

By: Bohac

H.B. No. 2400

A BILL TO BE ENTITLED

AN ACT

relating to the sale of motor vehicles to manufacturers.

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

SECTION 1. Section 152.001, Tax Code, is amended to read as follows:

Sec. 152.001. DEFINITIONS. In this chapter:

(1) "Sale" includes:

(A) an installment and credit sale;

(B) an exchange of property for property or money;

(C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price;

(D) a transaction in which a motor vehicle is transferred to another person without payment of consideration and that does not qualify as a gift under Section 152.025; and

(E) any other closed transaction that constitutes a sale.

(2) "Retail sale" means a sale of a motor vehicle except:

(A) the sale of a new motor vehicle in which the purchaser is a franchised dealer who is authorized by law and by franchise agreement to offer the vehicle for sale as a new motor vehicle and who acquires the vehicle either for the exclusive

1 purpose of sale in the manner provided by law or for purposes  
2 allowed under Chapter 503, Transportation Code;

3 (B) the sale of a new motor vehicle in which the  
4 purchaser is a person who manufactures, distributes or assembles  
5 new motor vehicles and who acquires the vehicle for purposes  
6 allowed under Section 503.064, Transportation Code;

7 (C)-(B) the sale of a vehicle other than a new  
8 motor vehicle in which the purchaser is a dealer who holds a  
9 dealer's general distinguishing number issued under Chapter 503,  
10 Transportation Code, and who acquires the vehicle either for the  
11 exclusive purpose of resale in the manner provided by law or for  
12 purposes allowed under Chapter 503, Transportation Code; or

13 (D)-(C) the sale to a franchised dealer of a new  
14 motor vehicle removed from the franchised dealer's inventory for  
15 the purpose of entering into a contract to lease the vehicle to  
16 another person if, immediately after executing the lease contract,  
17 the franchised dealer transfers title of the vehicle and assigns  
18 the lease contract to the lessor of the vehicle.

19 (3) "Motor Vehicle" includes:

20 (A) a self-propelled vehicle designed to  
21 transport persons or property on a public highway;

22 (B) a trailer and semitrailer, including a van,  
23 flatbed, tank, dumpster, dolly, jeep, stinger, auxiliary axle, or  
24 converter gear; and

25 (C) a house trailer as defined by Chapter 501,  
26 Transportation Code.

27 (4) "Motor Vehicle" does not include:

- 1 (A) a device moved only by human power;
- 2 (B) a device used exclusively on stationary rails  
3 or tracks;
- 4 (C) road-building machinery;
- 5 (D) a mobile office;
- 6 (E) a vehicle with respect to which the  
7 certificate of title has been surrendered in exchange for:
- 8 (i) a salvage vehicle title issued pursuant  
9 to Chapter 501, Transportation Code;
- 10 (ii) a certificate of authority issued  
11 pursuant to Chapter 683, Transportation Code;
- 12 (iii) a nonrepairable vehicle title issued  
13 pursuant to Chapter 501, Transportation Code;
- 14 (iv) an ownership document issued by  
15 another state if the document is comparable to a document issued  
16 pursuant to Subparagraph (i), (ii), or (iii);
- 17 (F) a vehicle that has been declared a total loss  
18 by an insurance company pursuant to the settlement or adjustment of  
19 a claim; or
- 20 (G) an oilfield portable unit.
- 21 (5) "Rental" means:
- 22 (A) an agreement by the owner of a motor vehicle  
23 to give for not longer than 180 days the exclusive use of that  
24 vehicle to another for consideration;
- 25 (B) an agreement by the original manufacturer of  
26 a motor vehicle to give exclusive use of the motor vehicle to  
27 another for consideration; or

1 (C) an agreement to give exclusive use of a motor  
2 vehicle to another for re-rental purposes.

3 (6) "Lease" means an agreement, other than a rental,  
4 by an owner of a motor vehicle to give for longer than 180 days  
5 exclusive use of the vehicle to another for consideration.

6 (7) "Public agency" means:

7 (A) a department, commission, board, office,  
8 institution, or other agency of this state or of a county, city,  
9 town, school district, hospital district, water district, or other  
10 special district or authority or political subdivision created by  
11 or under the constitution or the statutes of this state; or

12 (B) an unincorporated agency or instrumentality  
13 of the United States.

14 (8) "Gross rental receipts" means value received or  
15 promised as consideration to the owner of a motor vehicle for rental  
16 of the vehicle, but does not include:

17 (A) separately stated charges for insurance;

18 (B) charges for damages to the motor vehicle  
19 occurring during the rental agreement period;

20 (C) separately stated charges for motor fuel sold  
21 by the owner of the motor vehicle; or

22 (D) discounts.

23 (9) "Owner of a motor vehicle" means:

24 (A) a person named in the certificate of title as  
25 the owner of the vehicle; or

26 (B) a person who has the exclusive use of a motor  
27 vehicle by reason of a rental and holds the vehicle for re-rental.

1           (10) "Orthopedically handicapped person" means a  
2 person who because of a physical impairment is unable to operate or  
3 reasonably be transported in a motor vehicle that has not been  
4 specially modified.

5           (11) "Volunteer fire department" means a company,  
6 department, or association whose members receive no or nominal  
7 compensation and which is organized for the purpose of answering  
8 fire alarms and extinguishing fires or answering fire alarms,  
9 extinguishing fires, and providing emergency medical services.

10          (12) "Motor vehicle used for religious purposes" means  
11 a motor vehicle that is:

12               (A) designed to carry more than six passengers;

13               (B) sold to, rented to, or used by a church or  
14 religious society;

15               (C) used primarily for the purpose of providing  
16 transportation to and from a church or religious service or  
17 meeting; and

18               (D) not registered as a passenger vehicle and not  
19 used primarily for the personal or official needs or duties of a  
20 minister.

21          (13) "Farm machine" means a self-propelled motor  
22 vehicle specially adapted for use in the production of crops or  
23 rearing of livestock, including poultry, and use in feedlots and  
24 includes a self-propelled motor vehicle specially adapted for  
25 applying plant food materials, agricultural chemicals, or feed for  
26 livestock. "Farm machine" does not include any self-propelled motor  
27 vehicle specifically designed or specially adapted for the sole

1 purpose of transporting agricultural products, plant food  
2 materials, agricultural chemicals, or feed for livestock.

3 (14) "Nonprofit" means:

4 (A) organized as a nonprofit corporation under  
5 the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,  
6 Vernon's Texas Civil Statutes); or

7 (B) organized and operated in a way that does not  
8 result in accrual of distributable profits, realization of private  
9 gain resulting from payment of compensation other than reasonable  
10 compensation for services rendered by persons who are not members  
11 of the organization, or realization of any other form of private  
12 gain.

13 (15) "Seller-financed sale" means a retail sale of a  
14 motor vehicle by a dealer licensed under Chapter 503,  
15 Transportation Code, in which the seller collects all or part of the  
16 total consideration in periodic payments and retains a lien on the  
17 motor vehicle until all payments have been received. The term does  
18 not include a:

19 (A) retail sale of a motor vehicle in which a  
20 person other than the seller provides the consideration for the  
21 sale and retains a lien on the motor vehicle as collateral;

22 (B) lease; or

23 (C) rental.

24 (16) "Mobile office" means a trailer designed to be  
25 used as an office, sales outlet, or other workplace.

26 (17) "Lessor" means a person who acquires title to a  
27 new motor vehicle for the purpose of leasing the vehicle to another

1 person.

2 (18) "New motor vehicle" means a motor vehicle that,  
3 without regard to mileage, has not been the subject of a retail tax.

4 (19) "Franchised dealer" has the meaning assigned the  
5 term by Chapter 503, Transportation Code.

6 (20) "Oilfield portable unit" means a bunkhouse,  
7 manufactured home, trailer, or semitrailer that:

8 (A) is not a travel trailer, as defined by  
9 Section 502.166(e), Transportation Code;

10 (B) is designed to be used for temporary lodging  
11 or as temporary office space;

12 (C) is used exclusively at any oil, gas, water  
13 disposal, or injection well site to provide to well site employees,  
14 contractors, or other workers sleeping accommodations or temporary  
15 work space, including office space; and

16 (D) does not require attachment to a foundation  
17 or to real property to be functional.

18 SECTION 2. Section 152.027, Tax Code, is amended to read as  
19 follows:

20 Sec. 152.027. TAX ON METAL DEALER PLATES. (a) A use tax is  
21 imposed on each person to whom is issued a metal dealer's plate  
22 authorized by Chapter 503, Transportation Code or to whom is used a  
23 metal manufacturer's plate authorized by Chapter 503,  
24 Transportation Code.

25 (b) The tax is \$25 for each plate issued.

26 (c) The tax imposed by this section is in lieu of any other  
27 tax imposed by this chapter.

1       SECTION 3.   This Act takes effect September 1, 2015.