

By: Hopson

H.B. No. 519

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of volunteer fire departments from the gasoline tax.

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;

(3) sold to a commercial transportation company 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:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

1 (B) for gasoline in a situation described by
2 Subsection (e), the bill of lading indicates the destination state,
3 the gasoline is subsequently exported, and the exporter is licensed
4 in the destination state to pay that state's tax and has an
5 exporter's license issued under this subchapter;

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; ~~or~~

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

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

23 SECTION 2. Sections 162.125(a) and (c), Tax Code, are
24 amended to read 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 gasoline and subsequently resells the gasoline

1 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 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 gasoline 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 that provides
13 public school transportation services to a school district under
14 Section 34.008, Education Code, and that uses the gasoline
15 exclusively to provide those services; or

16 (6) a volunteer fire department in this state for the
17 department's exclusive use.

18 (c) A license holder may take a credit on a return for the
19 period in which the purchase occurred, and a person who does not
20 hold a license under this subchapter, other than a license as an
21 aviation fuel dealer, may file a refund claim with the comptroller
22 if the license holder or person paid tax on gasoline and the license
23 holder or person:

24 (1) is the United States government and the gasoline
25 is for its exclusive use, provided that a credit or refund is not
26 allowed for gasoline used by a license holder or person operating
27 under a contract with the United States;

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

3 (3) is a commercial transportation company that
4 provides public school transportation services to a school district
5 under Section 34.008, Education Code, and the gasoline is used
6 exclusively to provide those services;

7 (4) uses the gasoline in off-highway equipment, in
8 stationary engines, or for other nonhighway purposes and not in a
9 motor vehicle operated or intended to be operated on the public
10 highways;

11 (5) uses the gasoline in a motor vehicle that is
12 operated exclusively off the public highways, except for incidental
13 travel on the public highways as determined by the comptroller,
14 provided that a credit or refund may not be allowed for the portion
15 used in the incidental highway travel; ~~or~~

16 (6) is a licensed aviation fuel dealer who delivers
17 the gasoline into the fuel supply tanks of aircraft or aircraft
18 servicing equipment; or

19 (7) is a volunteer fire department in this state and
20 the gasoline is for the department's exclusive use.

21 SECTION 3. The change in law made by this Act does not
22 affect taxes imposed before the effective date of this Act, and the
23 law in effect before the effective date of this Act is continued in
24 effect for purposes of the liability for and collection of those
25 taxes.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2005.