

By: Martinez

H.B. No. 4326

A BILL TO BE ENTITLED

AN ACT

relating to imposing a local fee on the sale or lease of a new luxury motor vehicle in certain areas.

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

SECTION 1. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. FEE ON SALE OR LEASE OF NEW LUXURY MOTOR VEHICLE IN CERTAIN AREAS

Sec. 328.001. DEFINITIONS. (a) In this chapter:

(1) "Dealership" has the meaning assigned by Section 2301.002, Occupations Code.

(2) "Gross sale or lease price" means:
(A) the price at which a new luxury motor vehicle and any accessories attached on or before sale are offered for sale, before any discount or trade-in; and

(B) the total amount to be paid under a lease agreement for a new luxury motor vehicle, before any discount or trade-in.

(3) "Lease" means an agreement, other than a rental, by a franchised dealer to give for longer than 180 days exclusive use of a new luxury motor vehicle to another for consideration.

(4) "New luxury motor vehicle" means a new motor vehicle that has a gross sale or lease price of at least \$55,000.

(5) "Qualifying municipality" means a municipality

1 located in:

2 (A) a county described by Section 352.002(a)(11)
3 or (18); or

4 (B) a county that borders at least two counties
5 described by Section 352.002(a)(11).

6 (b) Except to the extent of a conflict, words used in this
7 chapter and defined by Chapter 152 have the meanings assigned by
8 Chapter 152.

9 Sec. 328.002. FEE IMPOSED; AMOUNT. (a) A fee is imposed on
10 each retail sale or lease of a new luxury motor vehicle by a
11 franchised dealer at a dealership in a qualifying municipality or
12 the extraterritorial jurisdiction of that municipality.

13 (b) The amount of the fee is equal to one percent of the
14 gross sale or lease price of the new luxury motor vehicle.

15 Sec. 328.003. APPLICABILITY OF FEE. (a) The fee authorized
16 by this chapter on the sale of a new luxury motor vehicle does not
17 apply to the sale of a new luxury motor vehicle unless the state tax
18 imposed under Chapter 152 also applies.

19 (b) The fee authorized by this chapter on the lease of a new
20 luxury motor vehicle applies to the lease of a new luxury motor
21 vehicle in each situation in which the transaction is not
22 considered a sale for purposes of the imposition of the state tax
23 under Chapter 152.

24 (c) A sale or lease of a motor vehicle that is exempted from
25 the state tax imposed under Chapter 152 by Subchapter E of that
26 chapter is exempt from the fee imposed by this chapter.

27 Sec. 328.004. COLLECTION OF FEE. (a) Each franchised

1 dealer that sells or leases a new luxury motor vehicle at a
2 dealership in a qualifying municipality or the extraterritorial
3 jurisdiction of that municipality shall collect the fee for the
4 benefit of the municipality in which the dealership is located.

5 **(b)** If the dealership at which the sale or lease occurred is
6 located in a qualifying municipality or in the extraterritorial
7 jurisdiction of that municipality, the franchised dealer shall
8 remit the fee to that municipality as provided by that
9 municipality.

10 **(c)** The franchised dealer shall add the fee imposed by this
11 chapter and any tax imposed under Chapter 152 to the sale or lease
12 price, and when the fee and taxes are added the total amount is a
13 debt owed to the franchised dealer by the purchaser or lessee until
14 paid. If the total amount is not paid, the unpaid amount is
15 recoverable at law in the same manner the original sale or lease
16 price may be recovered.

17 **(d)** A municipality to which a franchised dealer is required
18 to remit fees under this chapter shall by ordinance prescribe
19 recordkeeping, reporting, and payment requirements and penalties,
20 including interest charges, for failure to keep records required by
21 the municipality, to report when required, or to pay the fee when
22 due. The attorney acting for the municipality may bring suit
23 against a franchised dealer who fails to collect a fee under this
24 chapter and to pay it over to the municipality as required.

25 **(e)** A municipality by ordinance may permit a franchised
26 dealer who is required to collect a fee under this chapter to retain
27 a percentage of the amount collected and required to be reported as

1 reimbursement to the franchised dealer for the costs of collecting
2 the fee. The municipality may provide that the franchised dealer
3 may retain the amount only if the dealer pays the fee and files
4 reports as required by the municipality.

5 Sec. 328.005. USE OF REVENUE. A municipality may use
6 revenue from the fee imposed under this chapter only to:

- 7 (1) construct, maintain, or improve public roadways;
8 (2) construct, maintain, or improve drainage or
9 stormwater management or detention facilities; and
10 (3) construct, maintain, or improve flood control or
11 prevention facilities.

12 SECTION 2. As soon as possible after the effective date of
13 this Act, but not later than December 31, 2019, each municipality to
14 which a franchised dealer will be required to remit fees under
15 Section 328.004(b), Tax Code, as added by this Act, shall adopt any
16 ordinances necessary to govern the collection and enforcement of
17 the fee imposed under Chapter 328, Tax Code, as added by this Act.

18 SECTION 3. This Act applies only to a sale or lease of a new
19 luxury motor vehicle on or after January 1, 2020. A sale or lease
20 that occurs before that date is governed by the law in effect on the
21 date the sale or lease occurred, and that law is continued in effect
22 for that purpose.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2019.