

BILL ANALYSIS

Senate Research Center

S.B. 1265
By: Watson
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statute states that persons with orthopedic impairments needing modifications to either drive their vehicle or be transported in a vehicle do not have to pay sales tax on their vehicle. The current rule from the comptroller of public accounts (comptroller) states that if the purchaser of the vehicle meets the eligibility requirements for the exemption, then the sales tax is removed.

However, neither law nor the rule require the dealer to remove the tax before the sale of the vehicle. Some dealers have expressed frustration with the paperwork they must fill out and are reticent to make this accommodation.

In these situations, the customers pay the tax and then fill out paperwork to request a reimbursement from the comptroller. This places a burden on the customer who must also carry the cost of the sales tax until they receive reimbursement. As most customers finance their cars, they are financing the cost of the sales tax as well and do not receive compensation for interest paid on the sales tax while awaiting reimbursement.

As proposed, S.B. 1265 prohibits the dealer from collecting the sales tax if the purchaser properly fills out a form designed by the comptroller that captures the required information. S.B. 1265 protects the dealer from sales tax liability if the form is properly filled out, but later determined to be fraudulent.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 152.086, Tax Code) and SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 152.086, Tax Code, by adding Subsections (b-1) and (d), as follows:

(b-1) Prohibits the seller of a motor vehicle from collecting the tax from the purchaser of the motor vehicle if the purchaser signs at the time of the purchase an exemption certificate that is on a form designated by the comptroller of public accounts (comptroller), and contains all information the comptroller considers reasonable to establish qualification for the exemption at the time of sale, and presents any other documentation or information the comptroller requires by rule.

(d) Authorizes a seller, notwithstanding any other provision of this section or of other law, to rely on a properly executed and signed exemption certificate as provided by this section and is under no duty to investigate the propriety of a certificate that is valid on its face. Provides that a seller who relies on a properly executed and signed exemption certificate as provided by this section is not liable for motor vehicle sales tax that would otherwise be due as a result of a motor vehicle sale.

SECTION 2. Requires the comptroller, not later than December 1, 2009, to adopt any rules to implement the changes in law made by this Act, and designate the form required by Section 152.086(b-1)(1)(A), Tax Code, as added by this Act, and make the form available to motor vehicle dealers and the public.

SECTION 3. Makes application of this Act prospective to January 1, 2010. Provides that a sale of a motor vehicle that occurs before that date is governed by the law in effect on the date the sale occurred, and that law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2009.