DRAFT MODEL LEGISLATION

The Secure Border Manufacturing Zones Incentive Act of 2007

An act providing tax credits equal to ____ percent of the value of qualified equipment and other property purchased by eligible cross-border manufacturing companies within _X_ miles along the ____________ - Mexico border to enhance supply chain visibility of commercial cargo through the implementation of advanced technologies and efficiency protocols.

Existing federal programs administered by the U.S. Department of Homeland Security (DHS) permits qualified businesses to voluntarily participate under the Customs-Trade Partnership Against Terrorism (C-TPAT) – a public / private partnership program aimed providing security and facilitation of commercial supply chain at U.S. land, air and sea ports of entry. Participating businesses provide U.S. Customs and Border Protection (CBP) a security profile outlining the specific security measures and address a broad range of security topics including personnel security; physical security; procedural security; access controls; education training and awareness; manifest procedures; conveyance security; threat awareness; document processing; business partners and relationships; vendors; and suppliers. Security profiles also list actions plans the companies implement to align security throughout the supply chain.

In return C-TPAT partners are offered, among other things, the following benefits:

- A reduced number of inspections and reduced border wait times;
- A C-TPAT supply chain specialist to serve as the CBP liaison for validations, security issues, procedural updates, communication and training;
- Access to the C-TPAT members through the Status Verification Interface;
- In the Automated Commercial System (ACS), C-TPAT certified importers receive reduced selection rate for Compliance Measurement Examinations and exclusion from certain trade-related local and national criteria;
- Self policing and self monitoring of security activities;
- Certified importers receive targeted benefits by receiving a "credit" via the CBP targeting system;
- Certified C-TPAT importers are eligible for access on the FAST lanes on the Canadian and Mexican borders;
- C-TPAT certified highway carriers, on the Canadian and Mexican borders, benefit from their access to the expedited cargo processing at designated FAST Lanes. These carriers are eligible to receive more favorable mitigation relief from monetary penalties;
- C-TPAT certified Mexican manufacturers benefit from their access to the expedited cargo processing at the designated FAST lanes;
- All certified C-TPAT companies are eligible to attend CBP sponsored C-TPAT supply chain security training seminars.

This bill would establish the Secure Border Manufacturing Zones Incentive Act of 2010 to complement federal programs aimed at enhancing security and safety of cross-border shipment of goods by providing eligible businesses within the state with tax incentives equal to ___ percent of their investment in the purchase of equipment and/or technologies to enhance supply chain visibility of their operations; value added trade; and efficient operations. This bill encourages investments in cargo supply chain security and efficiency processes to promote the development of Secure Manufacturing Zones along the U.S. – Mexico border region.

Eligibility:

- Businesses stationed and operating within **X** miles of the of the _______ border with Mexico;
- Businesses conducting no less than **75%** of their operations in cross-border trade activities along the U.S. – Mexico border;
- Businesses licensed by the appropriate local, state and federal agencies on both sides of the border;
- Businesses enrolled in the C-TPAT and Fast and Secure Trade (FAST) programs;
- Businesses that conform to the manufacturing standards established by International Organizations for Standardization (ISO).

Investments Qualified for Tax Incentives

- Investment and implementation of security surveillance technologies on commercial vehicles and manufacturing plants from point of origin until final destination on the U.S. side of the border.
- Investment and implementation of advanced technologies that protect elements of the supply chain, including:
    - Secure trailers with intelligent locking devises and seals that meet ISO standards;
    - System that detects tampering or compromising of cargo;
    - Systems and protocols that provide instant alarms and response of cargo deviation;
    - Collaboration with appropriate federal and state agencies;
- Businesses that, as part of an overall security strategy, conduct and share information with appropriate federal and state agencies the assessment of pertinent drivers and key personnel;
- Retrofitting of commercial vehicles' engines with innovative, efficient natural gas systems and necessary refueling infrastructure;

- Implementation and certification of manufacturing and cross-border trade standards and protocols established by the International Standards Organization (ISO);

- Capital investments to existing manufacturing operations towards valued added trade and national defense operations; and creating new jobs in specialized, high-skilled positions related to biotechnology, defense, medical, software, and other value added manufacturing fields;

- Investment in an integrated supply chain transportation systems that incorporates sophisticated, embedded broadband communications technology;

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By: Shapleigh

S.B. No. 1378

A BILL TO BE ENTITLED

AN ACT

relating to the computation of the cost of goods sold for franchise tax purposes by certain taxable entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.10125 to read as follows:

Sec. 171.10125. COMPUTATION OF COST OF GOODS SOLD BY TAXABLE ENTITY DOING BUSINESS NEAR BORDER. (a) In this section:

(1) "Border" means the border between this state and the United Mexican States.

(2) "Strategic investment area" means an area determined by the comptroller under Subsection (h) that is:

(A) a county in this state with above state average unemployment and below state average per capita income; or

(B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community.

(b) This section applies only to a taxable entity that:

(1) has a business or facility located within a strategic investment area; and

(2) conducts at least 90 percent of the taxable entity's total business in the strategic investment area.

(c) In addition to Subsection (b), at least two of the following conditions must apply for this section to apply to a taxable entity:

(1) the taxable entity is licensed by the appropriate local, state, and federal agencies on both sides of the border to conduct border trade;

(2) the taxable entity is enrolled in the Customs-Trade Partnership Against Terrorism (C-TPAT) and Fast and Secure Trade (FAST) programs or is participating with companies that are enrolled;

(3) the taxable entity invests in and implements security, tracking, communication, and surveillance technology systems used on commercial vehicles that operate in the strategic investment area or in manufacturing and distribution plants located on this state's side of the border or makes investment expenditures specifically related to and incurs direct costs related to the implementation of advanced technologies that protect elements of the supply chain, including:

(A) secure trailers with intelligent locking devices and seals;

(B) systems that detect tampering or compromising of cargo;

(C) systems and protocols that provide instant alarms and response to cargo deviation;

(D) efforts required to collaborate with appropriate federal and state agencies on both sides of the border;

and

(E) systems and software that allow for the tracking and monitoring of vehicles and manufacturing and logistics facilities engaged in border trade;

(4) the taxable entity makes direct expenditures related to a business that implements or operates security systems that conduct or share information with appropriate federal and state agencies relating to the assessment of drivers' dock personnel and other individuals who are fundamentally important to the border trade process;

(5) the taxable entity incurs direct costs of creating, and training personnel for, new jobs in specialized, highly skilled positions related to biotechnology, defense, medical, software, and other value-added manufacturing fields in the border region; or

(6) the taxable entity makes other direct investments in integrated supply chain transportation systems that incorporate sophisticated, embedded broadband communications technology that integrates with public sector disaster, hazardous materials transfer, congestion relief, vehicle tracking, or emergency management systems.

(d) Subject to Subsection (f), a taxable entity to which this section applies may subtract as a cost of goods sold under Section 171.1012 any expenditure made or cost incurred relating to an item or event listed in Subsection (c) that is not otherwise included as a cost of goods sold under Section 171.1012.

(e) An expenditure made or cost incurred relating to an item or event listed in Subsection (c) that is for not more than $150,000 must be subtracted or depreciated on the report for the period in which the expenditure is made or the cost incurred. An expenditure made or cost incurred that is for more than $150,000 may be subtracted or depreciated equally in three consecutive reports.

(f) The total amount that may be subtracted under this section by all taxable entities during a reporting period may not exceed $3 million. If the total amount subtracted as a cost of goods sold under this section will exceed $3 million during a reporting period, the comptroller shall allocate the $3 million that may be subtracted on a pro rata basis. The comptroller may require a taxable entity to notify the comptroller of the amount the taxable entity intends to subtract under this section before the due date of the report on which the taxable entity will subtract the amount.

(g) If the comptroller decreases the amount that a taxable entity may subtract under Subsection (f), the taxable entity may, subject to the limitation provided by Subsection (f), carry the difference in the amounts backward for not more than three consecutive reports or forward for not more than seven consecutive reports.

(h) Not later than September 1 each year, the comptroller shall determine areas that qualify as strategic investment areas using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas. The designation is effective for the following calendar year for purposes of this section.

(i) A taxable entity may not establish a credit under this section on or after January 1, 2015.

SECTION 2. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2008.