

AN ACT

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

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

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

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

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

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

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

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

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation 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.

President of the Senate

Speaker of the House

I certify that H.B. No. 3599 was passed by the House on May 8, 2023, by the following vote: Yeas 137, Nays 6, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3599 was passed by the Senate on May 17, 2023, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor