

By: Thierry, Swanson, Raymond, Landgraf

H.B. No. 3599

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption from certain motor fuel taxes for, and  
3 registration fees for motor vehicles owned by, certain nonprofit  
4 food banks.

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

6 SECTION 1. Section 162.001, Tax Code, is amended by adding  
7 Subdivision (45-a) to read as follows:

8 (45-a) "Nonprofit food bank" means a nonprofit entity  
9 that solicits, stores, and redistributes edible food to agencies  
10 that feed needy families and individuals.

11 SECTION 2. Section 162.104(a), Tax Code, is amended to read  
12 as follows:

13 (a) The tax imposed by this subchapter does not apply to  
14 gasoline:

15 (1) sold to the United States for its exclusive use,  
16 provided that the exemption does not apply with respect to fuel sold  
17 or delivered to a person operating under a contract with the United  
18 States;

19 (2) sold to a public school district in this state for  
20 the district's exclusive use;

21 (3) sold to a commercial transportation company or a  
22 metropolitan rapid transit authority operating under Chapter 451,  
23 Transportation Code, that provides public school transportation  
24 services to a school district under Section 34.008, Education Code,

1 and that uses the gasoline only to provide those services;

2 (4) exported by either a licensed supplier or a  
3 licensed exporter from this state to any other state, provided that  
4 the bill of lading indicates the destination state and the supplier  
5 collects the destination state tax;

6 (5) moved by truck or railcar between licensed  
7 suppliers or licensed permissive suppliers and in which the  
8 gasoline removed from the first terminal comes to rest in the second  
9 terminal, provided that the removal from the second terminal rack  
10 is subject to the tax imposed by this subchapter;

11 (6) delivered or sold into a storage facility of a  
12 licensed aviation fuel dealer from which gasoline will be delivered  
13 solely into the fuel supply tanks of aircraft or aircraft servicing  
14 equipment, or sold from one licensed aviation fuel dealer to  
15 another licensed aviation fuel dealer who will deliver the aviation  
16 fuel exclusively into the fuel supply tanks of aircraft or aircraft  
17 servicing equipment;

18 (7) exported to a foreign country if the bill of lading  
19 or shipping documents indicate the foreign destination and the fuel  
20 is actually exported to the foreign country;

21 (8) sold to a volunteer fire department in this state  
22 for the department's exclusive use; ~~or~~

23 (9) sold to a nonprofit entity that is organized for  
24 the sole purpose of and engages exclusively in providing emergency  
25 medical services and that uses the gasoline exclusively to provide  
26 emergency medical services, including rescue and ambulance  
27 services; or

1           (10) sold to a nonprofit food bank and delivered into:

2                   (A) the fuel supply tank of a motor vehicle with a  
3 gross vehicle weight rating of at least 25,000 pounds that is owned  
4 by the nonprofit food bank and used to deliver food; or

5                   (B) a storage facility from which gasoline will  
6 be delivered solely into the fuel supply tanks of motor vehicles  
7 described by Paragraph (A).

8           SECTION 3. Section 162.125(a), Tax Code, is amended to read  
9 as follows:

10           (a) A license holder may take a credit on a return for the  
11 period in which the sale occurred if the license holder paid tax on  
12 the purchase of gasoline and subsequently resells the gasoline  
13 without collecting the tax to:

14                   (1) the United States government for its exclusive  
15 use, provided that a credit is not allowed for gasoline used by a  
16 person operating under contract with the United States;

17                   (2) a public school district in this state for the  
18 district's exclusive use;

19                   (3) an exporter licensed under this subchapter if the  
20 seller is a licensed supplier or distributor and the exporter  
21 subsequently exports the gasoline to another state;

22                   (4) a licensed aviation fuel dealer if the seller is a  
23 licensed distributor; ~~or~~

24                   (5) a commercial transportation company or a  
25 metropolitan rapid transit authority operating under Chapter 451,  
26 Transportation Code, that provides public school transportation  
27 services to a school district under Section 34.008, Education Code,

1 and that uses the gasoline exclusively to provide those services;  
2 or

3 (6) a nonprofit food bank that delivers or will  
4 deliver the gasoline into the fuel supply tank of a motor vehicle  
5 with a gross vehicle weight rating of at least 25,000 pounds that is  
6 owned by the nonprofit food bank and used to deliver food.

7 SECTION 4. Subchapter B, Chapter 162, Tax Code, is amended  
8 by adding Section 162.1276 to read as follows:

9 Sec. 162.1276. REFUND FOR CERTAIN NONPROFIT FOOD BANKS.

10 (a) A nonprofit food bank is entitled to and may file a claim with  
11 the comptroller for a refund in the amount provided by this section  
12 of taxes paid under this subchapter for gasoline delivered into the  
13 fuel supply tank of a motor vehicle with a gross vehicle weight  
14 rating of at least 25,000 pounds that is owned by the nonprofit food  
15 bank and used to deliver food.

16 (b) The amount of the refund under Subsection (a) is equal  
17 to the amount of tax paid under this subchapter for gasoline that  
18 qualifies for the refund and is purchased by the nonprofit food  
19 bank.

20 (c) A nonprofit food bank that requests a refund under this  
21 section shall maintain all supporting documentation relating to the  
22 refund until the sixth anniversary of the date of the request.

23 SECTION 5. Section 162.204(a), Tax Code, is amended to read  
24 as follows:

25 (a) The tax imposed by this subchapter does not apply to:

26 (1) diesel fuel sold to the United States for its  
27 exclusive use, provided that the exemption does not apply to diesel

1 fuel sold or delivered to a person operating under a contract with  
2 the United States;

3 (2) diesel fuel sold to a public school district in  
4 this state for the district's exclusive use;

5 (3) diesel fuel sold to a commercial transportation  
6 company or a metropolitan rapid transit authority operating under  
7 Chapter 451, Transportation Code, that provides public school  
8 transportation services to a school district under Section 34.008,  
9 Education Code, and that uses the diesel fuel only to provide those  
10 services;

11 (4) diesel fuel exported by either a licensed supplier  
12 or a licensed exporter from this state to any other state, provided  
13 that the bill of lading indicates the destination state and the  
14 supplier collects the destination state tax;

15 (5) diesel fuel moved by truck or railcar between  
16 licensed suppliers or licensed permissive suppliers and in which  
17 the diesel fuel removed from the first terminal comes to rest in the  
18 second terminal, provided that the removal from the second terminal  
19 rack is subject to the tax imposed by this subchapter;

20 (6) diesel fuel delivered or sold into a storage  
21 facility of a licensed aviation fuel dealer from which the diesel  
22 fuel will be delivered solely into the fuel supply tanks of aircraft  
23 or aircraft servicing equipment, or sold from one licensed aviation  
24 fuel dealer to another licensed aviation fuel dealer who will  
25 deliver the diesel fuel exclusively into the fuel supply tanks of  
26 aircraft or aircraft servicing equipment;

27 (7) diesel fuel exported to a foreign country if the

1 bill of lading or shipping documents indicate the foreign  
2 destination and the fuel is actually exported to the foreign  
3 country;

4 (8) dyed diesel fuel sold or delivered by a supplier to  
5 another supplier and dyed diesel fuel sold or delivered by a  
6 supplier or distributor into the bulk storage facility of a dyed  
7 diesel fuel bonded user or to a purchaser who provides a signed  
8 statement as provided by Section 162.206;

9 (9) the volume of water, fuel ethanol, renewable  
10 diesel, biodiesel, or mixtures thereof that are blended together  
11 with taxable diesel fuel when the finished product sold or used is  
12 clearly identified on the retail pump, storage tank, and sales  
13 invoice as a combination of diesel fuel and water, fuel ethanol,  
14 renewable diesel, biodiesel, or mixtures thereof;

15 (10) dyed diesel fuel sold by a supplier or permissive  
16 supplier to a distributor, or by a distributor to another  
17 distributor;

18 (11) dyed diesel fuel delivered by a license holder  
19 into the fuel supply tanks of railway engines, motorboats, or  
20 refrigeration units or other stationary equipment powered by a  
21 separate motor from a separate fuel supply tank;

22 (12) dyed kerosene when delivered by a supplier,  
23 distributor, or importer into a storage facility at a retail  
24 business from which all deliveries are exclusively for heating,  
25 cooking, lighting, or similar nonhighway use;

26 (13) diesel fuel used by a person, other than a  
27 political subdivision, who owns, controls, operates, or manages a

1 commercial motor vehicle as defined by Section 548.001,  
2 Transportation Code, if the fuel:

3 (A) is delivered exclusively into the fuel supply  
4 tank of the commercial motor vehicle; and

5 (B) is used exclusively to transport passengers  
6 for compensation or hire between points in this state on a fixed  
7 route or schedule;

8 (14) diesel fuel sold to a volunteer fire department  
9 in this state for the department's exclusive use; ~~or~~

10 (15) diesel fuel sold to a nonprofit entity that is  
11 organized for the sole purpose of and engages exclusively in  
12 providing emergency medical services and that uses the diesel fuel  
13 exclusively to provide emergency medical services, including  
14 rescue and ambulance services; or

15 (16) diesel fuel sold to a nonprofit food bank and  
16 delivered into:

17 (A) the fuel supply tank of a motor vehicle with a  
18 gross vehicle weight rating of at least 25,000 pounds that is owned  
19 by the nonprofit food bank and used to deliver food; or

20 (B) a storage facility from which diesel fuel  
21 will be delivered solely into the fuel supply tanks of motor  
22 vehicles described by Paragraph (A).

23 SECTION 6. Section 162.227(a), Tax Code, is amended to read  
24 as follows:

25 (a) A license holder may take a credit on a return for the  
26 period in which the sale occurred if the license holder paid tax on  
27 the purchase of diesel fuel and subsequently resells the diesel

1 fuel without collecting the tax to:

2 (1) the United States government for its exclusive  
3 use, provided that a credit is not allowed for gasoline used by a  
4 person operating under a contract with the United States;

5 (2) a public school district in this state for the  
6 district's exclusive use;

7 (3) an exporter licensed under this subchapter if the  
8 seller is a licensed supplier or distributor and the exporter  
9 subsequently exports the diesel fuel to another state;

10 (4) a licensed aviation fuel dealer if the seller is a  
11 licensed distributor; ~~or~~

12 (5) a commercial transportation company or a  
13 metropolitan rapid transit authority operating under Chapter 451,  
14 Transportation Code, that provides public school transportation  
15 services to a school district under Section 34.008, Education Code,  
16 and that uses the diesel fuel exclusively to provide those  
17 services; or

18 (6) a nonprofit food bank that delivers or will  
19 deliver the diesel fuel into the fuel supply tank of a motor vehicle  
20 with a gross vehicle weight rating of at least 25,000 pounds that is  
21 owned by the nonprofit food bank and used to deliver food.

22 SECTION 7. Subchapter C, Chapter 162, Tax Code, is amended  
23 by adding Section 162.2276 to read as follows:

24 Sec. 162.2276. REFUND FOR CERTAIN NONPROFIT FOOD BANKS.

25 (a) A nonprofit food bank is entitled to and may file a claim with  
26 the comptroller for a refund in the amount provided by this section  
27 of taxes paid under this subchapter for diesel fuel delivered into

1 the fuel supply tank of a motor vehicle with a gross vehicle weight  
2 rating of at least 25,000 pounds that is owned by the nonprofit food  
3 bank and used to deliver food.

4 (b) The amount of the refund under Subsection (a) is equal  
5 to the amount of tax paid under this subchapter for diesel fuel that  
6 qualifies for the refund and is purchased by the nonprofit food  
7 bank.

8 (c) A nonprofit food bank that requests a refund under this  
9 section shall maintain all supporting documentation relating to the  
10 refund until the sixth anniversary of the date of the request.

11 SECTION 8. Subchapter J, Chapter 502, Transportation Code,  
12 is amended by adding Section 502.458 to read as follows:

13 Sec. 502.458. VEHICLES USED BY NONPROFIT FOOD BANKS. (a)  
14 In this section, "nonprofit food bank" has the meaning assigned by  
15 Section 162.001, Tax Code.

16 (b) The owner of a motor vehicle described by Section  
17 162.104(a)(10)(A) or 162.204(a)(16)(A), Tax Code, may apply for  
18 registration under Section 502.451 of this code and is exempt from  
19 the payment of the registration fee that would otherwise be  
20 required by this chapter if the vehicle is used by a nonprofit food  
21 bank to deliver food.

22 (c) An application for registration under this section must  
23 include:

24 (1) a statement by the owner of the vehicle that the  
25 vehicle is used by a nonprofit food bank to deliver food; and

26 (2) a statement signed by an officer of the nonprofit  
27 food bank that the vehicle has been used by a nonprofit food bank to

1 deliver food and qualifies for registration under this section.

2           SECTION 9. Chapter 162, Tax Code, as amended by this Act,  
3 does not affect tax liability accruing before the effective date of  
4 this Act. That liability continues in effect as if this Act had not  
5 been enacted, and the former law is continued in effect for the  
6 collection of taxes due and for civil and criminal enforcement of  
7 the liability for those taxes.

8           SECTION 10. Section 502.458, Transportation Code, as added  
9 by this Act, applies only to an application for registration  
10 submitted on or after the effective date of this Act.

11           SECTION 11. This Act takes effect September 1, 2023.