

- SUBJECT:** Exempting certain motor vehicle transfers from the sales tax
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 11 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, Springer, C. Turner, Wray
- 0 nays
- WITNESSES:** For — Steve McKelvey, Toyota Motor North America; (*Registered, but did not testify*: Laird Doran, Gulf States Toyota, the Friedkin Group; Chris Shields, Toyota Motor Corporation North America; Tom Devany, Toyota Motor Sales USA)
- Against — None
- On — (*Registered, but did not testify*: Eric Stearns, Texas Comptroller of Public Accounts)
- BACKGROUND:** Tax Code, sec. 152.021 requires that a tax be imposed on the retail sale of every motor vehicle sold in this state. Sec. 152.001(2), defines “retail sale” to mean a sale of a motor vehicle unless:
- the purchaser is a franchised dealer who intends to resell the vehicle as a new motor vehicle or use it for purposes under Transportation Code, ch. 503;
  - the purchaser holds a dealer’s general distinguishing number and intends to resell the vehicle or use it for purposes under Transportation Code, ch. 503; or
  - the sale was made to a franchised dealer for the purpose of entering into a contract to lease the vehicle to another person under certain conditions.
- Occupations Code, sec. 2301.002(19), defines “manufacturer” as a person who manufactures or assembles new motor vehicles. Occupations Code, sec. 2301.002(11) defines “distributor” as a person, other than a

manufacturer, who distributes or sells new motor vehicles to a franchised dealer or enters into franchise agreements with franchised dealers on behalf of the manufacturer.

**DIGEST:**

CSHB 2400 would exclude from the definition of “retail sale” in Transportation Code, sec. 152.021 the sale of a new motor vehicle in which the purchaser was a manufacturer or distributor who acquired the motor vehicle either for the exclusive purpose of sale or for purposes allowed under Transportation Code, ch. 503. Such sales would be exempted from the motor vehicle sales tax.

This bill also would impose a \$25 use tax, which applies to metal dealer’s plates under current law, on each person issued a manufacturer’s license plate, as authorized by Transportation Code, ch. 503. The Department of Motor Vehicles would have to receive payment of this tax before issuing the manufacturer plates.

This bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

**SUPPORTERS  
SAY:**

CSHB 2400 would reflect current practice by clarifying the definition of “retail sale” to specifically exclude motor vehicles transferred from a manufacturer to a distributor. The comptroller has never taxed transfers from manufacturers to distributors, but this bill would provide clarification to prevent confusion and to ensure these transfers continue not to be taxed.

Current law provides that sales from manufacturers to dealers excluded from the definition of “retail sale,” which exempts them from the motor vehicle sales tax. However, some manufacturers sell their cars to distributors or other entities not classified as dealers. This means that the motor vehicle sales tax, in theory, could be applied to a sale that is clearly not a retail sale. This bill would resolve this concern and clarify the intent of the law.

Additionally, this bill would have a modest positive fiscal impact because

it would place a \$25 use tax on manufacturer's plates. Some distributors and manufacturers conduct extensive road testing in new vehicles, which requires a manufacturer's license plate. Although they serve the same function as dealer's plates, manufacturer's plates currently are not subject to the tax. This bill would make the application of the use tax more consistent.

OPPONENTS  
SAY:

CSHB 2400 could unintentionally change the meaning of retail sales because of a vague reference in the bill. Specifically, the bill notes that the sale of a new motor vehicle to a distributor or manufacturer for the purposes allowed under Transportation Code, ch. 503 would not be considered a retail sale. However, ch. 503 covers a variety of topics beyond the intent of the bill. The bill instead should reflect the language of SB 1125 by V. Taylor as it was reported from Senate committee, which refers specifically to Transportation Code, sec. 503.064 in the revised definition of the definition of "retail sale."

NOTES:

The companion bill, SB 1125 by V. Taylor, was placed on the intent calendar on April 21 and not again placed on the intent calendar on April 22.