seller may issue a temporary tag for use on an
26 unregistered vehicle by the dealer, ~~or~~ the dealer's employees, the
27 verified invested seller, or the invited seller's employees only

1 to:

2 (1) demonstrate or cause to be demonstrated to a
3 prospective buyer the vehicle for sale purposes only;

4 (2) convey or cause to be conveyed the vehicle:

5 (A) from one of the dealer's places of business
6 or the place of business of a verified invested seller in this state
7 to another of the dealer's places of business or the place of
8 business of a verified invested seller in this state;

9 (B) from the dealer's place of business or the
10 place of business of a verified invested seller to a place the
11 vehicle is to be repaired, reconditioned, or serviced;

12 (C) from the state line or a location in this
13 state where the vehicle is unloaded to the dealer's place of
14 business or the place of business of a verified invested seller;

15 (D) from the dealer's place of business or the
16 place of business of a verified invested seller to a place of
17 business of another dealer or a verified invested seller;

18 (E) from the point of purchase by the dealer or a
19 verified invested seller to the dealer's place of business or the
20 place of business of a verified invested seller; or

21 (F) to road test the vehicle; or

22 (3) use the vehicle for or allow its use by a
23 charitable organization.

24 (b) Subsection (a)(1) does not prohibit a dealer or a
25 verified invested seller from permitting:

26 (1) a prospective buyer to operate a vehicle while the
27 vehicle is being demonstrated; or

1 (2) a customer to operate a vehicle temporarily while
2 the customer's vehicle is being repaired.

3 (c) A vehicle being conveyed under this section is exempt
4 from the inspection requirements of Chapter 548.

5 (d) The department may not issue a dealer or a verified
6 invested seller temporary tag or contract for the issuance of a
7 dealer or the place of business of a verified invested seller
8 temporary tag but shall prescribe:

9 (1) the specifications, form, and color of a [~~dealer~~]
10 temporary tag;

11 (2) procedures [~~for a dealer~~] to generate a
12 vehicle-specific number using the database developed under Section
13 503.0626 and assign it to each tag;

14 (3) procedures to clearly display the
15 vehicle-specific number on the tag; and

16 (4) the period for which a tag may be used for or by a
17 charitable organization.

18 (e) For purposes of this section, "charitable organization"
19 means an organization organized to relieve poverty, to advance
20 education, religion, or science, to promote health, governmental,
21 or municipal purposes, or for other purposes beneficial to the
22 community without financial gain.

23 Sec. 503.0626. [~~DEALER'S AND CONVERTER'S~~] TEMPORARY TAG
24 DATABASE.

25 (a) The department shall develop and maintain a secure,
26 real-time database of information on vehicles to which dealers, a
27 verified invested seller and converters have affixed temporary

1 tags. The database shall be managed by the vehicle titles and
2 registration division of the department.

3 (b) The database must allow law enforcement agencies to use
4 the vehicle-specific number assigned to and displayed on the tag as
5 required by Section 503.062(d) or Section 503.0625(e) to obtain
6 information about the dealer, a verified invested seller or
7 converter that owns the vehicle.

8 (c) Before a dealer's, a verified invested seller's or
9 converter's temporary tag may be displayed on a vehicle, the
10 dealer, a verified invested seller or converter must enter into the
11 database through the Internet information on the vehicle and
12 information about the dealer, a verified invested seller or
13 converter as prescribed by the department. The department may not
14 deny access to the database to any dealer who holds a general
15 distinguishing number issued under this chapter or who is licensed
16 under Chapter 2301, Occupations Code, [~~or~~] to any converter
17 licensed under Chapter 2301, Occupations Code, or to any verified
18 invested seller.

19 (d) The department shall adopt rules and prescribe
20 procedures as necessary to implement this section.

21 Sec. 503.063. BUYER'S TEMPORARY TAGS. (a) Except as
22 provided by this section, a dealer or a verified invested seller
23 shall issue to a person who buys a vehicle one temporary buyer's tag
24 for the vehicle.

25 (b) Except as provided by this section, the buyer's tag is
26 valid for the operation of the vehicle until the earlier of:

27 (1) the date on which the vehicle is registered; or

1 (2) the 60th day after the date of purchase.

2 (c) The dealer:

3 (1) must show in ink on the buyer's tag the actual date
4 of sale and any other required information; and

5 (2) is responsible for displaying the tag.

6 (d) The dealer or a verified invested seller is responsible
7 for the safekeeping and distribution of each buyer's tag the dealer
8 or a verified invested seller obtains.

9 (e) The department may not issue a buyer's tag or contract
10 for the issuance of a buyer's tag but shall prescribe:

11 (1) the specifications, color, and form of a buyer's
12 tag; and

13 (2) procedures for a dealer or a verified invested
14 seller to:

15 (A) generate a vehicle-specific number using the
16 database developed under Section 503.0631 and assign it to each
17 tag;

18 (B) generate a vehicle-specific number using the
19 database developed under Section 503.0631 for future use for when a
20 dealer or a verified invested seller is unable to access the
21 Internet at the time of sale; and

22 (C) clearly display the vehicle-specific number
23 on the tag.

24 (f) The department shall ensure that a dealer or a verified
25 invested seller may generate in advance a sufficient amount of
26 vehicle-specific numbers under Subsection (e)(2)(B) in order to
27 continue selling vehicles for a period of up to one week in which a

1 dealer or a verified invested seller is unable to access the
2 Internet due to an emergency. The department shall establish an
3 expedited procedure to allow affected dealers or a verified
4 invested sellers to apply for additional vehicle-specific numbers
5 so they may remain in business during an emergency.

6 (g) For each buyer's temporary tag, a dealer or a verified
7 invested seller shall charge the buyer a registration fee of not
8 more than \$5 as prescribed by the department to be sent to the
9 comptroller for deposit to the credit of the Texas Department of
10 Motor Vehicles fund.

11 Sec. 503.0631. BUYER'S TEMPORARY TAG DATABASE. (a) The
12 department shall develop and maintain a secure, real-time database
13 of information on persons to whom temporary buyer's tags are issued
14 that may be used by a law enforcement agency in the same manner that
15 the agency uses vehicle registration information. The database
16 shall be managed by the vehicle titles and registration division of
17 the department.

18 (b) The database must allow law enforcement agencies to use
19 a vehicle-specific number assigned to and displayed on the tag as
20 required by Section 503.063(e)(2) to obtain information about the
21 person to whom the tag was issued.

22 (c) Except as provided by Subsection (d), before a buyer's
23 temporary tag may be displayed on a vehicle, a dealer or a verified
24 invested seller must enter into the database through the Internet
25 information about the buyer of the vehicle for which the tag was
26 issued as prescribed by the department and generate a
27 vehicle-specific number for the tag as required by Section

1 503.063(e). The department may not deny access to the database to a
2 a verified invested seller or to any dealer who holds a general
3 distinguishing number issued under this chapter or who is licensed
4 under Chapter 2301, Occupations Code.

5 (d) A dealer or a verified invested seller shall obtain
6 24-hour Internet access at its place of business, but if the dealer
7 or a verified invested seller is unable to access the Internet at
8 the time of the sale of a vehicle, the dealer or a verified invested
9 seller shall complete and sign a form, as prescribed by the
10 department, that states the dealer or a verified invested seller
11 has Internet access, but was unable to access the Internet at the
12 time of sale. The buyer shall keep the original copy of the form in
13 the vehicle until the vehicle is registered to the buyer. Not later
14 than the next business day after the time of sale, the dealer shall
15 submit the information required under Subsection (c).

16 (e) The department shall adopt rules and prescribe
17 procedures as necessary to implement this section.

18 (f) The dealer or verified invested seller may charge a
19 reasonable fee not to exceed \$20 for costs associated with
20 complying with this section.

21 SECTION 3. Not later than September 1, 2017, the
22 comptroller shall adopt or modify any rules necessary to implement
23 the changes in law made by this Act.

24 SECTION 4. Not later than September 1, 2017, the Department
25 of Motor Vehicles shall adopt or modify any rules necessary to
26 implement the changes in law made by this Act.

27 SECTION 5. EFFECTIVE DATE. This Act takes effect September

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1 1, 2017.