

AN ACT

relating to methods to enhance the enforcement of the collection of the use tax due on certain off-highway vehicles purchased outside this state; providing a civil penalty.

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

SECTION 1. Chapter 151, Tax Code, is amended by adding Subchapter I-2 to read as follows:

SUBCHAPTER I-2. REPORTS BY MANUFACTURERS OF CERTAIN OFF-HIGHWAY VEHICLES PURCHASED OUTSIDE THIS STATE

Sec. 151.481. DEFINITIONS. In this subchapter:

(1) "Manufacturer" means a person that manufactures off-highway vehicles and is required to hold a manufacturer's license under Chapter 2301, Occupations Code.

(2) "New off-highway vehicle" means an off-highway vehicle that has not been the subject of a retail sale.

(3) "Off-highway vehicle" has the meaning assigned by Section 501.0301, Transportation Code.

Sec. 151.482. REPORTS BY MANUFACTURERS. (a) The comptroller shall require each manufacturer to file with the comptroller a report not later than March 1 of each year listing each warranty issued by the manufacturer for a new off-highway vehicle that was, during the preceding calendar year, sold to a resident of this state by a retailer located outside this state.

The report must:

1 (1) be in a form prescribed by the comptroller; and
2 (2) contain, at a minimum, the following information
3 for each warranty:

4 (A) the vehicle identification number of the
5 vehicle;

6 (B) the make, model, and model year of the
7 vehicle; and

8 (C) the name and address, including street name
9 and number, city, and zip code, of the purchaser of the vehicle.

10 (b) As soon as practicable after receiving a report
11 submitted under this section, the comptroller shall use the
12 information in the report to investigate and collect any unpaid use
13 taxes imposed under Subchapter D on an off-highway vehicle
14 described in the report.

15 Sec. 151.483. RULES. The comptroller may adopt rules as
16 necessary to implement this subchapter.

17 Sec. 151.484. CONFIDENTIALITY. Except as provided by
18 Section 111.006, information contained in a report required to be
19 filed by this subchapter is confidential and not subject to
20 disclosure under Chapter 552, Government Code.

21 Sec. 151.485. CIVIL PENALTY. (a) If a manufacturer fails
22 to file a report required by this subchapter or fails to file a
23 complete report, the comptroller may impose a civil penalty under
24 Section 151.703(d).

25 (b) In addition to the penalty imposed under Subsection (a),
26 a manufacturer shall pay the state a civil penalty of not less than
27 \$25 or more than \$2,000 for each day a violation continues if the

1 manufacturer:

2 (1) violates this subchapter; or

3 (2) violates a rule adopted to administer or enforce
4 this subchapter.

5 Sec. 151.486. ACTION BY TEXAS DEPARTMENT OF MOTOR VEHICLES.

6 If a manufacturer fails to file a report required by this subchapter
7 or fails to file a complete report, the comptroller may notify the
8 Texas Department of Motor Vehicles of the failure and the
9 department may take administrative action against the manufacturer
10 for the failure under Chapter 2301, Occupations Code.

11 Sec. 151.487. AUDIT; INSPECTION. The comptroller may
12 audit, inspect, or otherwise verify a manufacturer's compliance
13 with this subchapter.

14 Sec. 151.488. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S
15 FEES. (a) The comptroller may bring an action to enforce this
16 subchapter and obtain any civil remedy authorized by this
17 subchapter or any other law for the violation of this subchapter.
18 The attorney general shall prosecute the action on the
19 comptroller's behalf.

20 (b) Venue for and jurisdiction of an action under this
21 section is exclusively conferred on the district courts in Travis
22 County.

23 (c) If the comptroller prevails in an action under this
24 section, the comptroller and attorney general are entitled to
25 recover court costs and reasonable attorney's fees incurred in
26 bringing the action.

27 SECTION 2. Subchapter B, Chapter 501, Transportation Code,

1 is amended by adding Section 501.0301 to read as follows:

2 Sec. 501.0301. CERTAIN OFF-HIGHWAY VEHICLES PURCHASED
3 OUTSIDE THIS STATE. (a) In this section:

4 (1) "Off-highway vehicle" means:

5 (A) an all-terrain vehicle or recreational
6 off-highway vehicle, as those terms are defined by Section 502.001;

7 (B) a motorcycle, as that term is defined by
8 Section 541.201, other than a motorcycle described by Section
9 521.001, that is designed by the manufacturer for off-highway use
10 only; or

11 (C) a utility vehicle, as that term is defined by
12 Section 663.001.

13 (2) "Retailer" has the meaning assigned by Section
14 151.008, Tax Code.

15 (b) A county assessor-collector may not issue a title
16 receipt and the department may not issue a certificate of title for
17 an off-highway vehicle purchased from a retailer located outside
18 this state and designated by the manufacturer as a model year that
19 is not more than one year before the year in which the application
20 for title is made unless the applicant for the title delivers to the
21 assessor-collector or the department, as applicable, satisfactory
22 evidence showing that the applicant:

23 (1) has paid to the comptroller the applicable use tax
24 imposed on the vehicle under Subchapter D, Chapter 151, Tax Code; or

25 (2) is not required to pay any taxes described by
26 Subdivision (1).

27 (c) The comptroller shall promulgate forms to be used by

1 each county assessor-collector for purposes of implementing this
2 section.

3 (d) The comptroller may adopt rules as necessary to
4 implement this section, including rules that define "satisfactory
5 evidence" for purposes of this section.

6 SECTION 3. Not later than March 1, 2020, a manufacturer
7 shall submit the first report required by Subchapter I-2, Chapter
8 151, Tax Code, as added by this Act.

9 SECTION 4. Section 501.0301, Transportation Code, as added
10 by this Act, applies only to an application for title that is filed
11 on or after March 1, 2020. An application for title that is filed
12 before March 1, 2020, is governed by the law in effect on the date
13 the application was filed, and the former law is continued in effect
14 for that purpose.

15 SECTION 5. (a) As soon as practicable after the effective
16 date of this Act, the comptroller of public accounts shall
17 establish a work group composed of members determined by the
18 comptroller and the Tax Assessor-Collectors Association of Texas
19 for the purpose of assisting the comptroller in developing the
20 forms required by Section 501.0301(c), Transportation Code, as
21 added by this Act.

22 (b) Not later than March 1, 2020, the forms described by
23 Subsection (a) of this section shall be completed and distributed
24 to each county assessor-collector in this state.

25 (c) This section expires and the work group established
26 under Subsection (a) of this section is abolished April 1, 2020.

27 SECTION 6. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1543 was passed by the House on April 30, 2019, by the following vote: Yeas 129, Nays 14, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1543 was passed by the Senate on May 17, 2019, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor