

- SUBJECT:** Reporting sales of certain vehicles from out of state
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 10 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, Sanford, Shaheen, Wray
- 0 nays
- 1 absent — E. Rodriguez
- WITNESSES:** For — Kip Niles, Arlington Motorsports; Wade Hoak, Family Powersports Inc, Lubbock; Morris Baker, Family PowerSports Lubbock; Kevin Lackey, Freedom Powersports, Fort Worth; (*Registered, but did not testify*: John Kroll, HMWK LLC; Robert Braziel, Texas Automobile Dealers Association; Michael Marks and Royce Poinsett, Texas Motorcycle Dealers Association; Monty Wynn, Texas Municipal League; Mark Borskey, Texas Recreational Vehicle Association; Dale Craymer, Texas Taxpayers and Research Association; Laird Doran, The Friedkin Group)
- Against — (*Registered, but did not testify*: Al Zito)
- On — Larry Gaddes, Tax Assessor-Collector Association of Texas; (*Registered, but did not testify*: Jeremiah Kuntz, Texas Department of Motor Vehicles)
- BACKGROUND:** Tax Code sec. 151.703 requires a person who fails to report or pay a sales or use tax when due to forfeit 5 percent of the amount due as a penalty, plus an additional 5 percent if the person does not pay within 30 days after the amount was due.
- DIGEST:** CSHB 1543 would require the comptroller to mandate that each licensed manufacturer of off-highway vehicles file a report listing each warranty issued for a new off-highway vehicle that was sold during the preceding calendar year to a resident of the state by a retailer located outside Texas.

The bill would establish investigation and enforcement procedures related to this report and would prohibit the issuance of a vehicle title without certain proof of tax payment.

"Off-highway vehicle" would include all-terrain vehicles, motorcycles designed for off-highway use, and utility vehicles.

Report contents. The report would have to be submitted by March 1 annually and be in a form prescribed by the comptroller. At a minimum, the report would have to contain:

- the vehicle identification number;
- the make, model, and year of the vehicle; and
- the name and address of the purchaser of the vehicle.

Information in this report would be confidential and not subject to public disclosure.

A manufacturer would have to submit the first report under this bill by March 1, 2020.

Investigation and enforcement. As soon as practicable after receiving the report on the sale of off-highway vehicles from out-of-state retailers, the comptroller would have to investigate and collect any unpaid use taxes on an off-highway vehicle listed in the report.

The comptroller could audit, inspect, or otherwise verify a manufacturer's compliance with the requirements of the bill.

The bill would allow the comptroller to bring an action to enforce these requirements and obtain any civil remedy. The attorney general would prosecute the action on behalf of the comptroller and the venue for and jurisdiction of an action would be the district courts in Travis County. If the comptroller prevailed, the comptroller and attorney general would be entitled to recover court costs and reasonable attorney's fees.

Penalties. If a manufacturer failed to file a complete report, the comptroller could impose a civil penalty for failure to report or pay a tax under Tax Code sec. 151.703. In addition to this penalty, the manufacturer would have to pay the state a civil penalty of \$25 to \$2,000 for each day the violation continued.

CSHB 1543 would allow the comptroller to notify the Texas Department of Motor Vehicles (TxDMV) of a manufacturer's failure to file a complete report, and the department could take administrative action against the manufacturer.

Titling. CSHB 1543 would prohibit a county tax assessor-collector and TxDMV from issuing a receipt or certificate of title for an off-highway vehicle purchased from an out-of-state retailer with a model year within a year of the date the title application was made, unless the applicant delivered satisfactory evidence showing the applicant had paid applicable use taxes on the vehicle or was not required to pay the tax by law.

The comptroller could adopt rules to implement provisions of this bill, including rules defining the term "satisfactory evidence."

The bill would take effect September 1, 2019, and would apply only to an application for title filed on or after that date.

SUPPORTERS
SAY:

CSHB 1543 would end the practice of Texans purchasing off-road vehicles from out-of-state dealers to avoid paying taxes. Currently, since off-road vehicles are subject to general sales and use taxes rather than the motor vehicle sales tax, the state does not have a process to ensure tax payment compliance before allowing a resident to obtain a title for an off-road vehicle bought outside Texas.

This bill would require vehicle manufacturers to report all off-highway vehicles sold by an outside retailer to the comptroller, who could then investigate and pursue legal action against individuals who did not pay taxes on a vehicle. Further, an individual could not obtain a title for an off-road vehicle from TxDMV or a county tax office without proof of tax

payment.

The comptroller could adopt rules to implement this bill, including the administrative specifics of how an individual would provide satisfactory evidence of tax payment to TxDMV or a county tax office to obtain a title. Residents who buy motor vehicles out of state already must prove sales tax payment to obtain a title, so this bill simply would include off-road vehicles in that same process.

OPPONENTS
SAY:

CSHB 1543 would require an applicant for an off-road vehicle title to provide evidence of payment of taxes in order to receive the title from a county tax office of TxDMV. Currently, the comptroller does not send receipts for sales and use tax payments through the mail, so it is unclear how a taxpayer could obtain this evidence. It is likely that the taxpayer would have to travel to one of the comptroller's satellite offices to obtain a written document in-person, which would be a significant burden to the taxpayer and possibly an administrative burden. The bill should more specifically identify how evidence of tax payment should be obtained and presented.

NOTES:

According to the Legislative Budget Board, the bill would have a positive impact of \$9.3 million to general revenue related funds through fiscal 2020-21.