

## **BILL ANALYSIS**

Senate Research Center  
81R12135 JD-F

S.B. 2149  
By: Patrick, Dan  
Finance  
4/17/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Since 1994, dealers of motor vehicles, heavy equipment, and vessels and outboard motors, and retailers of units of manufactured housing have been required to file an inventory tax statement with their local tax assessor-collector each month. Taxing jurisdictions, as well as the comptroller of public accounts, have interpreted the law to require that such statements be filed no later than the 10th day of the month following the reporting month, regardless of whether a sale occurred in the previous month. This fostered consistency in reporting and enforcement, and late filers could be tracked and required to comply. Recently, a court questioned this interpretation of the law, indicating that a statement need be filed only if sales occurred during the previous month. This interpretation will result in confusion and difficulty in enforcing the law.

As proposed, S.B. 2149 requires statements be filed monthly, regardless of whether sales occurred.

### **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 Section 23.121(k), Tax Code, as follows:

(k) Requires a dealer who fails to file or fails to timely file a declaration required by this section to, in addition to other penalties provided by law, forfeit a penalty. Provides that venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the owner maintains the owner's, rather than his, principle place of business or residence. Provides that a penalty forfeited under this subsection is \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.

SECTION 2. Amends Sections 23.122(b), (e), (f), and (n), Tax Code, as follows:

(b) Requires the owner to, on or before the 10th day of each month, together with the statement filed by the owner as required, rather than as provided, by this section, deposit with the collector a certain sum.

(e) Requires a dealer, each month, to complete the form regardless of whether a motor vehicle is sold, rather than with respect to each motor vehicle sold. Makes a conforming change.

(f) Requires a dealer, on or before the 10th day of a month following a month in which the dealer does not sell a motor vehicle, to file the statement with the collector and indicate that no sales were made in the prior month. Makes a nonsubstantive change.

(n) Requires a dealer who fails to file or fails to timely file a statement as required by this section, in addition to other penalties provided by law, to forfeit a penalty. Makes conforming changes.

SECTION 3. Amends Section 23.124(k), Tax Code, to require a dealer who fails to file or fails to timely file a declaration required by this section, in addition to other penalties provided by law, to forfeit a penalty. Makes conforming changes.

SECTION 4. Amends Section 23.1241(j), Tax Code, to require a dealer who fails to file or fails to timely file a declaration required by this Subsection (f) (relating to the comptroller being required to adopt a certain form), in addition to other penalties provided by law, to forfeit a penalty. Makes a conforming change.

SECTION 5. Amends Sections 23.1242(b), (e), (f), and (m), Tax Code, as follows:

(b) Requires the owner, on or before the 10th day of each month, together with the statement filed by the owner as required, rather than as provided by this section, to deposit with the collector a certain amount.

(e) Requires a dealer, each month, to complete the form regardless of whether an item of heavy equipment is sold, rather than with respect to each item of heavy equipment sold. Makes a conforming change.

(f) Requires a dealer, on or before the 10th day of a month following a month in which the dealer does not sell an item of heavy equipment, to file the statement with the collector and indicate that no sales were made in the prior month.

(m) Requires a dealer who fails to file or fails to timely file a statement as required by this section, in addition to other penalties provided by law, to forfeit a penalty. Makes a conforming change.

SECTION 6. Amends Sections 23.125(b), (e), (f), and (n), Tax Code, as follows:

(b) Requires the owner, on or before the 10th day of each month, together with the statement filed by the owner as required, rather than as provided by this section, to deposit with the collector a certain amount.

(e) Requires a dealer, each month, to complete the form regardless of whether a vessel and outboard motor is sold, rather than with respect to each item vessel and outboard motor sold. Makes a conforming change.

(f) Requires a dealer, on or before the 10th day of a month following a month in which the dealer does not sell a vessel or outboard motor, to file the statement with the collector and indicate that no sales were made in the prior month.

(n) Requires a dealer who fails to file or fails to timely file a statement as required by this section, in addition to other penalties provided by law, to forfeit a penalty. Makes conforming changes.

SECTION 7. Amends Section 23.127(k), Tax Code, to provide that in addition to other penalties provided by law, a retailer who fails to file or fails to timely file a declaration required by Subsection (f) (relating to the comptroller being required to adopt a certain form) is liable for a penalty in the amount of \$1,000 for each month or part of a month in which a declaration is not file or timely filed after it is due.

SECTION 8. Amends Sections 23.128(b), (e), (f), and (m), Tax Code, as follows:

(b) Requires the retailer, on or before the 10th day of each month, together with the statement filed by the retailer as required, rather than as provided by this section, to deposit with the collector a certain amount.

(e) Requires a retailer, each month, to complete the form regardless of whether a unit of manufactured housing is sold, rather than with respect to each unit of manufactured housing sold. Makes a conforming change.

(f) Requires a dealer, on or before the 10th day of a month following a month in which the dealer does not sell a unit of manufactured housing, to file the statement with the collector and indicate that no sales were made in the prior month.

(m) Provides that a retailer who fails to file or fails to timely file a statement as required by this section, in addition to other penalties provided by law, is liable for a penalty in the amount of \$500 for each month or part of a month in which a statement is not filed after it is due.

SECTION 9. Effective date: September 1, 2009.