

CHAPTER 486

S.B. No. 82

AN ACT

relating to the administration, collection, enforcement, and application of, and exemptions from, various taxes and fees; creating offenses and providing penalties.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1

SECTION 1.01. Section 101.003, Tax Code, is amended by amending Subdivisions (8) and (11) and adding Subdivision (12) to read as follows:

(8) "Taxpayer" means a person liable for a tax, fee, assessment, or other amount imposed by a statute or under the authority of a statutory function administered by the comptroller [~~this title~~].

(11) "Report" means a tax return, declaration, statement, or other document required to be filed with the comptroller [~~by a provision of this title~~].

(12) "Obligation" means the duty of a person to pay a tax, fee, assessment, or other amount or to make, file, or keep a report, certificate, affidavit, or other document.

SECTION 1.02. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0022 to read as follows:

Sec. 111.0022. APPLICATION TO OTHER LAWS ADMINISTERED BY COMPTROLLER. This subtitle and Subtitle A of this title apply to the administration, collection, and enforcement of other taxes, fees, and charges, including penalties, or other financial transactions, that the comptroller is required or authorized to collect or administer under other law, to the extent that the other law does not conflict with this subtitle or Subtitle A of this title.

SECTION 1.03. Subsections (e), (g), and (h), Section 111.021, Tax Code, are amended to read as follows:

(e) A notice under this section that attempts to prohibit the transfer or disposal of an asset possessed or controlled by a bank is ~~not~~ effective if ~~unless~~ it is delivered or mailed to the principal or any branch office of the bank including any ~~or the~~ office of the bank at which the deposit is carried or the credit or property is held.

(g) At any time during the ~~last 45 days of the~~ 60-day period as stated in Subdivision (2) of Subsection (d) of this section, the comptroller may levy upon the asset or debt. The levy shall be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the asset or debt shall transfer the asset to the comptroller or pay to the comptroller the amount owed to the delinquent or to the person against whom the unpaid determination is made.

(h) A notice delivered under this section is effective:

(1) at the time of delivery against all property, rights to property, credits, and/or debts involving the delinquent taxpayer which are not at the time of the ~~such~~ notice subject to an attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits and/or debts involving the delinquent taxpayer that come into the possession or control of the person served with the notice within the 60-day period provided by Subdivision (2) of Subsection (d) of this section.

SECTION 1.04. Section 111.051, Tax Code, is amended to read as follows:

Sec. 111.051. REPORTS AND PAYMENTS; DUE DATES; METHOD OF PAYMENT.

(a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may only set a report or payment date for the state sales and use tax that conflicts with the dates prescribed by Chapter 151 of this code in case of public calamity or natural disaster.

(c) The comptroller may require that all payments from a taxpayer who files tax reports monthly and remits three or more dishonored or insufficient funds checks or drafts within a six-month period be remitted using certified instruments. The comptroller may require that all payments from a taxpayer who files tax reports quarterly and remits three or more dishonored or insufficient funds checks or drafts within an 18-month period be remitted by using certified instruments. In this subsection, "certified instruments" includes cashier's checks and money orders. The comptroller shall send written notice of a payment restriction under this subsection to the taxpayer at the business address shown on the comptroller's records. A failure to remit a payment by a certified instrument after imposition of the payment restriction by the comptroller is grounds for the suspension and revocation of a permit or license as provided by Section 111.0047 of this code.

SECTION 1.05. Section 111.201, Tax Code, is amended to read as follows:

Sec. 111.201. ASSESSMENT AND REFUND LIMITATION. (a) No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

(b) *No refund of any tax imposed by this title may be made by the comptroller after four years after the date that the tax was paid, except on tolling of the statute of limitations for refunds as provided in this title.*

SECTION 1.06. Section 151.304, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) *A person who holds a permit issued under this chapter and makes a purchase from a person entitled to claim the exemption provided by Subsection (b)(1) of this section shall accrue use tax on the transaction and remit it to the comptroller.*

SECTION 1.07. Section 151.316, Tax Code, is amended to read as follows:

Sec. 151.316. AGRICULTURAL ITEMS. (a) The following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
 - (A) ordinarily constitute food for human consumption;
 - (B) are to be sold in the regular course of business; or
 - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or
 - (C) other agricultural products to be sold in the regular course of business;
- (7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:
 - (A) food for human consumption;
 - (B) grass;
 - (C) feed for animal life; or
 - (D) other agricultural products to be sold in the regular course of business;
- (8) machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing the producer's own products; and
- (9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures.

(b) *Tangible personal property sold or used to be installed as a component of an underground irrigation system is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the production of:*

- (1) *food for human consumption;*
- (2) *grass;*
- (3) *feed or forage for:*
 - (A) *animal life the products of which ordinarily constitute food for human consumption; or*
 - (B) *horses, mules, and work animals; or*

(4) other agricultural products to be sold in the regular course of business.

SECTION 1.08. Subchapter L, Chapter 151, Tax Code, is amended by adding Section 151.7031 to read as follows:

Sec. 151.7031. FAILURE TO REPORT ON THREE OR MORE OCCASIONS; CIVIL PENALTY. A person who is required to file a report under this chapter, who fails to file the report under this chapter, and who has on two or more previous occasions failed to file a timely report under this chapter shall pay an additional penalty of \$50. The penalty provided by this section is assessed without regard to whether the taxpayer subsequently files the report or whether no taxes were due from the taxpayer for the reporting period under the required report.

SECTION 1.09. Section 151.707, Tax Code, is amended to read as follows:

Sec. 151.707. RESALE OR EXEMPTION CERTIFICATE; CRIMINAL PENALTY.

(a) A person commits an offense if the person:

(1) intentionally or knowingly makes a false entry in, or a fraudulent alteration of, an exemption or resale certificate;

(2) makes, presents, or uses an exemption certificate or resale certificate with knowledge that it is false and with the intent that it be accepted as a valid resale or exemption certificate; or

(3) intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate or unreasonably impedes the availability of an exemption or resale certificate ~~[gives a resale certificate to a seller for property that the person knows, at the time of purchase, is purchased for the purpose of use and not for the purpose of resale, lease, or rental by the person to another in the regular course of business or for transfer as an integral part of a taxable service performed in the regular course of business].~~

(b) An offense under Subsection (a)(1) or (a)(2) of this section is:

(1) a Class C misdemeanor if the tax avoided by the use of the exemption or resale certificate is less than \$20;

(2) a Class B misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$20 or more, but less than \$200;

(3) a Class A misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$200 or more, but less than \$750;

(4) a felony of the third degree if the tax avoided by the use of the exemption or resale certificate is \$750 or more, but less than \$20,000; or

(5) a felony of the second degree if the tax avoided by the use of the exemption or resale certificate is \$20,000 or more. ~~[An offense under this section is a misdemeanor punishable by a fine of not more than \$500.]~~

SECTION 1.10. Subchapter A, Chapter 153, Tax Code, is amended by adding Section 153.0061 to read as follows:

Sec. 153.0061. SUMMARY SUSPENSION OF PERMIT. (a) The comptroller may suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder, or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears on the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If the notice is served in person, the permit holder shall immediately surrender the permit to the comptroller or to the comptroller's representative. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 153.006, governing hearings for permit cancellation or refusal to issue a permit under this chapter, governs a final administrative hearing under this section.

SECTION 1.11. Section 153.007, Tax Code, is amended to read as follows:

Sec. 153.007. ENFORCEMENT OF PERMIT CANCELLATION, *SUSPENSION*, OR REFUSAL. (a) The comptroller may examine any books and records incident to the conduct of the business of a person whose permit has been canceled or *suspended* on the person's failure to file the reports required by this chapter or to remit all taxes due. The comptroller shall issue an audit deficiency determination of the amount of delinquent taxes, penalties, and interest, containing a demand for payment. The deficiency determination shall provide that if neither a payment is made nor a request for a redetermination is filed within 30 days after the date of the notice of the deficiency, the amount of the determination becomes due and payable. If the amount is not paid on or before the 44th day after service of the notice of the deficiency determination, the bond or other security required under this chapter shall be forfeited. The demand for payment shall be addressed to both the surety or sureties and the person who owes the delinquency.

(b) If the forfeiture of the bond or other security does not satisfy the delinquency, the comptroller shall certify the taxes, penalty, and interest delinquent to the attorney general, who may file suit against the person or his surety or both to collect the amount due. After being given notice of an order of cancellation or *summary suspension*, it shall be unlawful for any person to continue to operate his business under a canceled or *suspended* permit. The attorney general may file suit to enjoin the person from continuing to operate under his permit until the person's permit is reissued by the comptroller.

(c) An appeal from an order of the comptroller canceling or *suspending* or refusing the issuance or reissuance of a permit may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits, except that:

- (1) an appeal must be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;
- (2) the trial of the case shall begin within 10 days after its filing; and
- (3) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

SECTION 1.12. Section (1), Article 8802, Revised Statutes, is amended to read as follows:

(1) Every "owner", save an owner holding an import license and holding coin-operated machines solely for re-sale, who exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 8801, except as are exempt herein, an annual occupation tax of \$60.00. The tax shall be paid to the comptroller by cashier's check or money order. The annual tax levied by this chapter may be collected by the comptroller on a quarterly basis. The comptroller may establish procedures for quarterly collection and set due dates for the tax payments. The tax due from the owner of a coin-operated machine first exhibited or displayed in this State later than March 31 shall be prorated on a quarterly basis, with one-fourth of the annual tax due for each quarter or portion of a quarter remaining in the calendar year. No refund or credit of the annual tax levied by this chapter may be allowed to any owner who ceases the exhibition or display of any coin-operated machine prior to the end of any calendar year. Subtitle B, Title 2, Tax

Code, applies to the administration, collection, and enforcement of the taxes, *penalties, and interest* imposed by this chapter.

SECTION 1.13. Section (2), Article 8807, Revised Statutes, is amended to read as follows:

(2) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Chapter or any rule and regulation promulgated hereunder, the Comptroller may investigate the violation and may *impose* [~~seek~~] sanctions, including suspension or revocation of a license, permit, or registration certificate issued under this chapter.

SECTION 1.14. Article 8811, Revised Statutes, is amended to read as follows:

Art. 8811. VIOLATIONS OF ACT; PENALTY; *ENFORCEMENT* [~~SUIT TO RECOVER PENALTY~~]. If any "owner" of a coin-operated machine within this State shall (a) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said permit being permanently attached thereto, or (b) if any person shall exhibit or display within this State any coin-operated machine without having annexed or attached thereto a permit issued by the Comptroller showing the payment of the tax due thereon for the current year, or (c) if any person exhibits or displays a coin-operated machine that is not registered with the Comptroller, or (d) shall fail to keep such records, or (e) shall refuse or fail to present such records for inspection upon the demand of the Comptroller or an authorized representative of the Comptroller, or (f) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (g) mislead the Comptroller or an authorized representative of the Comptroller in the enforcement of this Chapter, or (h) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (i) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller, or violate the same, the Comptroller in addition to the other remedies provided in this Chapter may assess a penalty in the sum of not less than *Fifty Dollars (\$50)* [~~Five Dollars (\$5)~~] nor more than *Two Thousand Dollars (\$2,000)* [~~Five Hundred Dollars (\$500)~~]. Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid may be recovered *by the Comptroller in any manner available for the recovery of delinquent taxes under Subtitle B, Title 2, Tax Code, or in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas,* [~~or any court having jurisdiction~~].

SECTION 1.15. Subdivision (2), Section 8, Article 8817, Revised Statutes, is amended to read as follows:

(2) A person who knowingly violates Subdivision (1) of this Section is guilty of a Class A [~~B~~] misdemeanor. A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation, or subterfuge is guilty of a felony of the *second* [~~third~~] degree.

SECTION 1.16. Section 17, Article 8817, Revised Statutes, is amended to read as follows:

Sec. 17. REMOVAL OF PERMIT PROHIBITED; PENALTY. (1) A person may not [~~intentionally~~] *remove or cause to be removed* a current tax permit from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a Class B [~~C~~] misdemeanor.

SECTION 1.17. Subdivision (1), Section 20, Article 8817, Revised Statutes, is amended to read as follows:

(1) The Comptroller may refuse to issue or renew a license or registration certificate or may revoke or suspend a license or registration certificate issued pursuant to the authority of this Article if:

(a) the licensee or applicant has [~~intentionally~~] violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee or applicant has [~~intentionally~~] failed to answer a question, or [~~intentionally~~] made a false statement in, or in connection with, his application or renewal;

(c) the licensee or applicant extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee or applicant uses coercion to accomplish a purpose or to engage in conduct regulated by the Comptroller;

(e) a contract or agreement between the licensee or applicant and a location owner contains a restriction, of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article; or

(f) failure to suspend or revoke the license would be contrary to the intent and purpose of this Article.

SECTION 1.18. Article 8817, Revised Statutes, is amended by adding Section 27 to read as follows:

Sec. 27. SUITS BY THE ATTORNEY GENERAL. (1) On request by the Comptroller, the attorney general may file suit for an injunction prohibiting a person from engaging in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, maintain, service, transport within the state, store, or import a music coin-operated machine or a skill or pleasure coin-operated machine without a license or registration certificate issued under this Article.

(2) The district courts of Travis County, Texas, have exclusive, original jurisdiction of a suit brought under this section.

SECTION 1.19. The following provisions of the Tax Code are repealed:

(1) Section 151.502; and

(2) Section 151.706.

SECTION 1.20. This article takes effect September 1, 1993, and applies to the collection and enforcement of taxes imposed before, on, or after the effective date of this article.

ARTICLE 2

SECTION 2.01. Section 151.401, Tax Code, is amended to read as follows:

Sec. 151.401. TAX DUE DATES. (a) The taxes imposed by this chapter on the sale, use, storage, or other consumption of taxable items on or after August 1 and on or before August 15 are due and payable on or before August 20 by a taxpayer who pays by electronic funds transfer unless:

(1) the taxpayer qualifies as a quarterly filer under Subsection (c);

(2) the taxpayer prepays the tax quarterly as permitted by Section 151.424; or

(3) the comptroller waives the requirement for all affected taxpayers.

(b) The taxes imposed by this chapter other than those described by Subsection (a) are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (c) [~~of this section~~] or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 [~~of this code~~].

(c) [~~(b)~~] If a taxpayer owes less than \$500 for a calendar month or \$1,500 for a calendar quarter, the taxes are due and payable on the 20th day of the month following the end of the calendar quarter.

SECTION 2.02. Section 151.402, Tax Code, is amended to read as follows:

Sec. 151.402. TAX REPORT DATES. (a) Except as provided by Subsection (b) of this section, a [A] tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401 [~~of this code~~].

(b) A tax report for taxes required by Section 151.401(a) to be paid on or before August 20 is due on or before the 20th day of the following month.

SECTION 2.03. Section 171.202, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(c) The comptroller shall grant an extension of time to a corporation that is not required by rule to make its tax payments by electronic funds transfer for the filing of a report required by this section to any date on or before the next November 15, if a corporation:

(1) requests the extension, on or before May 15, on a form provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before November 15; or

(B) 100 percent of the tax paid in the previous year.

(d) In the case of a taxpayer whose previous return was its initial report, the optional payment provided under *Subsection (c)(2)(B) or (e)(2)(B)* [~~Paragraph (B) of Subdivision (2) of Subsection (e) of this section~~] must be equal to the greater of:

(1) an amount produced by multiplying the net taxable capital, as required to be shown on the initial report, by the rate of tax in Section 171.002(a)(1) which is effective January 1 of the year in which the report is due; or

(2) the amount paid on net taxable earned surplus, as required on the initial report.

(e) The comptroller shall grant an extension of time for the filing of a report required by this section by a corporation required by rule to make its tax payments by electronic funds transfer to any date on or before the next August 15, if the corporation:

(1) requests the extension, on or before May 15, on a form provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before August 15; or

(B) 100 percent of the tax paid in the previous year.

(f) The comptroller shall grant an extension of time to a corporation required by rule to make its tax payments by electronic funds transfer for the filing of a report due on or before August 15 to any date on or before the next November 15, if the corporation:

(1) requests the extension, on or before August 15, on a form provided by the comptroller; and

(2) remits with the request the difference between the amount remitted under Subsection (e) and 100 percent of the amount of tax reported as due on the report filed on or before November 15.

(g) If an amount paid pursuant to Subsection (f)(2) is no more than 10 percent less than the amount reported as due on the report filed on or before November 15, no penalty shall be due for the underpayment.

(h) If the sum of the amounts paid under Subsections (e)(2) and (f)(2) is at least 99 percent of the amount reported as due on the report filed on or before November 15, penalties for underpayment with respect to the amount paid under Subsection (f)(2) are waived.

SECTION 2.04. (a) This article takes effect September 1, 1994.

(b) Section 2.01 of this article applies only to the payment of taxes that are due and payable on or after the effective date of this article. Section 2.01 of this article expires January 1, 1996.

(c) Section 2.03 of this article applies only to the extension of an annual report required by Section 171.202, Tax Code, to be filed on or after the effective date of this article.

ARTICLE 3

SECTION 3.01. Subchapter F, Chapter 153, Tax Code, is amended by adding Section 153.5015 to read as follows:

Sec. 153.5015. DELAY IN ALLOCATION OF TAXES. (a) Notwithstanding any other law, the comptroller shall allocate and deposit as soon as practicable after September 5, 1995, and no later than September 10, 1995:

(1) the unclaimed refunds of gasoline taxes under Section 153.502 for June, July, and August, 1995;

(2) the gasoline taxes collected under Subchapter B for June, July, and August, 1995;

(3) the diesel fuel taxes collected under Subchapter C for June, July, and August, 1995; and

(4) the liquefied gas taxes collected under Subchapter D for June, July, and August, 1995.

(b) This section expires October 1, 1995.

SECTION 3.02. This article takes effect September 1, 1993.

ARTICLE 4

SECTION 4.01. Chapter 31, Human Resources Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING FINANCIAL ASSISTANCE

Sec. 31.071. **DEFINITION.** In this subchapter, "wages" has the meaning assigned by Sections 51(c)(1), (2), and (3), Internal Revenue Code of 1986 (26 U.S.C. Section 51).

Sec. 31.072. **TAX REFUND VOUCHER.** (a) The department shall issue a tax refund voucher in the amount allowed by this subchapter and subject to the restrictions imposed by this subchapter to a person that meets the eligibility requirements under this subchapter.

(b) A person issued a tax refund voucher may, subject to the provisions of this subchapter, apply for the amount of the refund of a tax that is paid by the person to this state if the tax is administered by the comptroller and deposited to the credit of the general revenue fund without dedication.

Sec. 31.073. **AMOUNT OF REFUND; LIMITATION.** (a) The amount of the refund allowed under this subchapter is equal to 20 percent of the total wages, up to a maximum of \$10,000 in wages for each employee, paid or incurred by a person for services rendered by an employee of the person during the period beginning with the date the employee begins work for the person and ending on the first anniversary of that date.

(b) The refund claimed for a calendar year may not exceed the amount of net tax paid by the person to this state, after any other applicable tax credits, in that calendar year.

Sec. 31.074. **ELIGIBILITY.** A person is eligible for the refund for wages paid or incurred by the person, during each calendar year for which the refund is claimed, only if:

(1) the wages paid or incurred by the person are for services of an employee who is:

(A) a resident of this state; and

(B) a recipient of financial assistance and services in accordance with this chapter;

(2) the person satisfies the certification requirements under Section 31.075; and

(3) the person provides and pays for the benefit of the employee at least 80 percent of the cost of major medical health insurance coverage that provides for:

(A) a maximum \$300 deductible to the employee; and

(B) payment by the insurance provider of at least 70 percent of insurance claims during the claim year in excess of the deductible.

Sec. 31.075. **CERTIFICATION.** A person is not eligible for the refund for wages paid or incurred by the person unless the person has received a written certification from the appropriate state agency responsible for certification that the employee is a recipient of financial assistance and services on or before the day the employee begins employment with the person.

Sec. 31.076. **APPLICATION FOR REFUND; ISSUANCE.** (a) A person may apply for a tax refund voucher for wages paid an employee in a calendar year only on or after January 1 and before April 1 of the following calendar year.

(b) The department shall promulgate a form for the application for the tax refund voucher. A person must use this form in applying for the refund.

(c) On issuance of the tax refund voucher to the person by the department, the person may apply the voucher against a tax paid by the person to this state only for the calendar year for which the voucher is issued.

SECTION 4.02. Subchapter C, Chapter 111, Tax Code, is amended by adding Section 111.109 to read as follows:

Sec. 111.109. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN. The comptroller shall issue a refund for a tax paid by a person to this state in the amount of a tax refund voucher issued by the Texas Department of Human Services under Subchapter D, Chapter 31, Human Resources Code, subject to the provisions of that subchapter.

SECTION 4.03. (a) This article takes effect January 1, 1994.

(b) A person may claim the refund under Subchapter D, Chapter 31, Human Resources Code, as added by this article, only for any wages paid or incurred on or after the effective date of this article and only on a tax due on or after that date.

ARTICLE 5

SECTION 5.01. Section 156.001, Tax Code, is amended to read as follows:

Sec. 156.001. *DEFINITION [DEFINITIONS].* In this chapter, "hotel":

(1) "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitarium, or nursing home.

(2) "Quarterly period" means a quarter of the calendar year. ~~The first quarter is composed of the months of January, February, and March; the second quarter is composed of the months of April, May, and June; the third quarter is composed of the months of July, August, and September; and the fourth quarter is composed of the months of October, November, and December.~~

SECTION 5.02. Section 156.151, Tax Code, is amended to read as follows:

Sec. 156.151. *REPORT AND PAYMENT.* (a) ~~A [On the last day of January, April, July, and October, a]~~ person required to collect the tax imposed by this chapter shall pay the comptroller the tax collected during the preceding *reporting [quarterly]* period and at the same time shall file with the comptroller a report stating:

(1) the total amount of the payments made for rooms at the person's hotel during the preceding *reporting [quarterly]* period;

(2) the amount of the tax collected by the person during the preceding *reporting [quarterly]* period; and

(3) other information that the comptroller requires to be in the report.

(b) *Except as provided by Subsection (c), each calendar month is a reporting period and the taxes imposed by and collected under this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month.*

(c) *If a taxpayer owes less than \$500 for a calendar month or \$1,500 for a calendar quarter, the taxpayer qualifies as a quarterly filer having a reporting period of a calendar quarter and the taxes are due and payable on the 20th day after the end of the calendar quarter.*

SECTION 5.03. Section 156.153, Tax Code, is amended to read as follows:

Sec. 156.153. *REIMBURSEMENT FOR TAX COLLECTION.* The person required to file a report under this chapter may deduct and withhold from the taxes otherwise due to the state on the *monthly or quarterly* return, as reimbursement for the cost of collecting the tax, one percent of the amount of the tax due as shown on the report. If taxes due under this chapter are not paid to the state within the time required or if the person required to file a report fails to file the report when due, the person forfeits the claim to reimbursement that could have been taken if the tax had been paid or the report filed when due.

SECTION 5.04. This article takes effect October 1, 1994.

ARTICLE 6

SECTION 6.01. Subsection (b), Section 6, Article 4.10, Insurance Code, is amended to read as follows:

(b) A *semiannual* [~~quarterly~~] prepayment of premium tax must be made on March 1st and August 1st[, May 15th, August 15th, and November 15th] by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal *one-half* [~~one-fourth~~] of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the *semiannual* [~~quarterly~~] payment shall equal the tax which would be owed on *the aggregate* of the gross premium receipts for [~~during~~] the *two* previous calendar *quarters* [~~quarter ending March 31st, June 30th, September 30th, or December 31st~~] at the minimum tax rate specified by law. The State Board of Insurance is authorized to certify for refund to the State Treasurer any overpayment of premium taxes that results from the *semiannual* [~~quarterly~~] prepayment system herein established.

SECTION 6.02. Subsection (a), Section 13, Article 4.11, Insurance Code, is amended to read as follows:

(a) A *semiannual* [~~quarterly~~] prepayment of premium tax must be made on March 1 and August 1[, May 15, August 15, and November 15] by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal *one-half* [~~one-fourth~~] of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the *semiannual* [~~quarterly~~] payment shall equal the tax which would be owed on *the aggregate* of the gross premium receipts for [~~during~~] the *two* previous calendar *quarters* [~~quarter ending March 31, June 30, September 30, or December 31~~] at the minimum tax rate specified by law. The State Board of Insurance is authorized to certify for refund to the state treasurer any overpayment of premium taxes that results from the *semiannual* [~~quarterly~~] prepayment system herein established.

SECTION 6.03. Subsection (b), Section 3, Article 9.59, Insurance Code, is amended to read as follows:

(b) A *semiannual* [~~quarterly~~] prepayment of premium tax must be made on March 1 and August 1[, May 15, August 15, and November 15] by all insurers with net tax liability for the previous calendar year of more than \$1,000. The tax paid on each date must equal *one-half* [~~one-fourth~~] of the total premium tax paid for the previous calendar year. If no premium tax has been paid during the previous calendar year, the *semiannual* [~~quarterly~~] payment shall equal the tax that would be owed on *the aggregate* of the gross premium receipts for [~~during~~] the *two* previous calendar *quarters* [~~quarter ending March 31, June 30, September 30, or December 31~~] at the minimum tax rate specified by law. The commissioner may certify for refund to the state treasurer any overpayment of premium taxes that results from the *semiannual* [~~quarterly~~] prepayment system established by this subsection.

SECTION 6.04. Article 9.46, Insurance Code, is amended to read as follows:

Art. 9.46. MAINTENANCE FEE; DISPOSITION OF UNEXPENDED BALANCE [TAX ON GROSS PREMIUMS]. The State of Texas by and through the State Board of Insurance shall *charge an annual maintenance fee necessary to pay the expenses of the regulation of title insurers and title insurance agents during the succeeding year. The State Board of Insurance shall determine the rate of assessment and collect a maintenance fee in an amount not to exceed one percent of all amounts defined to be premium in this chapter. This fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes* [~~annually determine the rate of assessment on an annual or semiannual basis, as determined by the Board, and collect a maintenance tax in an amount not to exceed one percent of the correctly reported gross title insurance premiums of all authorized insurers writing title insurance in this state. The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article~~]. The State Board of Insurance, after taking into account the unexpended funds produced by this *fee* [~~tax~~], if any, shall adjust the rate of assessment each year to produce the amount of funds that it estimates will be necessary to pay all the expenses of regulating title insurance during the succeeding year. The *fees* [~~taxes~~] collected shall be

deposited in the State Treasury to the credit of the State Board of Insurance operating fund and shall be spent as authorized by legislative appropriation only on warrants issued by the comptroller of public accounts pursuant to duly certified requisitions of the State Board of Insurance. *The fee is included in the division of premiums and shall not be separately charged to the title insurance agent.* The State Board of Insurance shall ~~may elect to~~ collect on a semiannual basis the fee ~~tax~~ assessed under this article only from insurers whose ~~tax~~ liability under this article for the previous ~~tax~~ year was \$2,000 or more. The State Board of Insurance may prescribe and adopt reasonable rules to implement such payments as it deems advisable, not inconsistent with this article.

SECTION 6.05. This article takes effect September 1, 1993. Sections 6.01, 6.02, and 6.03 apply only to the prepayment of premium taxes beginning with prepayments that become due on or after March 1, 1994. Prepayment of premium taxes before March 1, 1994, is governed by the law as it existed immediately before the effective date of this article and that law is continued in effect for that purpose.

ARTICLE 7

SECTION 7.01. Subsection (a), Section 112.052, Tax Code, is amended to read as follows:

(a) A person may bring suit against the state to recover an occupation, *excise*, gross receipts, franchise, license, or privilege tax or fee required to be paid to the state if the person has first paid the tax under protest as required by Section 112.051 of this code.

SECTION 7.02. Subsection (a), Section 112.058, Tax Code, is amended to read as follows:

(a) Except as provided in Subsections (b) and (c) of this section, payments made under protest are to be handled as follows:

(1) An officer who receives payments made under protest as required by Section 112.051 of this code shall each day send to the treasurer the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(2) The treasurer shall, immediately on receipt, credit the payments to *each fund to which the tax or fee paid under protest is allocated by law* ~~the suspense account in accordance with Section 404.062(c), Government Code, and deposit the payments in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest~~.

(3) The treasurer shall *maintain detailed records of payments made under protest* ~~allocate the interest earned on these funds and credit the amount allocated to the suspense account until the status of the funds is finally determined~~.

(4) A payment under protest ~~that is placed in a fund or an account other than a suspense account~~ bears pro rata interest. The pro rata interest is the amount of interest that would be due if the amount had been placed in the suspense account *of the treasurer*.

SECTION 7.03. Section 112.059, Tax Code, is amended to read as follows:

Sec. 112.059. DISPOSITION OF PROTEST PAYMENTS BELONGING TO THE STATE. If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax payment or a portion of a tax payment made under protest, including the pro rata amount of interest earned on the payment, belongs to the state, the treasurer shall *ensure that* ~~transfer~~ the proper amount *has been deposited* ~~from the suspense account~~ to the credit of the appropriate state fund.

SECTION 7.04. Subsection (c), Section 112.060, Tax Code, is amended to read as follows:

(c) Each tax refund warrant shall be drawn against *each fund to which the taxes paid under protest are allocated by law* ~~the suspense account~~. If there are not sufficient funds in *each fund to which the taxes paid under protest are allocated by law* ~~the suspense account~~ to pay a refund required to be paid under Subsection (a) of this section, then the comptroller shall draw the warrant against the General Revenue Fund or other funds from which refund appropriations may be made, as the comptroller determines appropriate.

SECTION 7.05. Subsection (d), Section 112.101, Tax Code, is amended to read as follows:

(d) The public official shall deliver a payment or bond required by Subsection (a)(2) to the treasurer. The treasurer shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law. A payment made under Subsection (a)(2)(A) bears pro rata interest. The pro rata interest is the amount of interest that would be due if the amount had been placed into the suspense account of the treasurer.

SECTION 7.06. Subsection (a), Section 112.104, Tax Code, is amended to read as follows:

(a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 112.101(a)(2)(B) of this code, the applicant shall pay to ~~into the suspense account of~~ the treasurer all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent. The treasurer shall credit the payment to each fund to which the tax, fee, or penalty is allocated by law.

SECTION 7.07. Subsection (a), Section 112.106, Tax Code, is amended to read as follows:

(a) If a restraining order or injunction is finally dismissed or dissolved, the treasurer shall:

(1) if a bond was filed, make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state; or

(2) if no bond was filed, ensure that ~~transfer~~ the proper amount of taxes, fees, and penalties has been deposited ~~from the suspense account~~ to the credit of the proper fund to which the taxes, fees, and penalties are allocated.

SECTION 7.08. Section 112.107, Tax Code, is amended to read as follows:

Sec. 112.107. CREDIT OR REFUND. If the final judgment in a suit under this subchapter maintains the right of the applicant for a temporary or permanent injunction to prevent the assessment or collection of the tax, the treasurer shall credit the money deposited ~~in the suspense account~~ under this subchapter, with the pro rata interest earned on the money, against any other amount finally determined to be due to the state from the applicant according to information in the custody of the treasurer and shall refund the remainder to the applicant.

SECTION 7.09. Subsection (a), Section 403.202, Government Code, is amended to read as follows:

(a) If a person who is required to pay to any department of the state government an occupation, excise, gross receipts, franchise, license, or privilege tax or fee, other than a tax or fee to which Subchapter B, Chapter 112, Tax Code, applies or a tax or other amount imposed under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

SECTION 7.10. Subsection (a), Section 403.203, Government Code, is amended to read as follows:

(a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee covered by this subchapter and required to be paid to the state if the person has first paid the tax under protest as required by Section 403.202.

SECTION 7.11. Subsection (d), Section 403.212, Government Code, is amended to read as follows:

(d) A state official who receives a payment or bond under Subsection (a)(2) shall deliver the payment or bond to the treasurer. The treasurer shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law ~~into the suspense account of the treasurer~~.

SECTION 7.12. On the effective date of this article the state treasurer shall transfer all protested or contested amounts received under Subsection (a), Section 112.058, or Subsection (d), Section 112.101, Tax Code, or Subsection (d), Section 403.212, Government Code, that are in a suspense account, including accrued interest on the amounts, to the credit of each

appropriate fund to which the taxes, fees, or penalties being protested or contested are allocated by law.

SECTION 7.13. This article takes effect September 1, 1993.

ARTICLE 8

SECTION 8.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 25, 1993, by a viva-voce vote; April 30, 1993, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 11, 1993, House granted request of the Senate; May 21, 1993, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendment, on April 22, 1993, by a non-record vote; May 11, 1993, House granted request of the Senate for appointment of Conference Committee; May 24, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 3, 1993.

Effective Sept. 1, 1993, except art. 2 effective Sept. 1, 1994, art. 4 effective Jan. 1, 1994, art. 5 effective Oct. 1, 1994.