

## CHAPTER 718

## S.B. No. 901

## AN ACT

relating to the award of a certificate of number and the collection of certain taxes by an authorized agent of the Parks and Wildlife Department.

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

SECTION 1. Section 31.003, Parks and Wildlife Code, is amended by adding Subdivision (15) to read as follows:

(15) "Authorized agent" means a dealer who is authorized by the department under Section 31.006 of this code to collect taxes and fees and issue certificates of number.

SECTION 2. Subchapter A, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.006 to read as follows:

*Sec. 31.006. APPOINTMENT OF AUTHORIZED AGENT. (a) The department may authorize a dealer who holds a dealer's or manufacturer's number to act as the agent of the department under Subchapter B of this chapter and under Chapter 160, Tax Code, for the issuance of certificates of number and the collection of fees and taxes for boats sold by that dealer.*

*(b) An authorized agent must follow the rules of the commission and the rules of the comptroller.*

*(c) An authorized agent shall send the applications required by Sections 31.024 and 31.047 of this code, the fees required by Sections 31.026 and 31.048 of this code, and the tax paid under Chapter 160, Tax Code, to the department not later than 20 days after the date a certificate of number is issued and a fee or tax collected.*

*(d) An authorized agent shall execute a surety bond in an amount set by the department to insure against loss to the department of fees and taxes. The bond shall be in favor of the department.*

*(e) The department may cancel the authorization of an agent on 30 days' written notice of the agent's violation of this chapter, a department rule adopted under this chapter, Chapter 160, Tax Code, or a rule adopted by the comptroller under that chapter.*

SECTION 3. Subsections (a), (b), and (e), Section 31.024, Parks and Wildlife Code, are amended to read as follows:

(a) The owner of each motorboat requiring numbering by this state shall file an application for a number with the department, *an authorized agent*, or a county tax assessor-collector.

(b) The application shall be signed by the owner of the motorboat and shall be accompanied by the fee prescribed in Section 31.026 of this code. If the application is received by a county tax assessor-collector, the application and the portion of the fee not retained by the tax assessor-collector as a collection fee shall be sent to the department. *If the application is received by an authorized agent, the application and the fee shall be sent to the department as required by Section 31.006 of this code.*

(e) The department, *an authorized agent*, or a county tax assessor-collector may not issue a certificate of number unless the tax due on the motorboat under Chapter 160, Tax Code, is paid.

SECTION 4. Section 31.034, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.034. ISSUANCE OF NUMBERS BY [THE] DEPARTMENT OR AUTHORIZED AGENT. (a) The department may award a certificate of number.

(b) *A certificate of number issued and delivered by an authorized agent in conformity with this chapter and the rules of the commission adopted under this chapter is valid as if awarded by the department directly.*

SECTION 5. Section 160.001, Tax Code, is amended to read as follows:

Sec. 160.001. DEFINITIONS. In this section:

(1) "*Agent of the department*" means an agent authorized under Section 31.006, Parks and Wildlife Code.

(2) "Boat" has the meaning assigned by Section 31.003, Parks and Wildlife Code.

(3) [(2)] "Dealer or manufacturer" means a dealer or manufacturer as defined under Section 31.003, Parks and Wildlife Code, who has applied for and holds a current number under Section 31.041, Parks and Wildlife Code.

(4) [(3)] "Department" means the Parks and Wildlife Department.

(5) [(4)] "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.

(6) [(5)] "Retail sale" means a sale of an item other than a sale in which the dealer or manufacturer acquires the item for the exclusive purpose of resale.

(7) [(6)] "Sale" includes:

(A) an installment and credit sale;

(B) an exchange of property for property or money;

(C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price; and

(D) any other closed transaction that constitutes a sale.

(8) [(7)] "Tax assessor-collector" means a county tax assessor-collector.

(9) [(8)] "Taxable boat or motor" means:

(A) a boat other than a canoe, kayak, rowboat, raft, punt, or other vessel designed to be propelled by paddle, oar, or pole; or

(B) an outboard motor.

(10) [(9)] "Use" does not include the storage, display, or holding of an item exclusively for sale.

SECTION 6. Subsection (b), Section 160.003, Tax Code, is amended to read as follows:

(b) The comptroller shall furnish a copy of the rules to each tax assessor-collector, *each agent of the department*, and the department. Each tax assessor-collector *and each agent of the department* shall consistently apply the rules authorized by this section.

SECTION 7. Subsections (a), (b), and (c), Section 160.041, Tax Code, are amended to read as follows:

(a) The department, *each agent of the department*, and each tax assessor-collector shall collect the taxes imposed by this chapter. The department, *agent of the department*, or tax assessor-collector of the county in which an application for a Texas certificate of number or certificate of title for a taxable boat or motor is made shall collect the taxes imposed by this chapter on that boat or motor.

(b) The department, *agent of the department*, or the tax assessor-collector may not accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from a person unless the tax, if any, is paid.

(c) The tax imposed by Section 160.021 is due on the 20th working day after the date that the taxable boat or motor is delivered to the purchaser. The purchaser shall pay the tax to

the department, *to an agent of the department*, or to a tax assessor-collector on or before the due date.

SECTION 8. Subsections (a), (e), and (f), Section 160.042, Tax Code, are amended to read as follows:

(a) A person obligated to pay a tax imposed by this chapter on a transaction shall file the affidavit as provided by this section with the department, *agent of the department*, or tax assessor-collector on payment of a tax imposed by this chapter.

(e) The department, *agent of the department*, or the tax assessor-collector shall examine each affidavit for the purpose of determining the truth and accuracy of the information it contains. If the department, *agent of the department*, the tax assessor-collector, or the comptroller has reason to question the truth of the information in an affidavit, or if any material fact fails to meet the rules adopted by the comptroller, the department, *agent of the department*, the tax assessor-collector, or the comptroller may require any party to the affidavit to furnish substantiation of information in the affidavit before accepting an application for a Texas certificate of number or certificate of title.

(f) The department, *agent of the department*, and the tax assessor-collector shall keep a copy of each affidavit and any substantiating materials until it is called for by the comptroller for auditing.

SECTION 9. Subsection (b), Section 160.044, Tax Code, is amended to read as follows:

(b) The department, *agent of the department*, or tax assessor-collector collecting a tax imposed by this chapter shall:

(1) issue the original receipt to the person paying the tax; and

(2) retain one duplicate copy of the receipt as a permanent record of the transaction according to the rules of the comptroller.

SECTION 10. This Act takes effect September 1, 1993.

SECTION 11. 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 April 30, 1993, by a viva-voce vote; passed the House on May 26, 1993, by a non-record vote.

Approved June 16, 1993.

Effective Sept. 1, 1993.