

SUBJECT: Purchaser ID number for sales of tax-exempt agricultural and timber goods

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Hilderbran, Otto, Christian, Elkins, Gonzalez, Lyne, Martinez
Fischer, Murphy, Ritter, Villarreal

0 nays

1 absent — Woolley

WITNESSES: For — Phillip Arp, Mueller, Inc.; Ken Hodges, Texas Farm Bureau;
Meagan McCoy Jones; (*Registered, but did not testify:* Kathy Barber,
National Federation of Independent Business; Marida Favia del Core
Borromeo, Exotic Wildlife Association; Stephanie Gibson, Texas
Retailers Association; James Grimm, Texas Poultry Federation; Shanna
Igo, Texas Municipal League; David Oefinger, Texas Pest Management
Association; Jim Reaves, Texas Nursery & Landscape Association; Jason
Skaggs, Texas and Southwestern Cattle Raisers Association; Ed Small,
Texas Forestry Association; James Terrell, Select Milk Producers; Bob
Turner, Texas Poultry Federation and Texas Sheep and Goat Raisers
Association; Josh Winegarner, Texas Cattle Feeders Association)

Against — None

On — Bryant Lomax, Texas Comptroller of Public Accounts

BACKGROUND: Tax Code, sec. 151.316(a) exempts from sales tax certain items used in the
course of running a commercial farming, ranching, or fishing operation.
Sec. 151.316(b) exempts certain items used as components in an
underground irrigation system as part of a commercial farming or ranching
operation. Sec. 151.3162(b) exempts certain items used in the course of
running a commercial timber operation.

Tax Code, sec. 152.091 exempts from motor-vehicle sales and related
taxes the sale or lease of certain farm machinery, trailers, or semi-trailers
used in the course of operating a commercial farming, ranching, or timber
operation.

Under administrative tax rules, an eligible purchaser of tax exempt agricultural and timber items declares to the seller that the exempt items will be used as part of an eligible agricultural or timber operation. The seller completes a form detailing the items sold, and the purchaser signs an affidavit of eligibility and purpose. If, during a later audit, the comptroller finds that the seller sold either an item that was not exempt or that was not used in as part of an eligible agricultural or timber operation, the seller is assessed the appropriate taxes.

DIGEST:

CSHB 268 would require buyers of sales tax-exempt agricultural and timber goods to provide to the seller of the goods an agricultural exemption ID number issued by the comptroller.

A buyer would be eligible for an agricultural exemption ID number if the buyer used the exempt agricultural or timber item on a farm, ranch, or timber operation.

The comptroller would design an application for the ID number. The application would:

- state the kinds of crops, livestock, or other agricultural products that were produced for sale on the farm or ranch on which the exempt purchase would be used;
- state the name and addresses of the business owned or operated by the applicant; and
- contain any other information required by the comptroller.

The comptroller could not issue an exemption number that contained an individual's Social Security number.

The comptroller would establish:

- a system through which an application for an exemption ID number could be submitted electronically;
- a uniform date on which all exemption ID numbers had to be renewed; and
- an online system through which a seller could search for and verify a buyer's agricultural exemption ID number.

The comptroller could suspend or revoke an exemption number after written notice and a hearing if the person to whom the number was issued

failed to comply with applicable laws and rules.

An exemption certificate with the number would be sufficient documentation of the seller's receipt of the certificate in good faith.

The bill would take effect September 1, 2011, and would not affect applicable taxes and exemptions before that date.

**SUPPORTERS
SAY:**

CSHB 268 would streamline the process of buying exempt agricultural and timber items for valid purposes. Once a buyer was issued an agricultural exemption ID number from the comptroller, purchases would be easier to transact and easier for the comptroller to audit. Under current practice, sellers are forced to pay any taxes that the buyer should have paid if the transaction was not actually tax exempt. Under CSHB 268, the comptroller could assess any applicable taxes to the buyer – the party that should have paid the taxes in the first place.

Other states, including Oklahoma and Tennessee, have issued agricultural exemption ID numbers to buyers, similar to what CSHB 268 would implement, with great success. Sellers and buyers quickly took to the new ID system and these programs have been praised by sellers, buyers, and tax collectors alike.

Issuing agricultural exemption ID numbers would save buyers time over the long term. Instead of compiling forms and signing affidavits, buyers would be able to show their comptroller-issued certificate, allow the seller to record the agricultural-exemption ID number, and quickly complete the transaction.

Requiring an exemption number when buying tax-exempt agricultural items would deter some ineligible sales. According to the LBB's fiscal note, this would result in an additional \$1.4 million in general revenue during fiscal 2012-13.

**OPPONENTS
SAY:**

CSHB 268 would establish an application process for an agricultural exemption ID number that was potentially burdensome for buyers. There is no guarantee that the application system the comptroller used would be quick or efficient. Buyers may find the application required too much documentation or was too complex. The system under current law is efficient and simple, and customers are used to it. The seller and the buyer fill out a form and the buyer signs an affidavit claiming the exempt goods would be used for a valid purpose.

NOTES:

The committee substitute differs from the bill as filed in that it would establish that an exemption certificate with the exemption number was sufficient documentation of the seller's receipt of it in good faith for purposes of the exemption. The committee substitute expanded the number of tax-exempt items for which a buyer would have to provide an agricultural exemption ID number to the seller.

The companion bill, SB 1602 by Seliger, was considered in a public hearing by the Senate Finance Committee on April 7 and left pending.