

## **BILL ANALYSIS**

Senate Research Center  
82R9777 ALL-F

S.B. 1280  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, sales and use taxes imposed on off-road vehicles are easy to avoid and difficult to enforce. Dealers in Oklahoma, Louisiana, and other border states are benefitting by advertising that Texans can avoid Texas taxes by purchasing outside off-road vehicles in one of those states.

Consequently, Texas dealers face unfair competition, and the state loses tax revenue. This loss of revenue to the state is potentially substantial, as new off-road vehicles have sales prices ranging from approximately \$4,000 to more than \$5,000, and each of these vehicles may be resold several times during their operating lifetimes. This improper and unfair tax avoidance could be mitigated if off-road vehicles were subject to the motor vehicle sales tax of Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicles) of the Tax Code rather than the general sales tax.

S.B. 1280 includes an off-road vehicle that is not required to be registered in the definition of "motor vehicle" under the Tax Code and adds other pertinent definitions. The bill establishes certain certificate of title requirements for off-road vehicles.

As proposed, S.B. 1280 amends current law relating to the taxation and titling of certain off-road vehicles.

### **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 Section 152.001, Tax Code, by amending Subdivision (3) and adding Subdivision (20), as follows:

(3) Redefines "motor vehicle" to include certain vehicles, including an off-road vehicle that is not required to be registered under Chapter 502 (Registration of Vehicles), Transportation Code.

(20) Defines "off-road vehicle" as an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001 (Definitions), Transportation Code; or a motorcycle designed by the manufacturer for off-highway use.

SECTION 2. Amends Section 152.091, Tax Code, as follows:

Sec. 152.091. FARM OR TIMBER USE. (a) Provides that the taxes imposed by this chapter do not apply to the sale or use of:

(1) a farm machine, a trailer, a semitrailer, or an off-road vehicle for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or

(2) a machine, a trailer, a semitrailer, or an off-road vehicle for use primarily for timber operations.

(b)(1) Provides that the taxes imposed by this chapter do not apply to the purchase of:

(A) a farm machine, a trailer, a semitrailer, or an off-road vehicle that is to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or

(B) a machine, a trailer, a semitrailer, or an off-road vehicle that is to be leased for use primarily for timber operations.

(2) Provides that the exemption provided by this subsection applies only if the person purchasing the machine, trailer, semitrailer, or off-road vehicle to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing certain information, including verification by the lessee that the machine, trailer, semitrailer, or off-road vehicle will be used primarily for certain agricultural or timber purposes.

(3) Makes no changes to this subdivision.

(c) Provides that the taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, a semitrailer, or an off-road vehicle for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, or a machine, a trailer, a semitrailer, or an off-road vehicle for use primarily for timber operations.

(d) Provides that, for purposes of this section, a machine or an off-road vehicle is used "primarily for timber operations" if the machine or off-road vehicle is a self-propelled motor vehicle that is specially adapted to perform a specialized function in the production of timber, including land preparation, planting, maintenance, and gathering of trees commonly grown for commercial timber.

Makes nonsubstantive changes.

SECTION 3. Amends Subchapter B, Chapter 501, Transportation Code, by adding Section 501.0225, as follows:

Sec. 501.0225. CERTIFICATE OF TITLE REQUIRED FOR OFF-ROAD VEHICLE. Prohibits a person who purchases, imports, or otherwise acquires an off-road vehicle, as defined by Section 152.001 (Definitions), Tax Code, that is not required to be registered under Chapter 502 from operating or permitting the operation of the vehicle in this state, or selling or disposing of the vehicle in this state, until the person obtains a certificate of title for the vehicle. Provides that this section does not apply to an off-road vehicle that is exempt from motor vehicle sales and use taxation under Section 152.091 (Farm or Timber Use), Tax Code.

SECTION 4. Makes application of Section 501.0225, Transportation Code, as added by this Act, prospective.

SECTION 5. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 6. Effective date: September 1, 2011.