

BILL ANALYSIS

C.S.H.B. 1543
By: Springer
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about the enforcement of use taxes regarding the out-of-state purchase of certain off-road vehicles. It has been suggested that dealers in nearby states look to take advantage of lax enforcement of the tax by advertising that Texans can save on taxes by purchasing their vehicles outside of Texas, costing Texas dealers sales and lost revenue. C.S.H.B. 1543 seeks to level the playing field by helping to ensure the tax is collected.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 1543 amends the Transportation Code to prohibit a county assessor-collector and the Texas Department of Motor Vehicles (TxDMV) from issuing a title receipt or a certificate of title, respectively, for certain off-highway vehicles purchased from a retailer located outside Texas and designated by the manufacturer as a model year that is not more than one year before the year in which the application for title is made unless the applicant for the title delivers to the assessor-collector or TxDMV, as applicable, satisfactory evidence showing that the applicant has paid to the comptroller of public accounts the applicable use tax imposed on the vehicle or is not required to pay any such taxes. The bill authorizes the comptroller to promulgate forms and adopt rules as necessary to implement this prohibition, including rules that define "satisfactory evidence" for such purposes.

C.S.H.B. 1543 amends the Tax Code to require the comptroller to require each manufacturer of off-highway vehicles that is required to hold a manufacturer's license to file with the comptroller not later than March 1 of each year a report listing each warranty issued by the manufacturer for a new off-highway vehicle that was, during the preceding calendar year, sold to a Texas resident by a retailer located outside Texas. The bill requires each annual report to be in a form prescribed by the comptroller and sets out the minimum content requirements for the report. The bill requires a manufacturer to submit the first report to the comptroller not later than March 1, 2020, and requires the comptroller to use information contained in a report to investigate and collect any unpaid use taxes on an off-highway vehicle described in the report as soon as practicable after receiving the report. The bill authorizes the comptroller to adopt rules as necessary to implement the bill's provisions related to the manufacturer reports, including provisions relating to enforcement, and establishes that information contained in such a report is confidential and not subject to disclosure under state public information law, with certain

exceptions.

C.S.H.B. 1543 authorizes the comptroller to impose a certain \$50 civil penalty on a manufacturer who fails to file a report required by the bill's provisions or fails to file a complete report. The bill requires a manufacturer who violates the bill's reporting requirements or violates a rule adopted for the purpose of administering and enforcing such requirements to pay the state, in addition to a penalty imposed by the comptroller, a civil penalty of not less than \$25 and not more than \$2,000 for each day the violation continues. The bill authorizes the comptroller to notify TxDMV of a manufacturer's failure to file a report or failure to file a complete report and authorizes TxDMV to take administrative action against the manufacturer for the failure.

C.S.H.B. 1543 authorizes the comptroller to audit, inspect, or otherwise verify a manufacturer's compliance with the bill's reporting requirements. The bill authorizes the comptroller to bring an action to enforce such requirements and to obtain any civil remedy authorized by the bill's provisions or any other law for a violation of the requirements. The bill requires the attorney general to prosecute the action on the comptroller's behalf; establishes that venue for and jurisdiction of the action is exclusively conferred on the district courts in Travis County; and entitles the comptroller and attorney general, if the comptroller prevails in the action, to recover court costs and reasonable attorney's fees incurred in bringing the action.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1543 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute limits the prohibition against issuing a title receipt or a certificate of title for an off-highway vehicle purchased from a retailer located outside of Texas unless certain conditions are met to vehicles that are designated by the manufacturer as a model year that is not more than one year before the year in which the application for title is made. The substitute includes an authorization for the comptroller to promulgate forms and adopt rules as necessary to implement the prohibition against the issuance of such a title receipt or certificate of title.

The substitute changes the entity with which the annual manufacturer reports are filed from TxDMV to the comptroller and changes the entity authorized to adopt rules to implement provisions relating to the reports from the board of TxDMV to the comptroller. The substitute does not include provisions requiring TxDMV to review the reports, obtain additional information for incomplete reports, and forward completed reports to the comptroller.

The substitute includes a definition for "manufacturer" and "new off-highway vehicle." The substitute revises the content requirements for the manufacturer reports.

The substitute replaces the authorization for the comptroller to use information in a report to investigate and collect certain unpaid taxes on an off-highway vehicle described in the report with a requirement to do so as soon as practicable after receiving the report.

The substitute includes an exception to the confidentiality of information contained in a report.

The substitute includes provisions relating to the enforcement of the reporting requirements that do the following:

- authorize the comptroller to impose a civil penalty on a manufacturer that fails to file a

report or fails to file a complete report;

- require a manufacturer to pay the state a civil penalty for a violation of the bill's reporting requirements or rules adopted to administer or enforce those requirements;
- authorize the comptroller to notify TxDMV of noncompliance and authorize TxDMV to take administrative action against a noncompliant manufacturer;
- authorize the comptroller to audit, inspect, or otherwise verify a manufacturer's compliance with the reporting requirements; and
- authorize the comptroller to bring an action to enforce the reporting requirements and obtain a civil remedy for a violation of the requirements.