

BILL ANALYSIS

Senate Research Center

H.B. 4
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Finance
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Tax revenue from the sale of motor vehicles by individuals is not evenly collected on private sales. There is also no mechanism for a determination of a standard presumptive value of a motor vehicle by which the tax assessor may determine the actual tax due from the sale. Further, there is no standard certified appraisal of the retail value of a motor vehicle. H.B. 4 requires tax assessors to compute the standard presumptive value of a motor vehicle and to collect any tax due from the sale of that vehicle if the amount is equal to or greater than 80 percent of its standard presumptive value. It further requires a certified appraisal of the retail value of any motor vehicle sold by a registered dealer.

H.B. 4 would increase vehicle sales and use tax revenue to the state for public school expenditures, decreasing local school districts' reliance on property tax revenues for financing.

RULEMAKING AUTHORITY

This bill expressly grants rulemaking authority to the comptroller of public accounts in SECTION 3 (Section 152.0412, Tax Code) of the bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 152.002, Tax Code, by adding Subsection (f), to provide that the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412, notwithstanding Subsection (a).

SECTION 2. Amends Section 152.041(a), Tax Code, to require the tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made to collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

SECTION 3. Amends Subchapter C (Collection of Taxes), Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicles), Tax Code, by adding Section 152.0412, as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) Defines "standard presumptive value."

(b) Requires a county tax assessor-collector to compute the tax on the amount paid, if the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than 80 percent of the standard presumptive value of the vehicle.

(c) Requires a county tax assessor-collector to compute the tax on the amount that is equal to 80 percent of the standard presumptive value of the vehicle if the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than 80 percent of the standard presumptive value of the vehicle, unless the purchaser establishes the value of the vehicle as provided by Subsection (d).

(d) Requires a county tax assessor-collector to compute the tax imposed by this chapter on the value of a motor vehicle if the value is shown on documentation, including a receipt or invoice, provided by the seller to the purchaser of the vehicle, but only if the seller is a motor vehicle dealer operating under Subchapter

B (General Distinguishing Number), Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code; or an appraisal certified by an adjuster licensed under Chapter 4101 (Insurance Adjusters), Insurance Code, or by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code.

(d-1) Requires an appraisal described by Subsection (d)(2) to meet certain requirements.

(e) Requires a motor vehicle dealer operating under Subchapter B (General Distinguishing Number), Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, on request, to provide a certified appraisal of the value of a motor vehicle. Requires the comptroller of public accounts (comptroller) by rule to establish a fee that a dealer may charge for providing the certified appraisal. Requires the county tax assessor-collector to retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) Requires the Texas Department of Transportation (department) to maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. Requires the department to update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information, and authorizes the department to charge a person a reasonable fee for access to the publication.

(g) Provides that this section does not apply to a transaction described by Section 152.024 or 152.025.

(h) Provides that this section does not apply to a motor vehicle disposed of in accordance with Chapter 2303 (Vehicle Storage Facilities), Occupations Code, Chapter 70 (Miscellaneous Liens), Property Code, or Chapter 683 (Abandoned Motor Vehicles), Transportation Code.

(i) Provides that this section does not apply to a motor vehicle that is eligible for a specialty license plate under Section 504.501, Transportation Code.

SECTION 4. (a) Amends Subchapter A (Motor Vehicle or Automobile Insurance), Chapter 5 (Rating and Policy Forms), Insurance Code, by adding Article 5.07-2, as follows:

Art. 5.07-2. VALUATION OF TOTALED MOTOR VEHICLE. (a) Defines "standard presumptive value" for purposes of this article.

(b) Requires the insurer to assign the motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle if an insurer determines that a motor vehicle covered under an automobile insurance policy issued by the insurer is an active or constructive total loss.

(c) Requires the insurer to assign the third party's motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle, in settling a liability claim by a third party against an insured for property damage claimed by the third party, if the insurer determines that the third party's motor vehicle is an active or constructive total loss.

(d) Provides that this article expires April 1, 2007.

(b) Amends Chapter 1952 (Policy Provisions and Forms For Automobile Insurance), Insurance Code, as effective April 1, 2007, by adding Subchapter H , as follows:

SUBCHAPTER H. VALUATION OF TOTALED MOTOR VEHICLE

Sec. 1952.351. DEFINITION. Defines "standard presumptive value."

Sec. 1952.352. VALUATION OF TOTALED MOTOR VEHICLE. (a) Requires the insurer to assign the motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle, if an insurer determines that a motor vehicle covered under an automobile insurance policy issued by the insurer is an active or constructive total loss.

(b) Require the insurer to assign the third party's motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle, in settling a liability claim by a third party against an insured for property damage claimed by the third party, if the insurer determines that the third party's motor vehicle is an active or constructive total loss.

SECTION 5. Requires the department, not later than October 1, 2006, to establish standard presumptive values for motor vehicles as provided by Section 152.0412, Tax Code, as added by this Act; modify the department's registration and title system as needed to include that information and administer that section; make that information available through the system to all county tax assessor-collectors; and publish that information and make the published information available to an insurer or other requesting person.

SECTION 6. Makes application of this Act prospective.

SECTION 7. (a) Effective date: July 1, 2006, or on the first day of the first month that begins on or after the 91st day after adjournment, except as provided by Subsection (b) of this section.

(b) Provides that Section 152.0412, Tax Code, Article 5.07-2, Insurance Code, and Subchapter H (Valuation of Totaled Motor Vehicle), Chapter 1952 (Policy Provisions and Forms For Automobile Insurance), Insurance Code, as added by this Act, take effect October 1, 2006.