

BILL ANALYSIS

Senate Research Center
81R5054 SMH-D

S.B. 1355
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas law requires an appraisal on dealer inventory for motor vehicles, outboard vessels, and heavy equipment based on sales from the prior year. Every month, dealers are required to file a Dealer's Motor Vehicle Inventory Tax Statement, listing the vehicles sold and prepaying property taxes for each vehicle.

There are several penalties, including misdemeanors, liens, and fines, that can be imposed if a dealer does not file the monthly tax statement by the 10th day of the following month. The law does not allow for waiver of a penalty—even if the failure was due to reasonable cause.

As proposed, S.B. 1355 authorizes an ad valorem tax collector to waive a certain penalty if the collector determines that the dealer or retailer exercised reasonable diligence to comply with or has substantially complied with the requirements of certain sections of the Tax Code, as applicable. The bill sets forth the procedure for obtaining such a waiver.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 23, Tax Code, by adding Section 23.129, as follows:

Sec. 23.129. WAIVER OF PENALTY. (a) Authorizes an ad valorem tax collector to waive a penalty imposed by Section 23.122(n) (relating to additional dealer forfeit penalty by tax lien), 23.1242(m) (relating to requiring a dealer who fails to file a statement to forfeit a penalty), 23.125(n) (relating to requiring a dealer who fails to file a statement to forfeit a penalty), or 23.128(m) (relating to a retailer who fails to file a statement being liable for a certain penalty for each month or part of a month in which a statement is not filed after it is due) if the collector determines that the dealer or retailer, as applicable, exercised reasonable diligence to comply with or has substantially complied with the requirements of Section 23.122 (Prepayment of Taxes by Certain Taxpayers), 23.1242 (Prepayment of Taxes By Heavy Equipment Dealers), 23.125 (Prepayment of Taxes by Certain Taxpayers), or 23.128 (Prepayment of Taxes By Manufactured Housing Retailers), as applicable. Requires that a written request, accompanied by supporting documentation, stating the grounds on which the penalty should be waived be sent to the collector not later than the 30th day after the date the dealer or retailer received notification of the imposition of the penalty. Requires the collector to make a determination of the penalty waiver request based on the information submitted.

(b) Requires the collector to notify the dealer or retailer of the collector's determination regarding the penalty waiver request after considering certain factors.

(c) Provides that the collector's decision is final and may not be appealed.

SECTION 2. Effective date: September 1, 2009