

SUBJECT: Requiring off-highway vehicle distributors to report sales from out of state

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

SENATE VOTE: On final passage, April 20 — 29-2 (Hall, Hughes)

WITNESSES: No public hearing.

BACKGROUND: Under Tax Code sec. 151.482, the comptroller must require each motor vehicle manufacturer to file an annual report listing each warranty issued for a new off-highway vehicle that was sold to a resident of the state by a retailer located out of the state. If a manufacturer fails to file the report as required, secs. 151.485 and 151.486 allow the comptroller to impose certain civil penalties and notify the Texas Department of Motor Vehicles so that the department may take administrative action. Manufacturers that fail to file the report also must pay the state a civil penalty or \$25 to \$2,000 each day the violation continues.

DIGEST: SB 586 would require each licensed off-highway motor vehicle distributor, in addition to each manufacturer, to report each warranty issued for a new off-highway vehicle that was sold to a resident of the state by a retailer located outside the state. A distributor that failed to file the report would face the same civil penalties and administrative action as is established for manufacturers under current law.

Distributors would have to submit their first report by March 1, 2022.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: SB 586 would expand certain reporting requirements to ensure that off-highway vehicles purchased outside of the state were taxed appropriately. Last session, the Legislature enacted HB 1543 by Springer to combat tax-

avoidance practices by creating certain enforcement mechanisms to ensure that off-highway vehicles purchased by Texans from other states were taxed before being titled in this state. That bill established a requirement for off-highway vehicle manufacturers to annually report information about sales made to Texas buyers, allowing the comptroller to verify that taxes were paid on each vehicle sold, and provided appropriate enforcement mechanisms if they were not.

However, it was discovered that it is often the vehicle distributors, rather than the manufacturers, that have the customer sales information the comptroller needs. For example, some companies may distribute vehicles to franchise dealers in the state but are not licensed manufacturers and therefore would not have to provide the required information to the comptroller. SB 586 would clean up current law by requiring distributors to file sales reports to the comptroller in the same manner as manufacturers. The bill would not create new penalties but simply would add distributors to existing enforcement mechanisms to ensure that out-of-state off-highway vehicle dealers were competing fairly with Texas dealers.

**CRITICS
SAY:**

SB 586 would impose a penalty that is too punitive on off-highway motor vehicle distributors that failed to file a report as required. Neither manufacturers nor distributors should face up to \$2,000 a day in an administrative penalty.

NOTES:

The House companion bill, HB 4010 by Spiller, was considered by the House Ways and Means Committee in a public hearing on April 12 and left pending.

According to the Legislative Budget Board, the bill would have a positive impact of \$300,000 to general revenue through fiscal 2023.