

BILL ANALYSIS

Senate Research Center
80R6175 MXM-F

H.B. 11
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is a growing concern over fraud among convenience store operators in the area of sales tax reporting, where operators purport to collect taxes but do not remit the money to the state. The efforts of the comptroller of public accounts (comptroller) to audit and collect unpaid sales taxes from those and other retail outlets are often constrained by the time-intensive, case-by-case practice of gathering information from wholesalers, performed under existing audit authority.

Expanding and automating the comptroller's collection of hard data on retail purchases from wholesalers will help the comptroller identify audit targets; provide a reliable cross-check against reported sales; provide concrete evidence in fraud cases; and reduce manpower required to audit, estimate tax liabilities, and prosecute those attempting to defraud the state.

H.B. 11 authorizes the comptroller to require wholesalers and distributors to report data regarding sales to retailers of beer, wine, and malt liquor and to report data regarding sales to retailers of cigarettes, cigars, and tobacco products.

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 I, Chapter 151, Tax Code, by adding Section 151.433, as follows:

Sec. 151.433. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF BEER, WINE, AND MALT LIQUOR. (a) Defines "distributor," "retailer," and "wholesaler."

(b) Authorizes the comptroller of public accounts (comptroller) to require each wholesaler or distributor of beer, wine, or malt liquor to file a report with the comptroller each month of sales to retailers in the state when considered necessary for the administration of a tax under this chapter (Limited Sales, Excise, and Use Tax).

(c) Requires the wholesaler or distributor to file the required report on or before the 25th day of each month. Requires the report to contain certain information set forth in this subsection.

(d) Requires the wholesaler or distributor to file the report with the comptroller electronically, except as provided by this subsection. Authorizes the comptroller to establish procedures to allow an alternative filing method for a wholesaler or distributor demonstrating an inability to comply with the electronic reporting requirement. Authorizes the comptroller, if another technological method of filing is determined to be more efficient than electronic filing, to establish procedures requiring that method's use.

(e) Provides that, except as provided by Section 111.006 (Confidentiality of Information), information in a report under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(f) Authorizes the comptroller to suspend or cancel one or more permits issued to a person failing to file a complete report required by this section under Section 151.203 (Suspension and Revocation of Permit) and to impose a civil, criminal, or both types of penalties under Section 151.7031 (Failure to Report on Three or More Occasions; Civil Penalty) or 151.709 (Failure to Furnish Report; Criminal Penalty).

(g) Authorizes the comptroller to notify the Texas Alcoholic Beverage Commission (commission) of a person's failure to file a complete report required by this section and authorizes the commission to take administrative action against the person under the Alcoholic Beverage Code.

SECTION 2. Amends Subchapter F, Chapter 154, Tax Code, by adding Section 154.212, as follows:

Sec. 154.212. **REPORTS BY WHOLESALERS AND DISTRIBUTORS OF CIGARETTES.** (a) Authorizes the comptroller to require each wholesaler or distributor of cigarettes to file a report with the comptroller each month of sales to retailers in the state when considered necessary for the administration of a tax under this chapter (Cigarette Tax).

(b) Requires the wholesaler or distributor to file the required report on or before the 25th day of each month. Requires the report to contain certain information set forth in this subsection.

(c) Requires the wholesaler or distributor to file the report with the comptroller electronically, except as provided by this subsection. Authorizes the comptroller to establish procedures to allow an alternative filing method for a wholesaler or distributor demonstrating an inability to comply with the electronic reporting requirement. Authorizes the comptroller, if another technological method of filing is determined to be more efficient than electronic filing, to establish procedures requiring that method's use.

(d) Provides that, except as provided by Section 111.006, information in a report under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 3. Amends Subchapter D, Chapter 155, Tax Code, by adding Section 155.105, as follows:

Sec. 155.105. **REPORTS BY WHOLESALERS AND DISTRIBUTORS OF CIGARS AND TOBACCO PRODUCTS.** (a) Authorizes the comptroller to require each wholesaler or distributor of cigarettes to file a report with the comptroller each month of sales to retailers in the state when considered necessary for the administration of a tax under this chapter (Cigars and Tobacco Products Tax).

(b) Requires the wholesaler or distributor to file the required report on or before the 25th day of each month. Requires the report to contain certain information set forth in this subsection.

(c) Requires the wholesaler or distributor to file the report with the comptroller electronically, except as provided by this subsection. Authorizes the comptroller to establish procedures to allow an alternative filing method for a wholesaler or distributor demonstrating an inability to comply with the electronic reporting requirement. Authorizes the comptroller, if another technological method of filing is determined to be more efficient than electronic filing, to establish procedures requiring that method's use.

(d) Provides that, except as provided by Section 111.006, information in a report under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 4. Effective date: September 1, 2007.