

By: VanDeaver, Bell of Kaufman, Wharton

H.B. No. 1109

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from certain motor fuel taxes for counties in this state.

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

SECTION 1. 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;

(2-a) sold to a county in this state for the county'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, and that uses the gasoline only to provide those services;

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

1 collects the destination state tax;

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

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

14 (7) exported to a foreign country if the bill of lading
15 or shipping documents indicate the foreign destination and the fuel
16 is actually exported to the foreign country;

17 (8) sold to a volunteer fire department in this state
18 for the department's exclusive use;

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

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

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

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

SECTION 2. Section 162.125, Tax Code, is amended by amending Subsection (a) and adding Subsection (g-3) to read as follows:

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

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

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

(2-a) a county in this state for the county's exclusive use;

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

(4) a licensed aviation fuel dealer if the seller is a licensed distributor;

(5) 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, and that uses the gasoline exclusively to provide those services;

1 or

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

6 (g-3) A county exempt from the tax imposed under this
7 subchapter that paid tax on the purchase of gasoline is entitled to
8 a refund of the tax paid, and the county may file a refund claim with
9 the comptroller for that amount.

10 SECTION 3. Section 162.204(a), Tax Code, is amended to read
11 as follows:

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

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

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

19 (2-a) diesel fuel sold to a county in this state for
20 the county's exclusive use;

21 (3) diesel fuel sold to a commercial transportation
22 company or a metropolitan rapid transit authority operating under
23 Chapter 451, Transportation Code, that provides public school
24 transportation services to a school district under Section 34.008,
25 Education Code, and that uses the diesel fuel only to provide those
26 services;

27 (4) diesel fuel exported by either a licensed supplier

1 or a licensed exporter from this state to any other state, provided
2 that the bill of lading indicates the destination state and the
3 supplier collects the destination state tax;

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

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

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

20 (8) dyed diesel fuel sold or delivered by a supplier to
21 another supplier and dyed diesel fuel sold or delivered by a
22 supplier or distributor into the bulk storage facility of a dyed
23 diesel fuel bonded user or to a purchaser who provides a signed
24 statement as provided by Section [162.206](#);

25 (9) the volume of water, fuel ethanol, renewable
26 diesel, biodiesel, or mixtures thereof that are blended together
27 with taxable diesel fuel when the finished product sold or used is

1 clearly identified on the retail pump, storage tank, and sales
2 invoice as a combination of diesel fuel and water, fuel ethanol,
3 renewable diesel, biodiesel, or mixtures thereof;

4 (10) dyed diesel fuel sold by a supplier or permissive
5 supplier to a distributor, or by a distributor to another
6 distributor;

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

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

15 (13) diesel fuel used by a person, other than a
16 political subdivision, who owns, controls, operates, or manages a
17 commercial motor vehicle as defined by Section [548.001](#),
18 Transportation Code, if the fuel:

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

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

24 (14) diesel fuel sold to a volunteer fire department
25 in this state for the department's exclusive use;

26 (15) diesel fuel sold to a nonprofit entity that is
27 organized for the sole purpose of and engages exclusively in

1 providing emergency medical services and that uses the diesel fuel
2 exclusively to provide emergency medical services, including
3 rescue and ambulance services; or

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

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

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

12 SECTION 4. Section 162.227, Tax Code, is amended by
13 amending Subsection (a) and adding Subsection (f-3) to read as
14 follows:

15 (a) A license holder may take a credit on a return for the
16 period in which the sale occurred if the license holder paid tax on
17 the purchase of diesel fuel and subsequently resells the diesel
18 fuel without collecting the tax to:

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

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

24 (2-a) a county in this state for the county's exclusive
25 use;

26 (3) an exporter licensed under this subchapter if the
27 seller is a licensed supplier or distributor and the exporter

1 subsequently exports the diesel fuel to another state;

2 (4) a licensed aviation fuel dealer if the seller is a
3 licensed distributor;

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

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

14 (f-3) A county exempt from the tax imposed under this
15 subchapter that paid tax on the purchase of diesel fuel is entitled
16 to a refund of the tax paid, and the county may file a refund claim
17 with the comptroller for that amount.

18 SECTION 5. The changes in law made by this Act do not affect
19 tax liability accruing before the effective date of this Act. That
20 liability continues in effect as if this Act had not been enacted,
21 and the former law is continued in effect for the collection of
22 taxes due and for civil and criminal enforcement of the liability of
23 those taxes.

24 SECTION 6. This Act takes effect July 1, 2025, if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for effect on that

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1 date, this Act takes effect September 1, 2025.