

**Joint Legislative Task Force
on Use of the Sales Tax on
Sporting Goods**



**Interim Report
to the 81st Legislature**

February 2009

JOINT LEGISLATIVE TASK FORCE ON THE USE OF THE SALES TAX ON SPORTING GOODS

REPRESENTATIVE HARVEY HILDERBRAN,
Co-Chairman
REPRESENTATIVE MYRA CROWNOVER
REPRESENTATIVE DREW DARBY
REPRESENTATIVE DAWNNA DUKES



SENATOR KIP AVERITT,
Co-Chairman
SENATOR CRAIG ESTES
SENATOR JUAN "CHUY" HINOJOSA
SENATOR TOMMY WILLIAMS

February 27, 2009

The Honorable David Dewhurst, Lieutenant Governor of Texas
The Honorable Joe Straus, Speaker of the House of Representatives of Texas
Members of the Texas Legislature
Texas State Capitol
Austin, Texas 78701

Dear Governor Dewhurst, Speaker Straus, and Fellow Members:

The Joint Legislative Task Force on the Use of the Sales Tax on Sporting Goods hereby submits its interim report including findings and recommendations for consideration by the Eighty-first Legislature.


Respectfully Submitted,


Representative Harvey Hilderbran,
Co-Chair


Senator Kip Averitt, Co-Chair

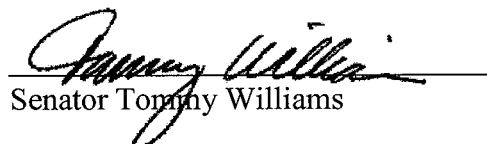

Representative Myra Crownover


Senator Craig Estes


Representative Drew Darby

Senator Juan "Chuy" Hinojosa

Representative Dawnna Dukes


Senator Tommy Williams

**Joint Legislative Task Force on the Use of
the Sales Tax on Sporting Goods**

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INTERIM CHARGE

The Joint Legislative Task Force on the Use of the Sales Tax on Sporting Goods (Task Force) was charged by Section 56 of House Bill 12, 80th Legislature, 2007, to:

- (1) review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code;
- (2) determine the amount of sales tax revenue that must be generated from the sale of "sporting goods" to fund, at a minimum, the appropriations made by the 80th Legislature regarding state parks, local parks, historic sites, coastal management programs, and water planning;
- (3) prepare and present to the legislature a report that describes the findings of the Task Force and includes recommendations regarding the specific items that should be included in the definition of "sporting goods" under Section 151.801(e), Tax Code, in order to more evenly match the revenue streams needed to cover ongoing appropriations (estimated to be \$70 million per annum), net of the use of unexpended balances in 2008-2009 biennium, without creating large dedicated fund balances.

BACKGROUND

From 1993 to 1995, a portion of the cigarette tax was allocated to state parks funding. However, this tax proved to be a declining source of revenue and did not hold a logical connection to parks or park services. As a result, beginning in 1995, a portion of the sales tax revenue generated by sporting goods was allocated to fund state park operations, capital, and local park grants.¹

NATIONAL SPORTING GOODS ASSOCIATION SURVEY

The sales tax on sporting goods is not a direct tax levied on purchases of sporting goods. Rather, it is a carve-out of the state sales tax. To estimate the amount of sales tax revenue generated by the sale of sporting goods, the Texas Tax Code instructs the Comptroller of Public Accounts (Comptroller) to use statistical data regarding the estimated or actual total receipts from the taxable sales of sporting goods.² As the basis for their estimate, the Comptroller's office uses a national survey of household purchases of sporting goods items. This annual survey, which is conducted by the National Sporting Goods Association, generates national sales statistics for 26 categories of apparel and footwear and 29 categories of sporting goods equipment.³ An sample of a survey can be found in Appendix A.

HOUSE BILL 12, 80TH LEGISLATURE

Revenue Allocation and Cap

During the 80th Legislative Session, Representative Harvey Hilderbran filed and passed House Bill (H.B.) 12. Prior to the enactment of this legislation, the Texas Parks and Wildlife Department's (TPWD) allocation of sporting goods sales tax-generated revenue was capped at \$64 million per biennium. House Bill 12 removed this cap and amended the Tax Code to provide the allocation of all sporting goods sales tax revenue as follows:

- ninety-four percent of sporting goods sales tax revenue is credited to TPWD, and
- six percent is credited to the Texas Historical Commission (THC).

House Bill 12 also provided that the amount of sporting goods sales tax revenue that TPWD and THC may receive be limited to the amounts appropriated in the General Appropriations Act. This provision of the bill will remain in place until the Legislature enacts new legislation related to the definition of the sales tax on sporting goods, after which the limitation will be repealed. During the 2008-2009 biennium, TPWD received \$98.1 million, less than half of the 94 percent of the estimated sporting goods sales tax-generated revenue that was statutorily allocated to the agency. The balance of funds estimated to have been generated by sporting goods sales that was not appropriated for this purpose was \$117.3 million.⁴

The need to examine the definition of the sales tax on sporting goods in further detail prompted the creation of the Task Force. See Appendix B for a copy of the H.B. 12 language relating to this Task Force. The Task Force was instructed to examine and make recommendations regarding the statutory definition of sporting goods, thereby also examining the manner in which the Comptroller provides the estimate of sporting goods sales. The statutory definition of sporting goods can be found in Appendix C.

JOINT LEGISLATIVE TASK FORCE MEMBERSHIP

The eight-member Task Force membership, as established in statute, is made up of the following:

- two members of the House Culture, Recreation and Tourism Committee, one being the chair of the committee and one appointed by the Speaker of the House of Representatives
- two members, each of whom must be a member of the House Appropriations Committee or House Ways and Means Committee, as appointed by the Speaker of the House of Representatives

- two members of the Senate Committee on Natural Resources, one being the chair of the committee and one appointed by the Lieutenant Governor
- two members of the Senate Committee on Finance, appointed by the Lieutenant Governor

Statute dictates that the Speaker of the House of Representatives shall designate the chair of the House Committee on Culture, Recreation, and Tourism to serve as a co-chair of the Task Force. The other joint presiding officer is selected from the Task Force's membership by the Lieutenant Governor. Below is a list of the appointees to the Task Force:

- Representative Harvey Hilderbran, Co-Chair
- Senator Kip Averitt, Co-Chair
- Representative Myra Crownover
- Representative Drew Darby
- Representative Dawnna Dukes
- Senator Juan "Chuy" Hinojosa
- Senator Craig Estes
- Senator Tommy Williams

INTERIM EFFORTS/ISSUE STATUS

INTERIM TASK FORCE HEARING

The Task Force held a public hearing in Austin, Texas, on October 29, 2008. Testimony focused on issues related to the use of the sales tax on sporting goods. The Task Force heard invited testimony from the Legislative Budget Board (LBB), the Comptroller, and

several state agencies. The October 29 hearing agenda and a portion of the written testimony submitted at the hearing can be found in Appendix D.

PROPOSED OPTIONS

Several options were presented to the Task Force regarding the use of tax revenue from the sale of sporting goods.

Option one: Redefine sporting goods in the Tax Code to include parks-related equipment and apparel that are currently not included in the definition, such as canoes and kayaks. Revenue numbers for the inclusion of canoes and kayaks are provided in Appendix E. The altered definition would also exclude non-parks-related items, such as hockey equipment and ice skates. After the definition is restructured, in accordance with H.B. 12, the Legislature would remove the cap on the amount of sales tax revenue that TPWD and THC can receive.

Option two: Discontinue basing sporting goods sales tax revenue estimates on the national survey. Instead, allocate a fixed percentage of all sales tax from sales made in sporting goods stores to TPWD and THC. Proponents argue that this option allows for more succinct accounting by avoiding the need to perform an item-by-item review and debate regarding what qualifies as sporting goods and what does not. Additionally, when new sports, sports equipment, and pastimes are invented and gain popularity, this option would prevent the need to perpetually revisit and statutorily update the qualifying sporting goods list. Under such a system, the money allocated to TPWD and THC would

be based upon actual sales numbers and not an estimate based on a survey of consumers' recollection of purchases made in the twelve months prior. Following the Legislature's choice to implement this option, the cap on the amount of sales tax revenue that TPWD and THC can receive would be removed. Appendix F contains revenue numbers for the actual sales tax reported by sporting goods stores.

Option three: Return to a fixed, statutory appropriation of revenue from the sale of sporting goods for state and local parks.

CONCLUSIONS

The Task Force did not make any formal decisions or recommendations based on their examination of the issue. The 81st Legislature must evaluate the available options, and at a minimum, make some decisions on this issue during the appropriations process.

¹ Zelma Smith, Testimony before the Joint Legislative Task Force on Use of the Sales Tax on Sporting Goods, October 29, 2008, Austin, Texas.

² V.T.A.C., Tax Code, §151.801(d).

³ Eric Stearns, Testimony before the Joint Legislative Task Force on Use of the Sales Tax on Sporting Goods, October 29, 2009, Austin, Texas.

⁴ Id at 1.

Appendix

A

TO BE ANSWERED BY THE PERSON MOST FAMILIAR WITH OUTDOOR POWER EQUIPMENT (LAWN MOWERS, STRING TRIMMERS, ETC.)

3. What is your ... Age: _____ Sex: Male Female
 4. Where do you have access to the Internet? Home Work Library School Other Don't have
 5. Have you or anyone in your household ever bought anything on-line using the Internet? Yes No
 6. For each type of outdoor power equipment listed below, write in:

+ "X" if none bought new past 12 months

- The brand for each type that was bought new during the past 12 months.
- Month and year bought.
- Price paid and type of power.
- "X" if you used the Internet to get information on the product.
- Code for where bought.

ANSWER OTHER SIDE FIRST

Products Bought New Past 12 Months	Brand Bought	Month/Year	Price Paid	Gas	Electric	Battery	Used Internet To Get Info.	Where Bought	Where bought codes:
Walk-behind lawn mower		/	\$	1	2	3	<input type="checkbox"/>		1 = Internet/on-line
Lawn tractor/riding mower		/	\$	1	2	3	<input type="checkbox"/>		2 = OPE Dealer
Nylon line string trimmer		/	\$	1	2	3	<input type="checkbox"/>		3 = Dept. store
Portable yard blower		/	\$	1	2	3	<input type="checkbox"/>		4 = Disc. store
Chain saw		/	\$	1	2	3	<input type="checkbox"/>		5 = Home center
Hedge trimmer		/	\$	1	2	3	<input type="checkbox"/>		6 = Hardware
Lawn edger		/	\$	1	2	3	<input type="checkbox"/>		7 = Other (Specify):

- ANSWER OTHER SIDE FIRST 48714-1
3. To be answered by the family member 12 years and older whose birthday is coming next. Please record your activities for the most recent weekday and either the past Saturday or Sunday. Write in the code # of the main activity you did during each time period (e.g., play darts-53, play golf-47, etc.).

- 4a. SEX: M F AGE: _____
 4b. Which weekday are you answering for? (Circle Day) M T W TH F
 4c. Which weekend are you answering for? (Circle Day) Saturday Sunday

ACTIVITY CODES

- | | |
|---|--------------------------------------|
| Work/House/Child Care: | Recreation & Sports: |
| 21. Work/School/Commuting | 39. Bicycling |
| 22. Child care & transport | 40. Boating/Fishing |
| 23. Prepare meals/Laundry | 41. Swimming |
| 24. House/Car/Pet care | 42. Aerobics |
| 25. Lawn/Garden care | 43. Exercise with equipment |
| 26. Shop/Errands/Other | 44. Jog/Run |
| Eat/Sleep/Personal Care: | 45. Fitness walk |
| 27. Sleep/Rest/Pers'l care | 46. Camp/Hike |
| 28. Eat-home/friends | 47. Golf |
| 29. Eat-restaurant | 48. Tennis |
| 30. Other personal activity | 49. In-line skating |
| Social & Entertainment: | 50. Basketball |
| 31. TV/VCR/Reading/Music | 51. Softball, soccer, football, etc. |
| 60. Using home computer | 52. Billiards/Pool |
| 32. Talk to friends/family | 53. Dart throwing |
| 33. Movie/Concert/Theatre | 54. Hobbies |
| 34. Party/Social gathering | 55. Yard games |
| 35. Attraction/Sports event | 56. Snow skiing |
| 36. Indoor games (Cards, Chess, Monopoly, etc.) | 57. Other recreation (Specify): |
| 37. Church/Organiz'l work | |
| 38. Other social/entertain. | |

Fill In All Blanks	Week-day	Sat./Sun.	Fill In All Blanks	Week-day	Sat./Sun.
Midnt.-3 a.m.			1 - 2 pm		
3 - 4 am			2 - 3 pm		
4 - 5 am			3 - 4 pm		
5 - 6 am			4 - 5 pm		
6 - 7 am			5 - 6 pm		
7 - 8 am			6 - 7 pm		
8 - 9 am			7 - 8 pm		
9 - 10 am			8 - 9 pm		
10 - 11 am			9 - 10 pm		
11 - Noon			10 - 11 pm		
Noon-1 pm			11pm - Midnt.		

5. How many hours of leisure time did you have last week? (Write In # Hours) _____
6. Where do you have access to the Internet? (X ALL)
 Home School Other Don't have
 Work Library

To Be Answered By Person Most Aware Of Leisure And Sport Footwear Purchases During Past 6 Months (April 1, 2001 - September 31, 2001)
 1. Please indicate total pairs of leisure and sport footwear bought by household in past 6 mos. # "X" if NONE bought, then skip to Other Side
 2. Record purchases of each pair of leisure & sport footwear for all household members (incl. children away at college) made during the past 6 mos.

Sex Of User	Age Of User	Shoe Type	Brand Of Shoe	Price Paid Per Pair	Code Where Bought	Month Purchased	Shoe Type Codes: Be as specific as possible.
<input type="checkbox"/> M <input type="checkbox"/> F				\$			01 = Aerobic 13 = Hunting 02 = Cross-training 14 = Walking 03 = Fitness 15 = Soccer 04 = Baseball/softball 16 = Tennis 05 = Basketball 17 = Volleyball 06 = Bowling 18 = Sport sandals 07 = Cheerleading 19 = Water sport 08 = Football 20 = Boat/deck 09 = Golf 21 = Skateboarding 10 = Jogging/running 22 = Gym shoes/sneakers 11 = Trail running 23 = Track 12 = Hiking shoes/boots 24 = Cycling
"Where Bought" Codes: 01 = Sporting Goods Store 04 = Pro Shop 02 = Specialty Athletic Footwear Store 05 = K mart/Target/Wal-Mart 03 = Specialty Sport Shop 06 = Other Discount Store 07 = Sears/Pennneys 08 = Other Dept. Store 09 = Family Footwear Store 10 = Factory Outlet Store 11 = Mail Order 12 = Online/Internet 13 = Other							

ANSWER THIS SIDE FIRST

TO BE ANSWERED BY PERSON MOST AWARE OF SPORTING GOOD PURCHASES BY ALL HOUSEHOLD MEMBERS.

1. For each product, indicate how many were bought (new or used) by the male head, female head, and all others in household (including children away at college) during the past 12 months (October 2000 - September 2001). "X" if None Bought

Most Recent Purchase of EACH Item	Major User		Price	Brand	(New = N Used = U)	Where Bought	"Where Bought" Code
	Sex	Age					
Backpacks/Daypacks	<input type="checkbox"/> M <input type="checkbox"/> F		\$				1 = The Sports Authority 2 = Other Sporting Gds Store 3 = Specialty Sport Shop 4 = Pro Shop 5 = Kmart 6 = Target 7 = Wal-Mart 8 = Other Discount Store 9 = Warehouse Club 10 = Sears 11 = Other Dept. Store 12 = Mail Order 13 = TV Shopping 14 = Online/Internet 15 = Private Individual 16 = Other (Specify):
Tennis (1-2 persons)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Tennis (3 person +)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Sleeping bags	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Stoves (Gas/Propane)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Water Skis	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Tennis rackets	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Tennis balls (cans of 3)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Rod-reel combinations	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Reels - separate	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Golf bags	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Individual clubs (putter, wedge, driver, etc.)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				
Sets of clubs (# in set)	<input type="checkbox"/> M <input type="checkbox"/> F		\$				

ANSWER THIS SIDE FIRST

CONTINUE

TO BE ANSWERED BY PERSON MOST AWARE OF SPORTING GOOD PURCHASES BY ALL HOUSEHOLD MEMBERS.

1. For each product, indicate how many were bought (new or used) by the male head, female head, and all others in household (including children away at college) during the past 12 months (January 2001 - December 2001). "X" if None Bought

2. For the most recent purchase of each product, indicate the major user's sex, age, price paid, brand, new or used, & outlet code.

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ANSWER THIS SIDE FIRST

	All Purchases			Most Recent Purchase of EACH Item			Where Bought	"Where Bought" Code	
	Total Items	New Items	Used Items	Major User	Brand	Price			New = N Used = U
Hunting/ Shooting	Shotguns	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Rifles	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Handguns	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Air/CO2 Pistols/Rifles	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Archery	Archery arrows - individual	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Racquetball	Racquets	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Soccer	Soccer balls	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Baseball/ Softball	Gloves/Mitts	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Aluminum bats	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Football	Footballs	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
Basketball	Basketballs	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Portable backboard systems	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			
	Pool/Billiard Pool/Billiard cue sticks	#	#	#	M <input type="checkbox"/> F <input type="checkbox"/>	\$			

CONTINUE ⇌

- 1= The Sports Authority
- 2= Other Sporting Gds. Store
- 3= Specialty Sport Shop
- 4= Pro Shop
- 5= Kmart
- 6= Target
- 7= Wal-Mart
- 8= Other Discount Store
- 9= Warehouse Club
- 10= Sears
- 11= Other Dept. Store
- 12= Mail Order
- 13= TV Shopping
- 14= On-line/Internet
- 15= Private Individual
- 16= Other (Specify): _____

TO BE ANSWERED BY PERSON MOST AWARE OF SPORTING GOOD PURCHASES BY ALL HOUSEHOLD MEMBERS.

1. For each product, indicate how many were bought (new or used) by the male head, female head, and all others in household (including children away at college) during the past 12 months (January 2001 - December 2001). "X" if None Bought

2. For the most recent purchase of each product, indicate the major user's sex, age, price paid, brand, new or used, & outlet code.

For the most recent purchase of each product, indicate the major user's sex, age, price paid, brand, new or used, & outlet code.

	All Purchases		Major User		Price	Brand	New = N Used = U	Where Bought
	Total Items	New Items	Sex	Age				
Fitness								
Multi-purpose home gyms..... #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Treadmills (motorized) #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Stationary exercise bicycles #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Elliptical-/cross-trainers #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Weight benches #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Hand/wrist/ankle weights ... #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Hockey								
Ice hockey skates..... #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
In-line skating In-line wheel skates #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Skateboards								
Skateboards #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Scooters								
Scooters #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Pogo Sticks								
Pogo sticks #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Snowboards								
Snowboards #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
Game Tables								
Game tables #	#	#	<input type="checkbox"/> M <input type="checkbox"/> F	_____	\$	_____	_____	_____
<input type="checkbox"/> Hockey <input type="checkbox"/> Foosball <input type="checkbox"/> Other								

- "Where Bought" Code**
- 1= The Sports Authority
 - 2= Other Sporting Gds. Store
 - 3= Specialty Sport Shop
 - 4= Pro Shop
 - 5= Kmart
 - 6= Target
 - 7= Wal-Mart
 - 8= Other Discount Store
 - 9= Warehouse Club
 - 10= Sears
 - 11= Other Dept. Store
 - 12= Mail Order
 - 13= TV Shopping
 - 14= On-line/Internet
 - 15= Private Individual
 - 16= Catalog Showroom
 - 17= Other (Specify): _____

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ANSWER THIS SIDE FIRST

CONTINUE ⇨

Appendix B

House Bill 12(excerpt), 80th Legislature

SECTION 56. (a) The joint legislative task force on the use of the sales tax on sporting goods is composed of eight members, as follows:

(1) two members of the House Culture, Recreation and Tourism Committee, one being the chair of the committee and one appointed by the speaker of the house of representatives;

(2) two members, each of whom must be a member of the House Appropriations Committee or House Ways and Means Committee, as appointed by the speaker of the house of representatives;

(3) two members of the Senate Committee on Natural Resources, one being the chair of the committee and one appointed by the lieutenant governor; and

(4) two members of the Senate Committee on Finance, appointed by the lieutenant governor.

(b) The speaker of the house of representatives shall designate the chair of the House Committee on Culture, Recreation, and Tourism to serve as a joint presiding officer of the task force, and the lieutenant governor shall designate another task force member to serve as the other joint presiding officer.

(c) The task force meets at the call of the joint presiding officers.

(d) The task force shall:

(1) review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code;

(2) determine the amount of sales tax revenue that must be generated from the sale of "sporting goods" to fund, at a minimum, the appropriations made by the 80th Legislature regarding state parks, local parks, historic sites, coastal management programs, and water planning;

(3) not later than December 15, 2008, prepare and present to the legislature a report that describes the findings of the task force and includes recommendations regarding the specific items that should be included in the definition of "sporting goods" under Section 151.801(e), Tax Code, in order to more evenly match the revenue streams needed to cover ongoing appropriations (estimated to be \$70 million per annum), net of the use of unexpended balances in 2008-2009 biennium, without creating large dedicated fund balances.

(e) It is the intent of the 80th Legislature that Section 151.801(c-1), Tax Code, as added by this Act, be repealed on adoption of a statute implementing the

recommendations of the task force.

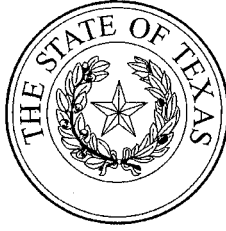
Appendix C

Definition of Sporting Goods - Tax Code 151.801(e)(2):

(e) In this section:

(2) "Sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

Appendix D



AGENDA

Joint Committee on the Use of the
Sales Tax on Sporting Goods
Wednesday, October 29, 2008
11:00 a.m.
Capitol Extension E1.012

I. Legislative Budget Board

- Zelma Smith, Team Manager, Natural Resources and Judiciary

II. Comptroller of Public Accounts

- Eric Stearns, Senior Revenue Analyst, Revenue Estimating

III. General Land Office

- Jerry Patterson, Commissioner

IV. Texas Historical Commission

- John Nau, Chairman
- Lawrence Oaks, Executive Director
- Donna Williams, Director of Historic Sites

V. Texas Parks & Wildlife Department

- Carter Smith, Executive Director

VI. Public Testimony

VII. Adjourn

SPORTING GOODS SALES TAX ALLOCATION

Since 1993, a portion of the sales tax revenue generated by sporting goods has been statutorily allocated to fund state park operations, capital, and local park grants. Prior to that, state and local parks were each allocated a one penny per pack tax on cigarettes, which probably set the precedent for providing equal allocations to state and local parks. The Sporting Goods Sales Tax (SGST) allocation was introduced because the cigarette tax proved to be a declining revenue source that bore no relationship to the mission of providing state park services.

Figure 1.
2008-09 Biennium
Estimated State Sales Tax Revenue from the Sale of Sporting Goods

Category of Sporting Good	Revenue (in \$1000s)	Percent of Total
Bicycles and Supplies	\$45,024.2	19.6
Hunting and Firearms Equipment	\$43,396.4	18.9
Exercise Equipment	\$40,602.2	17.7
Fishing Tackle	\$26,982.0	11.8
Golf Equipment	\$21,124.8	9.2
Camping	\$9,811.1	4.3
Snow Skiing Equipment	\$6,568.1	2.9
Hunting-Outdoor Apparel	\$4,007.0	1.7
Billiards/Indoor Games	\$3,932.4	1.7
Baseball/Softball	\$3,612.4	1.6
Skin Diving and Scuba Gear	\$3,326.7	1.5
Archery	\$3,242.4	1.4
Wheel Sports and Pogo Sticks	\$3,219.1	1.4
Tennis Equipment	\$2,921.5	1.3
Golf Shoes	\$2,287.7	1.0
Optics	\$1,972.8	0.9
Basketball	\$1,831.4	0.8
Bowling	\$1,677.0	0.7
Football Equipment	\$785.6	0.3
Cycling Shoes	\$455.7	0.2
Hockey Equipment and Ice Skates	\$435.9	0.2
Soccer	\$424.3	0.2
Bowling Shoes	\$401.0	0.2
Ski Apparel	\$368.6	0.2
Water Skis	\$337.5	0.1
Volleyball and Badminton	\$335.8	0.1
Racquetball Equipment	\$80.5	0.0
TOTAL	\$229,164.0	100.0

Source: Comptroller of Public Accounts, National Sporting Goods Association

The Comptroller derives estimates for these receipts using a national survey of the sporting goods market (see Figure 1). The statutory definition of sporting goods from the Tax Code is indicated below. While the SGST is not directly related to park use, no other significant tax or user fee provides a greater connection to park use. Although the types of sporting goods items listed in Figure 1 may not always be used in state and local parks, surveys have shown a relationship between the purchase of sports equipment and state park visitation.

Statutory Definition of Sporting Goods

"Sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

Source: Tax Code, Sec. 151.801(e)2

House Bill 12, Eightieth Legislature

Prior to September 1, 2007, the biennial statutory allocation of sporting goods sales tax receipts to the Texas Parks and Wildlife Department was fixed at \$64.0 million per biennium and distributed as shown in Figure 2:

Figure 2.	
Biennial Statutory Allocation of Sporting Goods Sales Tax Receipts (BEFORE House Bill 12)	(\$ in millions)
State Parks Account No. 64	\$31.0
Texas Recreation and Local Parks Account No. 467	\$31.0
Parks and Wildlife Conservation and Capital Account No. 5004	\$2.0
TOTAL	\$64.0

House Bill 12 provides for a statutory allocation of ALL SGST receipts: 6% to the Texas Historical Commission (THC); and, 94% to the Texas Parks and Wildlife Department (TPWD), with the amount designated for TPWD specifically allocated by General Revenue-Dedicated account as shown in Figure 3.

However, House Bill 12 limits the amount of receipts TPWD and THC may receive to the amounts appropriated in the General Appropriations Act (GAA). Biennial appropriations of SGST receipts total \$111.8 million in the 2008-09 GAA. (See attached table for amounts of the SGST in the 2008-09 GAA.)

The amounts estimated to be collected exceed the amounts appropriated in the 2008-09 GAA by \$117.3 million, and are used to fund other General Revenue appropriations.

Figure 3.

Statutory Allocation of Sporting Goods Sales Tax Receipts (AFTER House Bill 12)	Statutory Allocation percentage	Maximum Statutory Allocation 2008-09 (\$ in millions)
Texas Historical Commission	6%	
Historic Site Account (see note)		\$13.7
Texas Parks and Wildlife Department	94%	\$215.4
State Parks Account No. 64	74%	\$159.4
Texas Recreation and Local Parks Account No. 467	15%	\$32.3
Large County and Municipality Recreation and Parks Account (see note)	10%	\$21.5
Parks and Wildlife Conservation and Capital Account No. 5004	1%	\$2.2
TOTAL	100%	\$229.1
<i>Note: Eightieth Legislature did not exempt Historic Site and Large County and Municipality Recreation and Parks accounts from funds consolidation which means that the funds were not created and revenue is retained in the General Revenue Fund.</i>		

House Bill 12 includes a provision creating a joint legislative task force on the use of the sporting goods sales tax to:

- Review and make recommendations regarding the items included in the statutory definition of sporting goods.
- Determine the amount of SGST receipts required to fund 2008-09 appropriated amounts for state and local parks, historic sites, coastal management programs and water planning.
- Present a report to the Eighty-first Legislature no later than December 15, 2008, which includes the findings of the Task Force, and recommendations regarding those items necessary to include in the statutory definition of sporting goods in order to generate enough revenue to accomplish the following:
 - Fund estimated ongoing annual appropriations of \$70.0 million, and hold the agency harmless for the use of one-time fund balances in the 2008-09 biennium (approximately \$50 million); and
 - While funding this annual spending level, generate too much revenue to be deposited, but not appropriated out of the GR-dedicated accounts receiving the SGST allocation, thus creating large unexpended balances.

Finally, there is language in House Bill 12 stating that it is the intent of the Eightieth Legislature that the cap limiting the SGST allocation to TPWD and THC to appropriated amounts be repealed upon adoption of a statute implementing the task force's recommendations. (See attached document for text of section of House Bill 12 establishing the joint task force.)

Sporting Goods Sales Tax in the 2008-09 General Appropriations Act (GAA)
2008-09 Biennial Revenue Estimate = \$229.1 Million

Agencies Receiving Statutory Allocations	House Bill 12 Maximum Statutory Allocation		2008-09 GAA*		Undesignated SGST Receipts****
	(\$ in millions)	% of Total	(\$ in millions)	% of Each Statutory Allocation	(\$ in millions)
Texas Parks and Wildlife Department (TPWD)	\$ 215.4	94%	\$ 98.1	46%	\$ 117.3
Texas Historical Commission (THC) **	13.7	6%	13.7	100%	0
Total	\$ 229.1	100%	\$ 111.8		\$ 117.3

Statutory Distribution to TPWD General Revenue-Dedicated Accounts	Statutory Allocation to TPWD = \$215.4 million (94%)		2008-09 GAA*		Undesignated SGST Receipts****
	(\$ in millions)	% of Total	(\$ in millions)	% of Each Statutory Allocation	(\$ in millions)
State Parks Account No. 64 Amounts appropriated: • state park operations and minor repair (\$33.6 million); • coastal erosion projects (\$25.0 million); • debt service (\$6.2 million); and • land acquisition (\$0.3 million)	\$ 159.4	74%	\$ 65.1	41%	\$ 94.3
Local Parks Accounts					
1) Texas and Recreation Parks Account	32.3	15%	18.6	58%	13.7
2) Large County and Municipality Recreation and Parks Account****	21.5	10%	12.4	58%	9.1
Conservation and Capital Account No. 5004	2.2	1%	2.0	91%	0.2
Total	\$ 215.4	100%	\$ 98.1		\$ 117.3

Notes:

*In addition to amounts shown above, an estimated additional \$23 million will be spent on employee benefits for TPWD and THC historic site staff during the 2008-09 biennium.

**House Bill 12 created a Historic Site Account, which was not exempted from funds consolidation. In the 2008-09 biennium, THC amounts are being deposited to a General Revenue subaccount.

***Like the Historic Site Account, the Large County and Municipality Recreation and Parks Account (which was also created by House Bill 12) was not exempted from funds consolidation. However, TPWD is following legislative intent and applying a 60%/40% split to its appropriation with 60% of funds designated for small entities with populations less than 500,000, and 40% for large entities with populations of 500,000 or more.

****Undesignated SGST receipts are classified as General Revenue, and are used in the 2008-09 biennium for other purposes.



Presentation to the
**Joint Committee on the
Use of the Sales Tax on Sporting Goods**

October 29, 2008

Presented by:

Eric Stearns

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Texas Comptroller of Public Accounts

Allocation of State Sales Tax Revenue to Texas Parks and Wildlife Department and Texas Historical Commission



- 94% of sales tax from the sale of sporting goods to Texas Parks and Wildlife Department.
- 6% to Texas Historical Commission.
- May not be credited more sales tax than is appropriated.
- Prior to HB 12 (80R), amount to TPWD was capped at \$32 million annually; no allocation to THC at that time.

Estimated Sales Tax on Sporting Goods and Appropriations to
TPWD and THC



	FY 2008	FY 2009
Estimated State Sales Tax on Sporting Goods	\$ 112,512,000	\$ 116,652,000
Appropriated to TPWD	\$ 47,010,834	\$ 51,054,446
Appropriated to THC	\$ 6,750,720	\$ 6,999,120

National Sporting Goods Association Survey (NSGA)



- Nationwide survey of household purchases of sporting goods items.
- Conducted annually, covering a broad range of items.
- National sales statistics for 26 categories of apparel and footwear and 29 categories of sporting goods equipment.
- Major categories include a regional breakout.

What is a Sporting Good?



Tax Code 151.801 (e)(2)

"Sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

Twenty seven categories of items were included in the NSGA survey for the 2008-09 estimate.

The following is an example of items included/excluded by the definition:

Included	Excluded
Bowling Shoes	Basketball Shoes
Cycling Shoes	Tennis Shoes
Golf Shoes	Pleasure Boats

Estimated State Sales Tax Collections from Sporting Goods (\$ thousands)



Sporting Goods Category	2009
Archery	\$ 1,650
Baseball/Softball	1,839
Basketball	932
Bicycles and Supplies	22,919
Billiards/Indoor Games	2,040
Bowling	854
Bowling Shoes	204
Camping	4,994
Cycling Shoes	232
Exercise Equipment	20,668
Fishing Tackle	13,735
Football Equipment	400
Golf Equipment	10,753
Golf Shoes	1,165
Hockey Equipment and Ice Skates	222
Hunting and Firearms Equipment	22,090
Hunting/Outdoor Apparel	2,002
Optics	1,004
Racquetball Equipment	41
Ski Apparel	188
Skin Diving and Scuba Gear	1,693
Snow Skiing Equipment	3,343
Soccer	216
Tennis Equipment	1,487
Volleyball and Badminton	171
Water Skis	172
Wheel Sports	1,639
Total	\$ 116,652

Taxable Sales from Sporting Goods Stores

NAICS Code 451110



- Data gathered from sales tax reports.
- Sales of all items, not just sporting goods.

Fiscal Year	Sales Tax from Sporting Goods Stores
2003	\$ 121,590,578
2004	128,764,937
2005	147,455,769
2006	171,960,343
2007	192,986,371
2008	207,587,432

Appendix E

Estimated Sales Tax on Canoes and Kayaks

(Source: Texas Comptroller of Public Accounts)

<u>Fiscal Year</u>	<u>Estimated Sales Tax on Sporting Goods</u>	<u>Estimated Sales Tax on Canoes and Kayaks (not included in SGST estimate)</u>	<u>Total Sporting Goods Including Canoes and Kayaks</u>
2003	\$90,905,000	\$1,241,000	\$92,146,000
2004	\$93,821,000	\$1,291,000	\$95,112,000
2005	\$97,125,000	\$1,357,000	\$98,482,000
2006	\$104,831,000	\$1,444,000	\$106,275,000
2007	\$108,396,000	\$1,499,000	\$109,895,000
2008	\$112,512,000	\$1,558,000	\$114,070,000
2009	\$116,652,000	\$1,608,000	\$118,260,000
2010	\$120,847,000	\$1,664,000	\$122,511,000
2011	\$125,294,000	\$1,719,000	\$127,013,000

Appendix F

Sales Tax Based on Taxable Sales Reported by Sporting Goods Stores
NAICS 451110

(Source: Texas Comptroller of Public Accounts)

<u>Fiscal Year</u>	<u>Sales Tax Based on Taxable Sales Reported by Sporting Goods Stores NAICS 451110</u>
2003	\$121,590,578
2004	\$128,764,937
2005	\$147,455,769
2006	\$171,960,343
2007	\$192,986,371
2008	\$196,466,211
2009	\$202,829,998
2010	\$209,875,329
2011	\$216,767,517