

1-1 By: Thierry, et al. H.B. No. 3599
 1-2 (Senate Sponsor - Hinojosa, et al.)
 1-3 (In the Senate - Received from the House May 9, 2023;
 1-4 May 10, 2023, read first time and referred to Committee on Finance;
 1-5 May 15, 2023, reported favorably by the following vote: Yeas 16,
 1-6 Nays 1; May 15, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22		X		
1-23	X			
1-24	X			
1-25	X			

1-26 A BILL TO BE ENTITLED
 1-27 AN ACT

1-28 relating to an exemption from certain motor fuel taxes for, and
 1-29 registration fees for motor vehicles owned by, certain nonprofit
 1-30 food banks.

1-31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-32 SECTION 1. Section 162.001, Tax Code, is amended by adding
 1-33 Subdivision (45-a) to read as follows:

1-34 (45-a) "Nonprofit food bank" means a nonprofit entity
 1-35 that solicits, stores, and redistributes edible food to agencies
 1-36 that feed needy families and individuals.

1-37 SECTION 2. Section 162.104(a), Tax Code, is amended to read
 1-38 as follows:

1-39 (a) The tax imposed by this subchapter does not apply to
 1-40 gasoline:

1-41 (1) sold to the United States for its exclusive use,
 1-42 provided that the exemption does not apply with respect to fuel sold
 1-43 or delivered to a person operating under a contract with the United
 1-44 States;

1-45 (2) sold to a public school district in this state for
 1-46 the district's exclusive use;

1-47 (3) sold to a commercial transportation company or a
 1-48 metropolitan rapid transit authority operating under Chapter 451,
 1-49 Transportation Code, that provides public school transportation
 1-50 services to a school district under Section 34.008, Education Code,
 1-51 and that uses the gasoline only to provide those services;

1-52 (4) exported by either a licensed supplier or a
 1-53 licensed exporter from this state to any other state, provided that
 1-54 the bill of lading indicates the destination state and the supplier
 1-55 collects the destination state tax;

1-56 (5) moved by truck or railcar between licensed
 1-57 suppliers or licensed permissive suppliers and in which the
 1-58 gasoline removed from the first terminal comes to rest in the second
 1-59 terminal, provided that the removal from the second terminal rack
 1-60 is subject to the tax imposed by this subchapter;

1-61 (6) delivered or sold into a storage facility of a

2-1 licensed aviation fuel dealer from which gasoline will be delivered
 2-2 solely into the fuel supply tanks of aircraft or aircraft servicing
 2-3 equipment, or sold from one licensed aviation fuel dealer to
 2-4 another licensed aviation fuel dealer who will deliver the aviation
 2-5 fuel exclusively into the fuel supply tanks of aircraft or aircraft
 2-6 servicing equipment;

2-7 (7) exported to a foreign country if the bill of lading
 2-8 or shipping documents indicate the foreign destination and the fuel
 2-9 is actually exported to the foreign country;

2-10 (8) sold to a volunteer fire department in this state
 2-11 for the department's exclusive use; [~~or~~]

2-12 (9) sold to a nonprofit entity that is organized for
 2-13 the sole purpose of and engages exclusively in providing emergency
 2-14 medical services and that uses the gasoline exclusively to provide
 2-15 emergency medical services, including rescue and ambulance
 2-16 services; or

2-17 (10) sold to a nonprofit food bank and delivered into:

2-18 (A) the fuel supply tank of a motor vehicle with a
 2-19 gross vehicle weight rating of at least 25,000 pounds that is owned
 2-20 by the nonprofit food bank and used to deliver food; or

2-21 (B) a storage facility from which gasoline will
 2-22 be delivered solely into the fuel supply tanks of motor vehicles
 2-23 described by Paragraph (A).

2-24 SECTION 3. Section 162.125(a), Tax Code, is amended to read
 2-25 as follows:

2-26 (a) A license holder may take a credit on a return for the
 2-27 period in which the sale occurred if the license holder paid tax on
 2-28 the purchase of gasoline and subsequently resells the gasoline
 2-29 without collecting the tax to:

2-30 (1) the United States government for its exclusive
 2-31 use, provided that a credit is not allowed for gasoline used by a
 2-32 person operating under contract with the United States;

2-33 (2) a public school district in this state for the
 2-34 district's exclusive use;

2-35 (3) an exporter licensed under this subchapter if the
 2-36 seller is a licensed supplier or distributor and the exporter
 2-37 subsequently exports the gasoline to another state;

2-38 (4) a licensed aviation fuel dealer if the seller is a
 2-39 licensed distributor; [~~or~~]

2-40 (5) a commercial transportation company or a
 2-41 metropolitan rapid transit authority operating under Chapter 451,
 2-42 Transportation Code, that provides public school transportation
 2-43 services to a school district under Section 34.008, Education Code,
 2-44 and that uses the gasoline exclusively to provide those services;
 2-45 or

2-46 (6) a nonprofit food bank that delivers or will
 2-47 deliver the gasoline into the fuel supply tank of a motor vehicle
 2-48 with a gross vehicle weight rating of at least 25,000 pounds that is
 2-49 owned by the nonprofit food bank and used to deliver food.

2-50 SECTION 4. Subchapter B, Chapter 162, Tax Code, is amended
 2-51 by adding Section 162.1276 to read as follows:

2-52 Sec. 162.1276. REFUND FOR CERTAIN NONPROFIT FOOD BANKS.

2-53 (a) A nonprofit food bank is entitled to and may file a claim with
 2-54 the comptroller for a refund in the amount provided by this section
 2-55 of taxes paid under this subchapter for gasoline delivered into the
 2-56 fuel supply tank of a motor vehicle with a gross vehicle weight
 2-57 rating of at least 25,000 pounds that is owned by the nonprofit food
 2-58 bank and used to deliver food.

2-59 (b) The amount of the refund under Subsection (a) is equal
 2-60 to the amount of tax paid under this subchapter for gasoline that
 2-61 qualifies for the refund and is purchased by the nonprofit food
 2-62 bank.

2-63 (c) A nonprofit food bank that requests a refund under this
 2-64 section shall maintain all supporting documentation relating to the
 2-65 refund until the sixth anniversary of the date of the request.

2-66 SECTION 5. Section 162.204(a), Tax Code, is amended to read
 2-67 as follows:

2-68 (a) The tax imposed by this subchapter does not apply to:

2-69 (1) diesel fuel sold to the United States for its

3-1 exclusive use, provided that the exemption does not apply to diesel
3-2 fuel sold or delivered to a person operating under a contract with
3-3 the United States;

3-4 (2) diesel fuel sold to a public school district in
3-5 this state for the district's exclusive use;

3-6 (3) diesel fuel sold to a commercial transportation
3-7 company or a metropolitan rapid transit authority operating under
3-8 Chapter 451, Transportation Code, that provides public school
3-9 transportation services to a school district under Section 34.008,
3-10 Education Code, and that uses the diesel fuel only to provide those
3-11 services;

3-12 (4) diesel fuel exported by either a licensed supplier
3-13 or a licensed exporter from this state to any other state, provided
3-14 that the bill of lading indicates the destination state and the
3-15 supplier collects the destination state tax;

3-16 (5) diesel fuel moved by truck or railcar between
3-17 licensed suppliers or licensed permissive suppliers and in which
3-18 the diesel fuel removed from the first terminal comes to rest in the
3-19 second terminal, provided that the removal from the second terminal
3-20 rack is subject to the tax imposed by this subchapter;

3-21 (6) diesel fuel delivered or sold into a storage
3-22 facility of a licensed aviation fuel dealer from which the diesel
3-23 fuel will be delivered solely into the fuel supply tanks of aircraft
3-24 or aircraft servicing equipment, or sold from one licensed aviation
3-25 fuel dealer to another licensed aviation fuel dealer who will
3-26 deliver the diesel fuel exclusively into the fuel supply tanks of
3-27 aircraft or aircraft servicing equipment;

3-28 (7) diesel fuel exported to a foreign country if the
3-29 bill of lading or shipping documents indicate the foreign
3-30 destination and the fuel is actually exported to the foreign
3-31 country;

3-32 (8) dyed diesel fuel sold or delivered by a supplier to
3-33 another supplier and dyed diesel fuel sold or delivered by a
3-34 supplier or distributor into the bulk storage facility of a dyed
3-35 diesel fuel bonded user or to a purchaser who provides a signed
3-36 statement as provided by Section 162.206;

3-37 (9) the volume of water, fuel ethanol, renewable
3-38 diesel, biodiesel, or mixtures thereof that are blended together
3-39 with taxable diesel fuel when the finished product sold or used is
3-40 clearly identified on the retail pump, storage tank, and sales
3-41 invoice as a combination of diesel fuel and water, fuel ethanol,
3-42 renewable diesel, biodiesel, or mixtures thereof;

3-43 (10) dyed diesel fuel sold by a supplier or permissive
3-44 supplier to a distributor, or by a distributor to another
3-45 distributor;

3-46 (11) dyed diesel fuel delivered by a license holder
3-47 into the fuel supply tanks of railway engines, motorboats, or
3-48 refrigeration units or other stationary equipment powered by a
3-49 separate motor from a separate fuel supply tank;

3-50 (12) dyed kerosene when delivered by a supplier,
3-51 distributor, or importer into a storage facility at a retail
3-52 business from which all deliveries are exclusively for heating,
3-53 cooking, lighting, or similar nonhighway use;

3-54 (13) diesel fuel used by a person, other than a
3-55 political subdivision, who owns, controls, operates, or manages a
3-56 commercial motor vehicle as defined by Section 548.001,
3-57 Transportation Code, if the fuel:

3-58 (A) is delivered exclusively into the fuel supply
3-59 tank of the commercial motor vehicle; and

3-60 (B) is used exclusively to transport passengers
3-61 for compensation or hire between points in this state on a fixed
3-62 route or schedule;

3-63 (14) diesel fuel sold to a volunteer fire department
3-64 in this state for the department's exclusive use; ~~or~~

3-65 (15) diesel fuel sold to a nonprofit entity that is
3-66 organized for the sole purpose of and engages exclusively in
3-67 providing emergency medical services and that uses the diesel fuel
3-68 exclusively to provide emergency medical services, including
3-69 rescue and ambulance services; or

4-1 (16) diesel fuel sold to a nonprofit food bank and
 4-2 delivered into:

4-3 (A) the fuel supply tank of a motor vehicle with a
 4-4 gross vehicle weight rating of at least 25,000 pounds that is owned
 4-5 by the nonprofit food bank and used to deliver food; or

4-6 (B) a storage facility from which diesel fuel
 4-7 will be delivered solely into the fuel supply tanks of motor
 4-8 vehicles described by Paragraph (A).

4-9 SECTION 6. Section 162.227(a), Tax Code, is amended to read
 4-10 as follows:

4-11 (a) A license holder may take a credit on a return for the
 4-12 period in which the sale occurred if the license holder paid tax on
 4-13 the purchase of diesel fuel and subsequently resells the diesel
 4-14 fuel without collecting the tax to:

4-15 (1) the United States government for its exclusive
 4-16 use, provided that a credit is not allowed for gasoline used by a
 4-17 person operating under a contract with the United States;

4-18 (2) a public school district in this state for the
 4-19 district's exclusive use;

4-20 (3) an exporter licensed under this subchapter if the
 4-21 seller is a licensed supplier or distributor and the exporter
 4-22 subsequently exports the diesel fuel to another state;

4-23 (4) a licensed aviation fuel dealer if the seller is a
 4-24 licensed distributor; ~~[or]~~

4-25 (5) a commercial transportation company or a
 4-26 metropolitan rapid transit authority operating under Chapter 451,
 4-27 Transportation Code, that provides public school transportation
 4-28 services to a school district under Section 34.008, Education Code,
 4-29 and that uses the diesel fuel exclusively to provide those
 4-30 services; or

4-31 (6) a nonprofit food bank that delivers or will
 4-32 deliver the diesel fuel into the fuel supply tank of a motor vehicle
 4-33 with a gross vehicle weight rating of at least 25,000 pounds that is
 4-34 owned by the nonprofit food bank and used to deliver food.

4-35 SECTION 7. Subchapter C, Chapter 162, Tax Code, is amended
 4-36 by adding Section 162.2276 to read as follows:

4-37 Sec. 162.2276. REFUND FOR CERTAIN NONPROFIT FOOD BANKS.

4-38 (a) A nonprofit food bank is entitled to and may file a claim with
 4-39 the comptroller for a refund in the amount provided by this section
 4-40 of taxes paid under this subchapter for diesel fuel delivered into
 4-41 the fuel supply tank of a motor vehicle with a gross vehicle weight
 4-42 rating of at least 25,000 pounds that is owned by the nonprofit food
 4-43 bank and used to deliver food.

4-44 (b) The amount of the refund under Subsection (a) is equal
 4-45 to the amount of tax paid under this subchapter for diesel fuel that
 4-46 qualifies for the refund and is purchased by the nonprofit food
 4-47 bank.

4-48 (c) A nonprofit food bank that requests a refund under this
 4-49 section shall maintain all supporting documentation relating to the
 4-50 refund until the sixth anniversary of the date of the request.

4-51 SECTION 8. Subchapter J, Chapter 502, Transportation Code,
 4-52 is amended by adding Section 502.458 to read as follows:

4-53 Sec. 502.458. VEHICLES USED BY NONPROFIT FOOD BANKS. (a)
 4-54 In this section, "nonprofit food bank" has the meaning assigned by
 4-55 Section 162.001, Tax Code.

4-56 (b) The owner of a motor vehicle described by Section
 4-57 162.104(a)(10)(A) or 162.204(a)(16)(A), Tax Code, may apply for
 4-58 registration under Section 502.451 of this code and is exempt from
 4-59 the payment of the registration fee that would otherwise be
 4-60 required by this chapter if the vehicle is used by a nonprofit food
 4-61 bank to deliver food.

4-62 (c) An application for registration under this section must
 4-63 include:

4-64 (1) a statement by the owner of the vehicle that the
 4-65 vehicle is used by a nonprofit food bank to deliver food; and

4-66 (2) a statement signed by an officer of the nonprofit
 4-67 food bank that the vehicle has been used by a nonprofit food bank to
 4-68 deliver food and qualifies for registration under this section.

4-69 SECTION 9. Chapter 162, Tax Code, as amended by this Act,

5-1 does not affect tax liability accruing before the effective date of
5-2 this Act. That liability continues in effect as if this Act had not
5-3 been enacted, and the former law is continued in effect for the
5-4 collection of taxes due and for civil and criminal enforcement of
5-5 the liability for those taxes.

5-6 SECTION 10. Section 502.458, Transportation Code, as added
5-7 by this Act, applies only to an application for registration
5-8 submitted on or after the effective date of this Act.

5-9 SECTION 11. This Act takes effect September 1, 2023.

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