



Application for Dealer, Distributor or Manufacturer License (PWD 310)

A dealer, distributor, or manufacturer of vessels in this state must obtain a dealer's, distributor's, or manufacturer's license number for vessels the dealer, distributor or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel.

For applicable fees, see Fee Chart.

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| Check the box that applies: | <input type="checkbox"/> New Application | <input type="checkbox"/> Renewal of License | <input type="checkbox"/> Transfer Business new owner | <input type="checkbox"/> Addl. Card/Decal Set ____ How many? | <input type="checkbox"/> Transfer Location same owner | <input type="checkbox"/> Correction/Update of Information |
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| Legal Name of Owner/Applicant | |
| Mailing Address | |
| City, State & Zip Code | |

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| If you have a TX # for the business location listed below, enter it here: TX - -AA | Texas Sales & Use Tax Permit Number | Registration # issued by Texas Secretary of State | FEI Number |
|---|-------------------------------------|---|------------|

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| License Type Classification - select all that are applicable to the business location <input type="checkbox"/> Dealer <input type="checkbox"/> Distributor <input type="checkbox"/> Manufacturer | Assumed Name(s)? Certificates Attached <input type="checkbox"/> Yes <input type="checkbox"/> No | Owner's Telephone Number | Owner's FAX Number |
|---|--|--------------------------|--------------------|

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|----------------------------------|--------------------|
| Business Location Trade Name | Sales Tax Loc # |
| Business Location Street Address | Your Store # |
| City, State, Zip Code, County | Date Store Opened: |
| Management Contact Name: | Telephone #: |
| | Fax #: |

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| Franchise Line of Boats & Outboard Motors Sold: |
| List Lines Carried, if no Specific product line list NA: |

I, the undersigned do hereby apply for a Texas Marine Dealer's, Distributor's or Manufacturer's License. I hereby certify that I will process required titling and registration materials for vessels and/or outboard motors to TPW or a County Tax assessor-collector not later than 20 days after the date of the sale. I hereby swear upon oath that I will comply with codes and procedures specified by Texas Parks and Wildlife Department and the State of Texas, including specifically, Chapter 2353 of the Occupation Code relating to Franchise Agreements.

A "dealer" is defined as a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year at an established or permanent place of business in Texas.
 A "distributor" is defined as a person who offers for sale, sells, or processes for distribution new boats or outboard motors to dealers in Texas.
 A "manufacturer" is defined as a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.

For Dealers, this application must be accompanied with the following items. (A) The fee prescribed by law for each license requested. (B) Photographs showing (1) a permanent sign clearly indicating the name of the business, (2) the front of the business with public access, (3) space sufficient for office, service area and display of products. (C) A copy of the original Texas Sales and Use Tax Permit of the dealer, distributor or manufacturer issued by the Comptroller under Chapter 151, Tax Code. (D) Verification of all assumed names(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or County Clerk. (E) A photocopy of the current driver's license or Department of Public Safety identification of the owner, president or managing partner of the business. (F) A list of Dealer Agreements.

For Distributors or Manufacturers, this application must be accompanied with the following items. (A) The fee prescribed by law for each license requested. (B) Verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or County Clerk. (C) List of manufacturers represented by a distributorship. (D) List of distributors, dealers and representatives.

I understand that the Water Safety Act provides that after a license has been issued, I shall issue temporary cardboard tags, as prescribed by the Department to any vessel owned by me which I may wish to show, demonstrate or test on waters of this State. Further, I understand that I may issue temporary facsimile cardboard tags, as prescribed by the Department, to the purchaser of a vessel sold by me to be used by such purchaser for a period not to exceed fifteen (15) days from date of sale.

Warning: Falsifying information on documents is a punishable offense. Texas Penal Code, chapter 37, Section 37.10 any person who knowingly makes a false entry in, or false alteration of a governmental record is guilty of a felony of the third degree punishable by confinement in jail for any term of not more than 10 years or less than 2 years and punishable by a fine not to exceed \$10,000.

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| Signature of Owner or Authorized Representative | Typed or Printed Name of Applicant | Mail to: Texas Parks and Wildlife 4200 Smith School Road Austin, Texas 78744 Include documents & Required Fee(s) with application. (See Fee Chart.) |
| Subscribed and Sworn before me on this ____ day of _____ 20____ of _____, County, Texas. | | |
| Notary Public Signature and Seal | | |

Texas Administrative Code

**TITLE 31
PART 2
CHAPTER 53**

**NATURAL RESOURCES AND CONSERVATION
TEXAS PARKS AND WILDLIFE DEPARTMENT
FINANCE**

**SUBCHAPTER G
RULE §53.110**

**MARINE DEALERS, DISTRIBUTORS, AND MANUFACTURERS
Marine Dealer, Distributors, and Manufacturers**

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- (a) The following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Consignment--The sale or offer for sale by a person other than the owner under terms of a verbal or written authorization from the owner.
- (b) Any person or entity, including a person or entity purporting to be a broker or brokerage house, who acts as an intermediary or assists in the sale, sale on consignment, display for sale, purchase, trade, or transfer of a vessel, motorboat, or outboard motor in exchange for a fee, commission, or other consideration is considered to be engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging a vessel for the purposes of this subchapter. Any person or entity, including a person or entity purporting to be a broker or brokerage house, engaged in any activity described above is subject to the provisions of this subchapter.
- (c) A person shall apply for a license as a dealer by submitting a properly completed, department-approved application form, accompanied by the following:
- (1) the fee prescribed by law for each license requested;
 - (2) photographs clearly showing:
 - (A) the permanent sign at the location designated in the application as the applicant's permanent place of business, clearly indicating the name of the business;
 - (B) the front of the business with public access; and
 - (C) space sufficient for office, service area (not applicable to floating inventory or listings), and display of vessels, motorboats, or outboard motors (not applicable to floating inventory or listings);
 - (3) a copy of the Tax Permit issued by the Comptroller under Chapter 151, Tax Code;
 - (4) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;
 - (5) a photocopy of the current driver's license or Department of Public Safety identification of the owner, president or managing partner of the business; and
 - (6) a list of dealer agreements; and
 - (7) if the applicant is to maintain floating inventory or listings at a location other than that designated as the applicant's permanent place of business, a record of at least five marinas where floating inventory or listings are expected to be displayed. If the applicant contemplates using less than five marinas, then the application shall include an explanatory statement. The record must identify, at a minimum, the name, physical address, and telephone for each marina.
- (d) A person shall apply for a license as a distributor or manufacturer by submitting a properly completed, department-approved application form accompanied by the following:
- (1) the fee prescribed by law for each license requested;
 - (2) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;
 - (3) a complete list of manufacturers represented by a distributorship; and
 - (4) a complete list of distributors, dealers, and manufacturers.
- (e) The department may issue a license under this subchapter if:
- (1) the applicant submits a complete application form and required attachments; and
 - (2) the applicant signs a department-provided license agreement stating that the applicant agrees to comply with all applicable state laws, including Occupation Code, Chapter 2352, concerning Franchise Agreements, when required.
- (f) A license holder shall notify the department in writing within 10 days if there is any change of:
- (1) ownership;
 - (2) business name;
 - (3) physical location;
 - (4) dealer agreement;
 - (5) distributors, dealers, or representatives; or
 - (6) address or phone information.
- (g) The licenses issued under this subchapter to dealers must be publicly displayed at all times in the place of business for which the license is issued.
- (h) A license holder must keep a complete record available for inspection in the place of business relating to all vessels, motorboats, and outboard motors purchased, sold, or displayed for sale for a minimum of 24 months. Content of records must include the:
- (1) date of purchase;
 - (2) date of sale;
 - (3) hull identification number and/or motor identification number;

- (4) name and address of person selling to the dealer;
 - (5) name and address of person purchasing from the dealer;
 - (6) name and address of selling dealer or individual if vessel and/or outboard motor is offered for sale by consignment;
 - (7) a copy of the vessel/outboard motor title/registration receipt;
 - (8) copies of any and all documents, forms, and agreements applicable to a particular sale, consignment, listing, transfer of ownership, titling, titling and registration, or documentation through the U.S. Coast Guard, including, but not limited to title applications, work-up sheets, Manufacturer's Certificates of Origin, titles or photocopies of the front and back of titles, factory invoices, sales contracts, retail installment agreements, buyer's orders, bills of sale, waivers, or other agreements between the seller and purchaser; and
 - (9) copies of written consignment agreements or power of attorney for vessels, motorboats, or outboard motors.
- (i) The department may suspend or revoke a license under this subchapter if:
- (1) the licensee has been finally convicted or received deferred adjudication for a violation of Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
 - (2) the licensee has violated Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
 - (3) the licensee made a false or misleading statement in connection with the original or renewal application for the license, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;
 - (4) the licensee is indebted to the state for taxes, fees, or payment of penalties imposed by Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
 - (5) the applicant or licensee was previously the holder of a license issued under this subchapter that was revoked for cause and never reissued by the department, or that was suspended for cause and the terms of the suspension have not been fulfilled;
 - (6) the applicant or licensee was previously a partner, stockholder, director, or officer controlling or managing a partnership, corporation, or store location whose license issued under this subsection was revoked for cause and never reissued, or was suspended for cause and the terms of the suspension have not been fulfilled;
 - (7) the business does not intend to be open to all members of the public nor during normal business hours;
 - (8) the licensee or an employee of the licensee has obtained, or attempted to obtain, any money, commission, fee, barter, exchange or other compensation by fraud, deception or misrepresentation; or
 - (9) the licensee or an employee of the licensee is finally convicted or receives deferred adjudication for a violation of any federal or state law relating to the sale, distribution, financing, registration, taxing, or insuring of a vessel.
- (j) Provisions governing the revocation or suspension of a license are as follows.
- (1) Before suspending or revoking a license under this subchapter, the staff of the executive director of the department (executive director) shall provide notice by certified mail to the licensee's last known address of the department's intent to revoke or suspend the license. Within 30 days of the date of the letter, the licensee may request an administrative hearing. The hearing request must be in writing and addressed to: Manager of Boat Titling, Registration, and Marine Licensing, Texas Parks and Wildlife Department, 4200 Smith School Rd., Austin, TX 78744. For a hearing request to be valid, the department must receive the hearing request within 30 days of the date of the letter notifying the licensee of the department's intent to revoke or suspend the license. If no hearing request is received within this time frame, the executive director shall make a final decision whether to revoke or suspend the license.
 - (2) Timely hearing requests shall be referred by the department to the State Office of Administrative Hearings (SOAH) for adjudication.
 - (3) The department shall provide notice of the hearing date to the licensee by certified mail at the licensee's last known address at least ten days prior to the hearing date.
 - (4) The licensee shall be responsible for all hearing costs to SOAH, including but not limited to transcript and court reporting costs incurred by the department. Prior to the beginning of the hearing, at the request of department, the SOAH judge shall require the licensee to post a bond in an amount set by the SOAH judge, payable to the department and conditioned on prompt payment of hearing costs. Failure to post the requested bond prior to the start of the hearing shall result in default by the licensee.
 - (5) The failure of the licensee to appear at the hearing shall entitle the department's staff to request issuance of a default proposal for decision or order by the judge.
 - (6) At the conclusion of the hearing, SOAH shall prepare a proposal for decision in accordance with SOAH rules. The proposal for decision shall be submitted to the department's deputy executive director for administration, who will make the final decision on whether to revoke or suspend the license.

Source Note: The provisions of this §53.110 adopted to be effective July 7, 2004, 29 TexReg 6309; amended to be effective February 19, 2006, 31 TexReg 851

Texas Administrative Code

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| <u>TITLE 31</u> | NATURAL RESOURCES AND CONSERVATION |
| <u>PART 2</u> | TEXAS PARKS AND WILDLIFE DEPARTMENT |
| <u>CHAPTER 55</u> | FINANCE |
| <u>SUBCHAPTER E</u> | MARINE DEALERS, DISTRIBUTORS, AND MANUFACTURERS |
| RULE §55.130 | Show, Demonstration or Test of Vessel |

§53.112. Show, Demonstration or Test of Vessel.

- (a) A licensed dealer, distributor, or manufacturer (hereinafter "licensee") may use the licensee's number to show, demonstrate, or test a vessel on the water of this state without acquiring a certificate of number and registration decals. The licensee's number shall be attached, affixed, or inscribed on both sides of the vessel in an easily visible location. The use of removable signs which can be temporarily but firmly attached to the vessel is permissible.
- (b) A licensee may not use the licensee's number for the use of a vessel on the water of this state for recreational purposes or for participation in contests or events, except as permitted in this subchapter.
- (c) On a limited and temporary basis, a licensee, or person or persons authorized by the licensee, may use a vessel for recreational purposes or participation in contests or events only if:
 - (1) the licensee's number is attached, affixed, or inscribed on both sides of the vessel in an easily visible location;
 - (2) a department-issued validation decal is prominently displayed on both sides of the vessel in an easily visible location;
 - (3) a department-issued validation card is aboard the vessel; and
 - (4) the temporary use does not occur on more than six consecutive days, and does not occur on more than twelve days in any calendar month.
- (d) A validation card must immediately be made available for inspection upon the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties.
- (e) A dealer, distributor, or manufacturer license shall include one validation card and two validation decals, which shall be issued at the time the license is issued. Additional validation cards may be purchased separately upon payment of the fee specified in §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees). Each additional validation card includes two validation decals. Validation decals may not be purchased separately.
- (f) A licensee shall maintain at their place of business a current daily log accounting for each use of each validation card issued to the licensee. The log shall be retained for a period of two years and must immediately be made available for inspection during normal business hours at the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties. The log shall indicate, for each use of a validation card:
 - (1) the date and location of the use;
 - (2) the hull identification number of the vessel;
 - (3) the specific business purpose of the recreational use—, contest, or event;
 - (4) the name, address, and driver's license number or state-issued identification card number of the person or persons authorized by the licensee to operate the vessel; and
 - (5) the name of licensee's agent authorizing use of the validation card.
- (g) A validation card is not valid if the corresponding license is not valid. A validation card and corresponding validation decals expire on the last day of the last month that a dealer, distributor, or manufacturer license is valid.
- (h) Nothing in this subchapter authorizes the use of a licensee's number or a validation card and validation decals for purposes not related to the legitimate business activities of the licensee. "Legitimate business activities" means the sale, transfer, exchange, service, or transportation of a vessel or outboard motor.

Texas Administrative Code

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| <u>TITLE 31</u> | NATURAL RESOURCES AND CONSERVATION |
| <u>PART 2</u> | TEXAS PARKS AND WILDLIFE DEPARTMENT |
| <u>CHAPTER 53</u> | FINANCE |
| <u>SUBCHAPTER A</u> | FEES |
| <u>DIVISION 1</u> | LICENSE, PERMIT, AND BOAT AND MOTOR FEES |
| RULE §53.16 | Vessel, Motor, and Marine Licensing Fees |

Chapter 53. Finance Show, Test, and Demonstration of Untitled Vessels - Fees

§53.16. Vessel, Motor, and Marine Licensing Fees.

- (d) Marine dealer/distributor/manufacturer fees:
 - (1) marine dealer manufacturer number (effective until February 29, 2004)—\$130;
 - (2) marine dealer, distributor or manufacturer license—\$500;

- (3) marine dealer, distributor or manufacturer ownership transfer of license—\$500;
- (4) marine dealer, distributor or manufacturer location transfer—\$11;
- (5) marine dealer, distributor or manufacturer information update/license correction-\$4;
- (6) additional validation card (with decal) for recreational purposes or participation in contests or events-\$126; and
- (7) replacement validation card-\$11.

SUBCHAPTER E
RULE §53.91

DISPLAY OF BOAT REGISTRATION

Documented Vessels

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- (a) New vessels that have applied for documentation may acquire a certificate of number and validation decal at any TPWD boat registration office. At the time of application, applicants must present:
 - (1) a properly completed registration application on a form supplied by the department;
 - (2) a copy of:
 - (A) the current documentation from the U. S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the applicant's name; or
 - (B) the application for initial documentation with the USCGNVDC in the applicant's name;
 - (3) payment of any tax required under Tax Code, Chapter 160, or verification of payment; and
 - (4) payment of the appropriate registration fee as required by Parks and Wildlife Code, §31.026, and §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).
 - (b) Used or previously documented vessels may acquire a certificate of number and validation decal at any TPWD boat registration office. At the time of application, applicants must present:
 - (1) a properly completed registration application on a form supplied by the department;
 - (2) a copy of:
 - (A) the current documentation from the U. S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the previous owner's name, or the applicant's name; or
 - (B) the lapsed documentation from the USCGNVDC or their website in the previous owner's name and the application for current documentation with the USCGNVDC in the applicant's name;
 - (3) payment of any tax required under Tax Code, Chapter 160, or verification of payment; and
 - (4) payment of the appropriate registration fee as required by Parks and Wildlife Code, §31.026, and §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).
 - (c) Renewal of certificate of number and validation decal for a documented vessel may be acquired at any TPWD boat registration office. At the time of application, applicants must present:
 - (1) a properly completed registration application or renewal notice on a form supplied by the department, or a hand written request;
 - (2) a copy of the current documentation from the U.S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the current owner's name;
 - (3) for vessels greater than 65 feet in length for the first registration renewal, verification of payment under Tax Code, Chapter 151, or verification from the TPWD boat system; and
 - (4) payment of the appropriate registration fee as required by §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).
 - (d) A vessel used as a tender for direct transportation between a mother ship and the shore is not required to display a validation decal, provided:
 - (1) the vessel is equipped with propulsion machinery of less than 10 horsepower;
 - (2) is owned by the owner of a vessel for which a valid certificate of number has been issued and displays the registration number of that vessel followed by the suffix "1" (i.e. TX-1234-AB-1) in the manner specified by Parks and Wildlife Code, §31.031; and
 - (3) is used for no purpose other than direct transportation between a mother ship and the shore.

Source Note: The provisions of this §53.91 adopted to be effective February 19, 2006, 31 TexReg 851

Occupations Code

CHAPTER 2352. BOAT MANUFACTURERS, DISTRIBUTORS, AND DEALERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2352.001. DEFINITIONS. In this chapter:

- (1) "Agreement" means a written agreement between a manufacturer or distributor and a dealer for the purchase and sale of new boats or new outboard motors.
- (2) "Boat" means:
 - (A) a motorboat; or
 - (B) any other vessel that is more than 14 feet in length and is designed to be propelled by a sail.
- (3) "Dealer" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (4) "Distributor" means a person who:
 - (A) offers for sale, sells, or distributes new boats or new outboard motors to dealers; or
 - (B) controls a person described by Subdivision (A).
- (5) "Manufacturer" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (6) "Motorboat" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (7) "New" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (8) "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (9) "Vessel" has the meaning assigned by Section 31.003, Parks and Wildlife Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

SUBCHAPTER B. DEALER AGREEMENTS

Sec. 2352.051. AGREEMENT REQUIRED.

A manufacturer or distributor contracting with a dealer may not sell or offer for sale, and a dealer may not purchase or offer to purchase, a new boat or a new outboard motor unless the manufacturer or distributor and the dealer enter into an agreement that complies with this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.052. TERMS OF AGREEMENT.

(a) An agreement under this chapter must include:

- (1) the dealer's location, territory, or market area;
- (2) the length of the agreement;
- (3) any performance or marketing standards;
- (4) any working capital, inventory, facility, equipment, or tool standards;
- (5) provisions for termination or non-renewal of the agreement and the designation of a successor dealer in the event of the dealer's death or disability;
- (6) the obligations of the manufacturer, distributor, and dealer in the preparation and delivery of and warranty service on new boats and new outboard motors;
- (7) the obligations of the manufacturer, distributor, and dealer on termination of the agreement, including inventory of new boats and new outboard motors, parts inventory, equipment, furnishings, special tools, and required signs; and
- (8) dispute resolution procedures.

(b) Notwithstanding the terms of a dealer agreement, a dealer agreement and any transaction subject to this chapter must comply with the requirements of this section.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.053. TERMINATION OR NONRENEWAL OF AGREEMENT; NOTICE.

(a) A manufacturer or distributor may not terminate an agreement unless there is good cause for the termination and:

- (1) the manufacturer or distributor gives the dealer written notice of termination in clear and concise terms;
- (2) the notice states the reasons for termination; and
- (3) the dealer has been given 30 days to make a good faith effort to cure the reasons for termination stated in the notice.

(b) Good cause is not required for the nonrenewal of an agreement other than an agreement having an original term of less than one year.

(c) The fact that a dealer holds an agreement involving another line, make, or brand of new boat or new outboard motor does not constitute good cause.

(d) A manufacturer or distributor may terminate an agreement on written notice if the dealer:

- (1) financially defaults to the manufacturer, the distributor, or a financing source;
- (2) becomes subject to an order for relief, as that term is used in Title 11, United States Code;
- (3) engages in fraudulent conduct in:
 - (A) conducting the dealer's business; or
 - (B) performing the agreement;
- (4) is a corporation that ceases to exist;
- (5) becomes insolvent or takes or fails to take any action that constitutes an admission of inability to pay debts as the debts mature;
- (6) makes a general assignment for the benefit of creditors to an agent authorized to liquidate any substantial amount of assets; or
- (7) applies to a court for the appointment of a receiver for any assets or properties.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.101. DELIVERY REQUIREMENTS.

- (a) A manufacturer or distributor who publicly advertises a new boat, new outboard motor, or part as available for immediate delivery shall deliver the boat, outboard motor, or part in reasonable quantities and within a reasonable time after receipt of an order from a dealer who has an agreement with the manufacturer or distributor applicable to the advertised boat, outboard motor, or part.
- (b) Subsection (a) does not apply if circumstances beyond the control of the manufacturer or distributor prevent the delivery.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.102. SALE, TRANSFER, OR PASSAGE OF TITLE.

A manufacturer or distributor may not unreasonably withhold approval of a sale, transfer, or passage of title of a dealer, agreement, management of the dealer, or designation of a successor dealer if:

- (1) the dealer complies with any provisions in the agreement for the sale, transfer, or passage of title;
- (2) the transferee meets the criteria:
 - (A) stated in the agreement; or
 - (B) generally applied by the manufacturer or distributor in similar situations; and

- (3) the transferee agrees to be bound by the terms and conditions of the manufacturer's or distributor's standard agreement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.103. FINANCING.

- (a) A manufacturer or distributor may not require a dealer to finance through a particular financing source a new boat or new outboard motor sold by the dealer.
- (b) A manufacturer or distributor may not require a dealer to act as the manufacturer's or distributor's agent in securing:
 - (1) a promissory note and security agreement in connection with the sale or purchase of a new boat or new outboard motor; or
 - (2) an insurance policy on the operation of a new boat or new outboard motor.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.104. SALE OF PARTS AND ACCESSORIES AFTER TERMINATION OF AGREEMENT.

- (a) After a manufacturer or distributor terminates an agreement, the former dealer may continue to purchase parts and accessories to service the products covered by the agreement until the first anniversary of the date of termination. The manufacturer or distributor shall sell parts and accessories under this subsection at the same price offered to a current dealer.
- (b) Subsection (a) does not apply if the manufacturer or distributor terminates the agreement:
 - (1) based on quality of service; or
 - (2) for a reason justifying immediate termination under Section 2352.053(d).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.105. COMPENSATION FOR WARRANTY SERVICE.

- (a) A manufacturer or distributor shall fairly compensate a dealer for the work and services the dealer performs and for expenses the dealer incurs to comply with a manufacturer's or distributor's warranty.
- (b) Except as provided by Subsection (c), a manufacturer or distributor may not pay a dealer a labor rate for warranty work that is less than the rate the dealer charges retail customers for nonwarranty work of the same kind by similar technicians.
- (c) A manufacturer or distributor who has a warranty program that reimburses a dealer at 100 percent of the dealer's retail labor rate if the dealer complies with reasonable and objective criteria shall pay the dealer the labor rate provided by the terms of the program or a rate equal to 80 percent of the dealer's retail labor rate, whichever rate is higher.
- (d) A manufacturer or distributor shall approve or disapprove a dealer's claim for warranty work within a reasonable time. If the claim is approved, the manufacturer or distributor shall pay the claim within a reasonable time. If the claim is disapproved, the manufacturer or distributor shall notify the dealer of the grounds for disapproval.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.106. REFUNDS, REBATES, AND DISCOUNTS.

A dealer may not pay or assume a part of a refund, rebate, discount, or other financial adjustment made by the manufacturer or distributor to a customer or a dealer unless the dealer voluntarily agrees to make the payment or assumption.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.107. REPURCHASE BY MANUFACTURER OR DISTRIBUTOR.

- (a) A manufacturer or distributor who terminates an agreement shall repurchase on demand from the dealer any of the following items, purchased by the dealer from the manufacturer or distributor, that are free and clear of a lien or encumbrance:
 - (1) a new, unsold, retailable, undamaged, and complete boat, with accessories and packaged trailers sold with the boat, and any outboard motor that:
 - (A) is in the dealer's inventory; and
 - (B) was purchased within one year preceding the date of the termination; and
 - (2) any new, current, unsold, undamaged, and unused parts or accessories for boats or outboard motors in the original resalable merchandising package.
- (b) A demand for repurchase must be made in writing not later than the 30th day after the date the manufacturer or distributor terminates the agreement. The dealer must provide the manufacturer or distributor with a complete list of the items to be repurchased. The manufacturer or distributor shall complete the repurchase within a reasonable time.

(c) The manufacturer or distributor shall:

- (1) repurchase an item described by Subsection (a)(1) at the dealer's invoiced cost, less any allowance paid to the dealer;
- (2) repurchase an item described by Subsection (a)(2) at the dealer's invoiced cost; and
- (3) pay the cost incurred by the dealer to transport an item described by Subsection (a) to the manufacturer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

SUBCHAPTER D. ENFORCEMENT PROVISIONS

Sec. 2352.201. CIVIL LIABILITY.

A person who violates this chapter or an agreement regulated by this chapter is liable to an injured party for:

- (1) the actual damages caused by the violation; and
- (2) reasonable legal fees and court costs if litigation is commenced in connection with the violation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.202. VENUE FOR DISPUTE.

Venue for a dispute under an agreement is in the county of the dealer's principal place of business as stated in the agreement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Sec. 2352.203. ARBITRATION.

A dealer may not be required to submit to arbitration on an issue between the dealer and the manufacturer or distributor at a location that is out of state or an unreasonable distance from the dealer's principal place of business.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 5, eff. June 1, 2003.

Texas Water Safety Act

Sec. 31.003. DEFINITIONS. In this chapter:

- (1) "Boat" means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer.
- (2) "Vessel" means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.
- (3) "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.
- (4) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.
- (5) "Water of this state" means any public water within the territorial limits of this state.
- (6) "Operate" means to navigate or otherwise use a motorboat or a vessel.
- (7) "Dealer" means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year.
- (8) "Vessel livery" means a business establishment engaged in renting or hiring out vessels for profit.
- (9) Repealed by Acts 1997, 75th Leg., ch. 1363, Sec. 12, eff. Sept. 1, 1997.
- (10) "Reasonable time" means 15 days.
- (11) "Manufacturer" means a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.
- (12) "New" means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.
- (13) "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.
- (14) "Personal watercraft" means a type of motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.
- (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.
- (16) "Distributor" means a person who offers for sale, sells, or processes for distribution new boats or outboard motors to dealers in this state.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1252, ch. 484, Sec. 1(a), (b), eff. Sept. 1, 1977; Acts 1989, 71st Leg., ch. 571, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 718, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 450, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 739, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 26.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1256, Sec. 21, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1363, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 200, Sec. 8(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 108, Sec. 1, eff. Sept. 1, 2005.

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.
- (f) The commission may adopt rules for the creation of a program for the continuing identification and classification of participants in the vessel and outboard motor industries doing business in this state. The commission may set fees to administer this subsection. The department shall use information from the program to appoint agents under this section or for any other purpose required by the commission's rules or this chapter.

Added by Acts 1993, 73rd Leg., ch. 718, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 968, Sec. 35, eff. Sept. 1, 2001.

SUBCHAPTER B. IDENTIFICATION OF VESSELS; REQUIRED NUMBERING

Sec. 31.021. REQUIRED NUMBERING.

- (a) Each vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.
- (b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:
 - (1) the vessel is numbered as required by this chapter;
 - (2) the certificate of number awarded to the vessel is in full force and effect; and
 - (3) the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel as required by this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1256, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1363, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 200, Sec. 8(c), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 3, eff. Sept. 1, 2003.

Sec. 31.022. EXEMPTIONS FROM REQUIRED NUMBERING.

- (a) A vessel is not required to be numbered under the provisions of this chapter if it is:
 - (1) operated within this state for a period not exceeding 90 consecutive days and is covered by a number in full force and effect which has been awarded under federal law or a federally approved numbering system of another state;
 - (2) from a country other than the United States temporarily using the water of this state;
 - (3) owned by the United States, a state, or a subdivision of a state; or
 - (4) a ship's lifeboat.
- (b) The department may exempt from numbering a class of vessels if it finds that the numbering of the vessels of that class will not materially aid in their identification. The department may also exempt a vessel if it finds that it belongs to a class of vessels that would be exempt from numbering under a numbering system of an agency of the federal government if it were subject to federal law.
- (c) All canoes, kayaks, punts, rowboats, rubber rafts, or other vessels under 14 feet in length when paddled, poled, oared, or windblown are exempt from the numbering provisions of this chapter.
- (d) A vessel in use at a water ski tournament, competition, or exhibition sanctioned in writing by the governing board of the governmental entity that has jurisdiction over the body of water on which the tournament, competition, or exhibition occurs is exempt from the numbering provisions of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 450, Sec. 4, eff. Sept. 1, 1993.

Sec. 31.024. APPLICATION FOR NUMBER.

- (a) The owner of each vessel 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 vessel 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.
- (c) On receipt of the application in approved form, the department shall enter it on the records of its office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner.
- (d) The application form, the form of the certificate of number, and the manner of renewal shall be prescribed by the department.
- (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 vessel under Chapter 160, Tax Code, is paid.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1352, ch. 607, Sec. 1, eff. Aug. 27, 1979; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.04, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 450, Sec. 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 718, Sec. 3, eff. Sept. 1, 1993.

Sec. 31.025. RENEWAL OF CERTIFICATES OF NUMBER.

- (a) An application for the renewal of each certificate of number shall be prepared by the department and mailed to the owner of the vessel during the period of the last 90 days before the expiration date of the certificate. The same number shall be issued on renewal.
- (b) The application for renewal may be returned to the department, to any county tax assessor-collector, or if permitted by the department, to an agent of the department.
- (c) Applications not received during the 90-day period shall be treated in the same manner as original applications.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, Sec. 2, eff. Aug. 27, 1979.

Sec. 31.026. FEES.

- (a) Each application for an original or renewal certificate of number for a vessel shall be accompanied by a two-year fee determined by the following classification schedule or determined in the same classifications by the commission, whichever amount is more:

| Class | Description of Vessel (See <u>Fee Chart</u>) |
|--------------|---|
| Class A | less than 16 feet in length |
| Class 1 | 16 feet or over and less than 26 feet in length |
| Class 2 | 26 feet or over and less than 40 feet in length |
| Class 3 | 40 feet or more in length |

(b) The fee for a vessel less than 16 feet in length owned by a vessel livery and used for rental purposes is \$6 for each original and renewal application for a certificate of number or an amount set by the commission, whichever amount is more.

(c) Owners of newly purchased vessels or other vessels not previously operated in this state shall pay the full registration fee.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1326, ch. 277, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, Sec. 7, eff. Sept. 1, 1993.

Sec. 31.030. DUPLICATE CERTIFICATES AND DECALS.

(a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the vessel for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.

(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the vessel for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1275, ch. 497, Sec. 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1327, ch. 277, Sec. 2, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, Sec. 7, eff. Sept. 1, 1993.

Sec. 31.031. NUMBERING PATTERN.

(a) The numbering pattern used consists of the prefix "TX" followed by a combination of exactly four numerals and further followed by a suffix of two letters. The group of numerals appearing between the letters shall be separated from the letters by hyphens or equivalent spaces.

(b) All basic numbers of each series shall begin with 1000. TX-1000-AA through TX-9999-AA will be allotted to dealers and manufacturers. TX-1000-AB through TX-9999-ZZ will be allotted to all other vessel owners and livery operators.

(c) The letters "G", "I", "O", and "Q" shall be omitted from all letter sequences.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, Sec. 8, eff. Sept. 1, 1993.

Sec. 31.034. ISSUANCE OF NUMBERS BY 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.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.05, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 718, Sec. 4, eff. Sept. 1, 1993.

Sec. 31.040. VESSEL LIVERIES.

(a) The owner or operator of a vessel livery shall obtain a certificate of number for all vessels being used as motorboats to rent or let for hire.

(b) To receive certificates of number, the owner of a vessel livery shall apply directly to the department on application forms provided by the department. The application must state that the applicant is a vessel livery within the meaning of this chapter, and the facts stated in the application must be sworn before an officer authorized to administer oaths.

(c) The owner of a vessel livery shall keep a record of the name and address of the persons hiring any vessel operated as a motorboat, the vessel's certificate of number, the time and date of departure, and the expected time of return. The record shall be kept for six months.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, Sec. 11, eff. Sept. 1, 1993.

Sec. 31.041. DEALER'S, DISTRIBUTOR'S, AND MANUFACTURER'S LICENSE.

(a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section and enters into a license agreement with the department. A dealer must have a license for each place of business owned and operated by the person.

(b) The commission shall establish the form and manner for display of a license issued under this section.

(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).

(d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event. The commission, however, may establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events. Any fees collected by the department under this subsection shall be deposited in the game, fish, and water safety account established under Section 11.032.

(e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter

151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or manufacturer's number is \$500. A license may not be issued until the provisions of this section have been satisfied.

- (f) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. A person purchasing a vessel may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display of the number shall be prescribed by the department.
- (g) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1328, ch. 277, Sec. 4, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, Sec. 4, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, Sec. 12, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 587, Sec. 36, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 13.01, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 200, Sec. 8(f), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 6, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 108, Sec. 2, eff. Sept. 1, 2005.

Sec. 31.0411. TERM OF LICENSE; TRANSFER.

- (a) Except as provided by Subsection (b), a license issued under Section 31.041:
 - (1) is valid for two years from the date of issuance; and
 - (2) may not be transferred to another person.
- (b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.
- (c) A license issued under Section 31.041 may be transferred to a new address if:
 - (1) a business moves to another location; and
 - (2) a change of ownership has not occurred.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 7, eff. Sept. 1, 2003.

Sec. 31.0412. LICENSING RULES.

The commission may adopt rules regarding licenses issued under Section 31.041, including rules:

- (1) regarding license transfer procedures;
- (2) prescribing application and license agreement forms;
- (3) regarding application and renewal procedures;
- (4) prescribing reporting and recordkeeping requirements for license holders;
- (5) setting fees to be charged for:
 - (A) a transferred license; or
 - (B) a replacement license;
- (6) prescribing license requirements; and
- (7) establishing license revocation and suspension procedures.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 7, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 108, Sec. 3, eff. Sept. 1, 2005.

Sec. 31.0413. EXEMPTION FROM DEALER LICENSING REQUIREMENTS.

The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that is less than 12 feet in length and has a horsepower rating of five horsepower or less or to the sale of an outboard motor with a manufacturer's rating of five horsepower or less.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 7, eff. Sept. 1, 2003.

Sec. 31.042. CANCELLATION OF CERTIFICATES OF NUMBER; GROUNDS.

- (a) A certificate of number may be cancelled and the identification number voided by the department even though the action occurs before the expiration date on the certificate and even though the certificate is not surrendered to the department.
- (b) Causes for cancellation of certificates and voiding of numbers include:
 - (1) surrender of the certificate for cancellation;
 - (2) issuance of a new number for the same vessel;
 - (3) false or fraudulent certification in an application for number;
 - (4) failure to pay the prescribed fee; and
 - (5) dismantling, destruction, or other change in the form or character of the vessel or outboard motor so that it is no longer correctly described in the certificate or it no longer meets the definition of a vessel or outboard motor.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(d), eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 450, Sec. 13, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 200, Sec. 8(h), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 8, eff. Sept. 1, 2003.

Sec. 31.043. MANUFACTURER'S IDENTIFICATION NUMBER.

- (a) All vessels manufactured in Texas for sale and all vessels sold, numbered, or titled in Texas shall carry a manufacturer's hull identification number clearly imprinted on the structure of the vessel or displayed on a plate permanently attached to the vessel. Except as required to comply with Section 31.024 or 31.047, this subsection does not apply to a vessel that is not required by the United States Coast Guard to have a hull identification number.
- (b) The owner of a vessel that does not have a manufacturer's hull identification number may file an application for a hull identification number with the department on forms approved by it. The application must include a sworn statement describing

the vessel, proving legal ownership, and, if known, stating the reason for the lack of hull identification number. The application must be signed by the owner of the vessel and must be accompanied by a fee of \$25 and a certificate from a game warden commissioned by the department stating that the vessel has been inspected by the officer and appears to be as applied for. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a hull identification number.

- (c) No person may intentionally or knowingly destroy, remove, alter, cover, or deface an outboard motor serial number, the manufacturer's hull identification number or plate bearing the hull identification number, or the hull identification number or serial number issued by the department. No person may possess a vessel with a hull identification number or an outboard motor with a serial number that has been altered, defaced, mutilated, or removed.
- (d) A person who has a vessel with an altered, defaced, mutilated, or removed hull identification number or an outboard motor with an altered, defaced, mutilated, or removed serial number shall file a sworn statement with the department describing the vessel or outboard motor, proving legal ownership, and, if known, stating the reason for the destruction, removal, or defacement of the number. The statement must be accompanied by a fee of \$25 and a certificate from a game warden commissioned by the department that the vessel or outboard motor has been inspected by the officer and appears to be as applied for. On receipt of the statement in approved form, the department shall enter the information on records of its office and shall issue to the applicant a hull identification number or outboard motor serial number.
- (e) This section does not apply to vessels with a valid marine document issued by the United States Coast Guard's National Vessel Documentation Center or a federal agency that is a successor to the National Vessel Documentation Center.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1328, ch. 277, Sec. 5, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, Sec. 5, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, Sec. 14, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1363, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1099, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.044. INSPECTIONS.

A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or distributor's or manufacturer's place of business during normal business hours.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 8(i), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 9, eff. Sept. 1, 2003.

SUBCHAPTER B-1. CERTIFICATES OF TITLE FOR VESSELS AND OUTBOARD MOTORS

Sec. 31.045. OWNERSHIP OF VESSELS AND OUTBOARD MOTORS; CERTIFICATES OF TITLE.

- (a) The ownership of a vessel or of an outboard motor is evidenced by a certificate of title issued by the department, unless the vessel or the outboard motor is new.
- (b) The ownership of a new vessel or a new outboard motor is evidenced by a manufacturer's or an importer's certificate executed on a form prescribed by the department.
- (c) Separate certificates are required for vessels and for outboard motors.
- (d) The ownership of a vessel exempted from numbering under Section 31.022(c) of this code is not required to be evidenced by a certificate of title issued by the department.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 450, Sec. 16, eff. Sept. 1, 1993.

Sec. 31.046. APPLICATION FOR CERTIFICATE OF TITLE.

- (a) Except as provided in Subsections (b) and (c) of this section, the purchaser of a vessel or an outboard motor shall apply to the department or to a county tax assessor-collector for a certificate of title not later than 20 days after the date of the sale of the vessel or outboard motor.
- (b) A manufacturer or a dealer who sells a vessel or an outboard motor to a person other than a manufacturer or a dealer shall apply to the department or to a county tax assessor-collector for a certificate of title for the vessel or outboard motor in the name of the purchaser not later than 20 days after the date of the sale.
- (c) A dealer who acquires a vessel or an outboard motor, other than a new vessel or outboard motor, is not required to apply for a certificate of title in the name of the dealer, but on resale of the vessel or outboard motor shall apply for the subsequent purchaser under Subsection (b) of this section and shall submit to the department or to a county tax assessor-collector the endorsed certificate of title acquired by the dealer.
- (d) The department or county tax assessor-collector may not issue a certificate of title unless the tax due on the vessel or outboard motor under Chapter 160, Tax Code, is paid.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, Sec. 4, eff. Aug. 27, 1979; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.06, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 450, Sec. 16, eff. Sept. 1, 1993.

Sec. 31.047. APPLICATION; FORM AND CONTENT; FEE.

- (a) A person may apply for a certificate of title on a form prescribed by the department.
- (b) The form must contain:
 - (1) the name and address of the owner;
 - (2) a description of the vessel or outboard motor, including, as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number (HIN), motor number, outdrive number, and horsepower;
 - (3) name and address of purchaser;
 - (4) date of purchase;

- (5) name and address of any security interest owner;
 - (6) the appropriate affidavit as required by Section 160.042, Tax Code; and
 - (7) other information required by the department to show the ownership of the vessel or outboard motor, a security interest in the vessel or outboard motor, or a further description of items listed in the subdivision.
- (c) The application must be accompanied by other evidence reasonably required by the department to establish that the applicant or other person is entitled to a certificate of title or a noted security interest. The evidence may include:
- (1) a certificate of title issued by another state or jurisdiction;
 - (2) a manufacturer's or importer's certificate;
 - (3) a bill of sale, assignment, or contract;
 - (4) a promissory note;
 - (5) a security agreement;
 - (6) an invoice;
 - (7) a bill of lading;
 - (8) an affidavit;
 - (9) a probate or heirship proceeding or information;
 - (10) a judgment of a court of competent jurisdiction;
 - (11) evidence of an involuntary transfer as defined in Subdivision (5) of Subsection (a) of Section 31.053, as amended, which may be in affidavit form attaching copies of any pertinent underlying documents; or
 - (12) other documents.
- (d) An application for a certificate of title must be accompanied by the fee required by Section 31.048 of this code.
- (e) The department shall be authorized to issue certificates of title on an accelerated basis upon the payment of a fee in addition to the fees provided in Section 31.048 of this code as determined periodically by the department based on regulations the department shall establish.
- (f) An application for a certificate of title on a homemade vessel, the origin of which is based on the affidavit of the person building the vessel, proof of materials incorporated into the vessel, and the like, must be accompanied by a certificate from a game warden commissioned by the department that the vessel has been inspected by such officer and appears to be as applied for. The applicant shall pay a fee of \$25 to the department for this inspection.
- (g) If administration of an estate is not required by law, an affidavit submitted under Subsection (c) must include:
- (1) a showing that the administration is not required;
 - (2) identification of all heirs; and
 - (3) a statement by the heirs of the name in which to issue the certificate.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 4060, ch. 636, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 1013, Sec. 1, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 498, Sec. 1, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(22), eff. Sept. 6, 1990; Acts 1993, 73rd Leg., ch. 450, Sec. 17, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1099, Sec. 2, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 529, Sec. 1, eff. June 17, 2005.

Sec. 31.048. FEE.

- (a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is \$5 or an amount set by the commission, whichever amount is more, and is treated as fees collected under Section 31.026 of this code.
- (b) If the fee is collected by a county tax assessor-collector, the tax assessor-collector shall retain 10 percent of the fee collected and send the remainder to the department. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing vessel and outboard motor certificates of title.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1259, ch. 484, Sec. 9, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1353, ch. 607, Sec. 5, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1328, ch. 277, Sec. 6, eff. Sept. 1, 1983.; Acts 1985, 69th Leg., ch. 267, art. 2, Sec. 6, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, Sec. 18, eff. Sept. 1, 1993.

Sec. 31.050. FORM OF MANUFACTURER'S AND IMPORTER'S CERTIFICATE.

- (a) A manufacturer's certificate or an importer's certificate must include:
 - (1) a description of the vessel or outboard motor as required by Subdivision (2) of Subsection (b) of Section 31.047 of this code;
 - (2) the name and place of construction or other origin;
 - (3) the signature of the manufacturer or an equivalent of the signature of the manufacturer; and
 - (4) the endorsement of the original and each subsequent transferee, including the applicant for the original certificate of title.
- (b) A lien, security interest, or other encumbrance may not be shown on a manufacturer's or importer's certificate.
- (c) A security interest in a vessel or outboard motor held as inventory by a person who is in the business of selling or leasing goods of that kind may be perfected only by complying with Chapter 9, Business & Commerce Code.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 668, ch. 152, Sec. 1, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 450, Sec. 20, eff. Sept. 1, 1993.

Sec. 31.053. TRANSFERS OF VESSELS AND OUTBOARD MOTORS.

- (a) No person may sell, assign, transfer, or otherwise dispose of an interest in a vessel or an outboard motor without:
 - (1) if the transferee is not a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the department a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;
 - (2) if the transferee is a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the transferee a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;

- (3) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is a manufacturer or dealer, delivering to the department sufficient evidence of title or other information to permit the issuance of a certificate of title for the vessel or outboard motor in the name of the transferee;
 - (4) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the vessel or outboard motor in the name of the transferee; or
 - (5) delivering to the transferee a certificate of title for the vessel or outboard motor in the name of the transferor and properly endorsed to show the transfer or evidence of an involuntary transfer.
- (b) For the purposes of Subsection (a)(5) of this section an involuntary transfer shall mean the transfer of ownership pursuant to a contractual or statutory lien which confers the power or right to the transfer. The evidence shall reflect the proper exercise of the right conferred pursuant to the lien.
 - (c) The transferor shall provide the documents or evidence required by Subsection (a) of this section to the department or the transferee, as appropriate, in sufficient time to allow the transferee to register and obtain a certificate of title for the vessel or outboard motor not later than 20 days after the date of the sale.
 - (d) Notwithstanding the provisions of Subsection (a) of this section, a buyer of a new vessel or a new outboard motor in the ordinary course of business as provided in Section 9.320(a), Business & Commerce Code, takes the interest free of security interests as provided in that section. A buyer of a vessel or outboard motor that is not new shall be governed by Subsection (a) of this section.
 - (e) The transferee shall provide the department with sufficient evidence of ownership for transfer of a vessel or outboard motor if the transferee:
 - (1) failed to obtain the title from the transferor or the title was lost, stolen, or mutilated before the transfer was made; and
 - (2) has made reasonable efforts to contact the transferor to obtain the required documentation.
 - (f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 4063, ch. 636, Sec. 4, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 283, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 450, Sec. 22, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 414, Sec. 2.33, eff. July 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 8(l), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, Sec. 12, eff. Sept. 1, 2003.

Tax Code

SUBTITLE E. SALES, EXCISE, AND USE TAXES

CHAPTER 151. LIMITED SALES, EXCISE, AND USE TAX

Tax Code § 151.512. INTEREST

Unpaid taxes imposed by this chapter draw interest beginning 60 days after the date on which the tax or the amount of the tax required to be collected became due and payable to the state.

§ 151.329. CERTAIN SHIPS AND SHIP EQUIPMENT.

The following items are exempted from the taxes imposed by this chapter:

- (1) materials, equipment, and machinery that enter into and become component parts of a ship or vessel that is of eight or more tons displacement and is:
 - (A) used exclusively and directly in a commercial enterprise, including commercial fishing; or
 - (B) used commercially as a vessel for pleasure fishing by individuals as paying passengers on the vessel;
- (2) a ship or vessel of eight or more tons displacement, that is used exclusively and directly in a commercial enterprise and is sold by the vessel's builder;
- (3) materials and labor used in repairing, renovating, or converting a ship or vessel that is of eight or more tons displacement and that is used exclusively and directly in a commercial enterprise;
- (4) materials and supplies purchased by the owner or operator of a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies:
 - (A) are loaded on the ship or vessel and used in the maintenance and operation of the ship or vessel; or
 - (B) enter into and become component parts of the ship or vessel; and
- (5) materials and supplies purchased by a person providing stevedoring services for a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies are loaded aboard the ship or vessel and are not removed before the departure of the ship or vessel.

Acts 1981, 67th Leg., p. 1568, ch. 389, § 1, eff. Jan. 1, 1982.

Amended by Acts 1995, 74th Leg., ch. 230, § 1, eff. July 1, 1995.

§ 151.3291. BOATS AND BOAT MOTORS.

(a) The sale, other than the lease or rental, and the storage, use, or other consumption of a taxable boat or motor is exempt from the taxes imposed by this chapter.

(b) In this section, "taxable boat or motor" has the meaning assigned by Section 160.001.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, § 7.02, eff. Oct. 1, 1991.

CHAPTER 160. TAXES ON SALES AND USE OF BOATS AND BOAT MOTORS

SUBCHAPTER A. GENERAL PROVISIONS

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) "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) "Department" means the Parks and Wildlife Department.
- (5) "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.
- (6) "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) "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) "Tax assessor-collector" means a county tax assessor-collector.
- (9) "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) "Seller-financed sale" means a retail sale of a taxable boat or boat motor in which the seller collects all or part of the total consideration in periodic payments and retains a lien on the boat or boat motor until all payments have been received. The term does not include a retail sale of a taxable boat or boat motor in which a person other than the seller provides the consideration for the sale and retains a lien on the boat or boat motor as collateral.

(11) "Title" means the certificate of title document as provided for under Chapter 31, Parks and Wildlife Code.

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

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 30, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 718, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(50), eff. Sept. 1, 1995.

Sec. 160.002. TOTAL CONSIDERATION.

(a) "Total consideration" means the amount paid or to be paid for a taxable boat or motor, including accessories attached on or before the sale, without deducting:

- (1) the cost of the item;
- (2) the cost of material, labor or service, interest paid, loss, or any other expense;
- (3) the cost of transportation of the item before its sale; or
- (4) the amount of any manufacturer's or importer's excise tax imposed on the item by the United States.

(b) "Total consideration" does not include amounts separately stated on the bill or contract for the following:

- (1) a cash discount;
- (2) a full cash or credit refund to a customer of the sales price of the item returned to the seller;
- (3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the item sold;
- (4) a financing, carrying, or service charge or interest on credit extended on the item sold under a conditional sale or other deferred payment contract;
- (5) the value of a taxable boat or motor taken by a seller as all or a part of the consideration for sale of the item; or
- (6) a charge for transportation of the item after a sale.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 160.021. RETAIL SALES TAX.

(a) A tax is imposed on every retail sale of a taxable boat or motor sold in this state. The tax is an obligation of and shall be paid by the purchaser of the taxable boat or motor. If the purchaser pays the tax to the seller, the tax is an obligation of and shall be paid by the seller.

(b) The tax rate is 6-1/4 percent of the total consideration.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 243, Sec. 1, eff. Sept. 1, 1999.

Sec. 160.022. USE TAX.

(a) A use tax is imposed on a taxable boat or motor purchased at retail outside this state and used in this state or brought into this state for use by a Texas resident or other person who is domiciled or doing business in this state. The tax is an obligation of and shall be paid by the person who uses the boat or motor in this state or brings the boat or motor into this state.

(b) The tax rate is 6-1/4 percent of the total consideration.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.023. NEW RESIDENT.

(a) A use tax is imposed on a new resident of this state who brings into this state for use in this state a taxable boat or motor that has been purchased and owned by the new resident in any other state or foreign country.

(b) The tax is \$15 for each taxable boat or motor.

(c) The tax imposed by this section is in lieu of the tax imposed by Section 160.022.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.025. CREDIT FOR OTHER TAXES.

A person is entitled to a credit against the tax imposed by Section 160.022 on a taxable boat or motor in an amount equal to the amount of any similar tax paid by the person in another state on the sale, purchase, or use of the taxable boat or motor if the state in which the tax was paid provides a similar credit for a taxpayer of this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

SUBCHAPTER C. COLLECTION AND ENFORCEMENT OF TAXES

Sec. 160.041. COLLECTION PROCEDURE.

(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) Except as provided by Subsection (d), 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 or the seller, if the purchaser paid the tax to the seller, 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.
- (d) If a purchaser pays the tax imposed by Section 160.021 to the seller, and the seller fails to remit the tax in the time and manner required by Subsection (c), the department, agent of the department, or county tax assessor-collector shall accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from the purchaser if the purchaser provides proof that the tax was paid to the seller. The comptroller shall adopt rules establishing the method of proof required.
- (e) The tax imposed by Section 160.022 or 160.023 is due on the 20th working day after the date that the taxable boat or motor is brought into this state. The person liable for the tax shall pay the tax to the department or to a tax assessor-collector on or before the due date.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 7, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 243, Sec. 2, eff. Sept. 1, 1999.

Sec. 160.042. REQUIRED AFFIDAVITS.

- (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.
- (b) If a taxable boat or motor is sold by a person at a retail sale, the seller and purchaser shall make a joint affidavit stating the value in dollars of the total consideration for the boat or motor at the time of sale.
- (c) If the ownership of a taxable boat or motor is transferred as a result of a gift, the donor shall make an affidavit stating the nature of the transaction.
- (d) If the ownership of a taxable boat or motor is transferred as a result of an even exchange, the parties shall make a joint affidavit stating the nature of the transaction.
- (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.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 8, eff. Sept. 1, 1993.

Sec. 160.043. PAYMENT BY SELLER.

If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint affidavit and that the amount of tax paid was less than the amount due or that the seller failed to execute and deliver to the purchaser a joint affidavit and any other documents necessary to register the taxable boat or motor, the seller and purchaser are jointly and severally liable for the amount of the tax determined to be due.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.044. TAX RECEIPTS.

- (a) The comptroller shall prescribe the form of a tax receipt to be issued to a person paying a tax imposed by this chapter.
- (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.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 9, eff. Sept. 1, 1993.

Sec. 160.045. PENALTY.

- (a) A person who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax before the 31st day after the date on which the tax is due, the person forfeits an additional five percent.
- (b) The minimum penalty imposed by this section is \$1.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.046. RECORDS.

- (a) The seller of a taxable boat or motor shall keep at the seller's principal office for at least four years from the date of the sale a complete record of each sale of a taxable boat or motor. The record must include a copy of the invoice of each item sold. The invoice copy must show the full price of the taxable boat or motor and the itemized price of all its accessories. All sales and supporting records of a seller are open to inspection and audit by the comptroller.
- (b) A seller's business records must show the total receipts from all sources of income and expense, including transactions involving taxable boats and motors.
- (c) For a retail sale for which the seller receives full payment at the time of sale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, documentation of complete payment in the form of:
 - (1) a copy of the payment instrument or a receipt for cash received; and

- (2) a copy of the receipt for title application, registration, and boat or boat motor tax issued by the county tax assessor-collector or the department or a written statement by the purchaser that:
 - (A) is signed and dated;
 - (B) indicates the date on which the seller provided to the purchaser each of the documents necessary to apply for the title, register the taxable boat or boat motor, and pay the boat or boat motor tax; and
 - (C) includes a statement that the seller advised the purchaser that the purchaser must pay a tax to the county tax assessor-collector or the department.
- (d) For a seller-financed sale, the seller shall keep at the seller's principal office for at least four years from the date on which the seller receives the final payment for the taxable boat or motor:
 - (1) the lienholder's copy of the receipt for title application, registration, and boat or boat motor tax issued by a county tax assessor-collector or the department; and
 - (2) a ledger or other document containing a complete record of the payment history for that boat or boat motor, including:
 - (A) the name and address of the purchaser;
 - (B) the total consideration;
 - (C) the amount of the down payment received at the time the boat or boat motor is sold;
 - (D) the date and amount of each subsequent payment;
 - (E) the date of sale; and
 - (F) the date of any repossession.
- (e) For a sale for resale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, the purchaser's written statement of resale on a form prescribed by the comptroller.
- (f) Any person, other than the seller's employee, acting for the seller of a taxable boat or boat motor has the same record-keeping responsibilities as the seller.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 31, eff. Oct. 1, 1993.

SUBCHAPTER D. PENALTIES

Sec. 160.061. OPERATION; PENALTY.

- (a) A person commits an offense if the person knowingly operates a taxable boat or motor in this state and the person knows that a tax imposed by this chapter on the boat or motor has not been paid and is delinquent.
- (b) An offense under this section is a Class B misdemeanor.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.062. PENALTY FOR SIGNING FALSE AFFIDAVITS.

- (a) A person commits an offense if the person signs a joint affidavit required by Section 160.042 and knows that it is false in any material fact.
- (b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$500.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 32, eff. Oct. 1, 1993.