

By: Bailes

H.B. No. 3651

A BILL TO BE ENTITLED

AN ACT

1
2 relating to motor fuel taxes.

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

4 SECTION 1. Section 162.001, Tax Code, is amended by
5 amending Subdivisions (1), (14), (42), (43), (56), and (61) and
6 adding Subdivisions (16-a) and (17-a) to read as follows:

7 (1) "Agricultural purpose" means a purpose associated
8 with the following activities:

9 (A) cultivating the soil;

10 (B) producing crops for human food, animal feed,
11 or planting seed or for the production of fibers;

12 (C) floriculture, viticulture, silviculture, and
13 horticulture, including the cultivation of plants in potting
14 containers or nonsoil media;

15 (D) raising, feeding, or keeping livestock or
16 other animals for the production of food or fiber, leather, pelts,
17 or other tangible products having a commercial value;

18 (E) wildlife management; and

19 (F) planting cover crops, including cover crops
20 cultivated for transplantation, or leaving land idle for the
21 purpose of participating in any governmental program or normal crop
22 or livestock rotation procedure.

23 (14) "Cargo tank" means an assembly that is used to
24 transport, haul, or deliver liquids and that consists of a tank

1 having one or more compartments [~~mounted~~] on a wagon, automobile,
2 truck, trailer, or wheels. The term includes accessory piping,
3 valves, and meters, but does not include a fuel supply tank
4 connected to the carburetor or fuel injector of a motor vehicle.

5 (16-a) "Container" means any receptacle used to store
6 motor fuel.

7 (17-a) "Delivery" means any transfer of motor fuel:

8 (A) into a fuel supply tank, cargo tank, or
9 container; or

10 (B) to a location or into a receptacle, as
11 specified by this chapter in connection with the term.

12 (42) "Motor fuel" means gasoline, diesel fuel,
13 gasoline blended fuel, compressed natural gas, liquefied natural
14 gas, and other products that are offered for sale, sold, used, or
15 capable of use as fuel for a motor vehicle licensed for use on a
16 public highway [~~gasoline-powered engine or a diesel-powered~~
17 ~~engine~~].

18 (43) "Motor fuel transporter" means a person who
19 transports gasoline, diesel fuel, gasoline blended fuel, aviation
20 fuel, or any other motor fuel, except liquefied gas, compressed
21 natural gas, or liquefied natural gas, outside the bulk
22 transfer/terminal system by means of a transport vehicle, a
23 railroad tank car, or a marine vessel. The term does not include a
24 person who [+

25 [~~(A)~~] is licensed under this chapter as a
26 supplier, permissive supplier, or distributor [+] and:

27 (A) [~~(B)~~] exclusively transports gasoline,

1 diesel fuel, gasoline blended fuel, aviation fuel, or any other
2 motor fuel to which the person retains ownership while the fuel is
3 being transported by the person; or

4 (B) lawfully acquires motor fuel and retains
5 ownership of the fuel while the fuel is being transported.

6 (56) "Solid waste refuse vehicle" means a motor
7 vehicle equipped with a power takeoff or auxiliary power unit that
8 provides power to compact the refuse, open the back of the refuse
9 container before ejection, and eject the compacted refuse.

10 (61) "Transport vehicle" means any ~~[a]~~ vehicle
11 ~~[designed or]~~ used to carry motor fuel over a public highway and
12 includes a motor vehicle, straight truck, straight truck/trailer
13 combination, ~~[and]~~ semitrailer combination rig, and motor
14 vehicle/trailer combination.

15 SECTION 2. Section 162.101, Tax Code, is amended by
16 amending Subsection (g) and adding Subsection (h) to read as
17 follows:

18 (g) In each subsequent sale of gasoline on which the tax has
19 been paid, the amount of the tax shall be added to the selling price
20 so that the tax is paid by each person receiving the gasoline until
21 it is paid ultimately by the person using or consuming the gasoline.

22 (h) Gasoline is considered to be used when it is delivered
23 into a fuel supply tank.

24 SECTION 3. Section 162.103(a), Tax Code, is amended to read
25 as follows:

26 (a) A backup tax is imposed at the rate prescribed by
27 Section 162.102 on:

1 (1) a person who obtains a refund of tax on gasoline by
2 claiming the gasoline was used for an off-highway purpose, but
3 actually uses the gasoline to operate a motor vehicle on a public
4 highway;

5 (2) a person who operates a motor vehicle on a public
6 highway using gasoline on which tax has not been paid;

7 (3) a person who sells to the ultimate consumer
8 gasoline on which tax has not been paid and who knew or had reason to
9 know that the gasoline would be used for a taxable purpose; ~~and~~

10 (4) a person, other than a person exempted under
11 Section 162.104, who acquires gasoline on which tax has not been
12 paid:

13 (A) in an original or subsequent sale; or

14 (B) from any source in this state; and

15 (5) a person who acquires gasoline by any unlawful
16 means, including by purchase through the unauthorized use of a
17 credit card, a debit card, or other money, regardless of whether tax
18 was previously paid on the gasoline or was added to the selling
19 price of the gasoline.

20 SECTION 4. Section 162.201, Tax Code, is amended by
21 amending Subsection (g) and adding Subsection (h) to read as
22 follows:

23 (g) In each subsequent sale of diesel fuel on which the tax
24 has been paid, the amount of the tax shall be added to the selling
25 price so that the tax is paid by each person receiving the diesel
26 fuel until it is paid ultimately by the person using or consuming
27 the diesel fuel.

1 (h) Diesel fuel is considered to be used when it is
2 delivered into a fuel supply tank.

3 SECTION 5. Section 162.203(a), Tax Code, is amended to read
4 as follows:

5 (a) A backup tax is imposed at the rate prescribed by
6 Section 162.202 on:

7 (1) a person who obtains a refund of tax on diesel fuel
8 by claiming the diesel fuel was used for an off-highway purpose, but
9 actually uses the diesel fuel to operate a motor vehicle on a public
10 highway;

11 (2) a person who operates a motor vehicle on a public
12 highway using diesel fuel on which tax has not been paid;

13 (3) a person who sells to the ultimate consumer diesel
14 fuel on which a tax has not been paid and who knew or had reason to
15 know that the diesel fuel would be used for a taxable purpose; ~~and~~

16 (4) a person, other than a person exempted under
17 Section 162.204, who acquires diesel fuel on which tax has not been
18 paid:

19 (A) in an original or subsequent sale; or

20 (B) from any source in this state; and

21 (5) a person who acquires diesel fuel by any unlawful
22 means, including by purchase through the unauthorized use of a
23 credit card, a debit card, or other money, regardless of whether tax
24 was previously paid on the diesel fuel or was added to the selling
25 price of the diesel fuel.

26 SECTION 6. The changes in law made by this Act do not affect
27 tax liability accruing before the effective date of this Act. That

1 liability continues in effect as if this Act had not been enacted,
2 and the former law is continued in effect for the collection of
3 taxes due and for civil and criminal enforcement of the liability
4 for those taxes.

5 SECTION 7. This Act takes effect September 1, 2023.