

By: Wong

H.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from the motor fuels tax for certain kerosene.

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

SECTION 1. Section 162.204(a), Tax Code, is amended to read as follows:

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

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

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

(3) diesel fuel 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 diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

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

(B) for diesel fuel in a situation described by

1 Subsection (e), the bill of lading indicates the destination state,
2 the diesel fuel is subsequently exported, and the exporter is
3 licensed in the destination state to pay that state's tax and has an
4 exporter's license issued under this subchapter;

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

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

17 (7) diesel fuel exported to a foreign country if the
18 bill of lading indicates the foreign destination and the fuel is
19 actually exported to the foreign 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, biodiesel, or
26 mixtures thereof that are blended together with taxable diesel fuel
27 when the finished product sold or used is clearly identified on the

1 retail pump, storage tank, and sales invoice as a combination of
2 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
3 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; ~~or~~

15 (13) dyed or undyed kerosene that is used or consumed
16 in manufacturing or that is a component part of a product that is
17 not a motor fuel; or

18 (14) diesel fuel used by a person, other than a
19 political subdivision, who owns, controls, operates, or manages a
20 commercial motor vehicle as defined by Section 548.001,
21 Transportation Code, if the fuel:

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

24 (B) is used exclusively to transport passengers
25 for compensation or hire between points in this state on a fixed
26 route or schedule.

27 SECTION 2. Section 162.227, Tax Code, is amended by adding

1 Subsection (j) to read as follows:

2 (j) A license holder may take a credit on a return for the
3 period in which the purchase occurred, and a person who does not
4 hold a license under this subchapter may file a refund claim with
5 the comptroller, if the license holder or person paid tax on
6 kerosene and the license holder or person uses the kerosene for a
7 purpose exempted under Section 162.204(a)(13).

8 SECTION 3. The change in law made by this Act does not
9 affect tax liability accruing before the effective date of this
10 Act. That liability continues in effect as if this Act had not been
11 enacted, and the former law is continued in effect for the
12 collection of taxes due and for civil and criminal enforcement of
13 the liability for those taxes.

14 SECTION 4. This Act takes effect September 1, 2005.