

By: Casteel

H.B. No. 2798

A BILL TO BE ENTITLED

AN ACT

relating to the authority of counties to impose a local tax on the sale of gasoline.

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

SECTION 1. Chapter 370, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. LOCAL GASOLINE TAX

Sec. 370.351. DEFINITIONS. In this subchapter:

(1) "Dealer" has the meaning assigned by Section 162.001, Tax Code.

(2) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.

(3) "Jobber" means a person who:

(A) purchases tax-paid gasoline from a person who holds a license under Chapter 162, Tax Code; and

(B) makes a sale with the tax included to a person who maintains storage facilities for gasoline and uses all or part of the stored gasoline to operate a motor vehicle.

(4) "Motor vehicle" has the meaning assigned by Section 162.001, Tax Code.

(5) "Net gallon" has the meaning assigned by Section 162.001, Tax Code.

(6) "Public highway" has the meaning assigned by Section 162.001, Tax Code.

1 (7) "Sale" has the meaning assigned by Section
2 162.001, Tax Code.

3 Sec. 370.352. TAX ON SALE OF GASOLINE AUTHORIZED. (a) A
4 county, by order of the commissioners court, may impose a tax on the
5 sale of gasoline sold in the county to propel a motor vehicle on the
6 public highways of this state if imposition of the tax is approved
7 at an election called for that purpose.

8 (b) Counties may hold the election to authorize the
9 imposition of the tax on any uniform election date.

10 Sec. 370.353. RATE OF TAX. (a) The tax authorized by this
11 subchapter may be imposed in increments of one cent for each net
12 gallon of gasoline sold in the county to propel a motor vehicle on
13 the public highways of this state, with a minimum rate of three
14 cents for each net gallon and a maximum rate of 10 cents for each net
15 gallon.

16 Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) The
17 election to adopt the tax authorized by this subchapter is called by
18 an order of the commissioners court.

19 (b) At an election to adopt the tax, the ballot shall be
20 prepared to permit voting for or against the proposition: "The
21 adoption of a local tax on the sale of gasoline in (insert name of
22 county) at the maximum rate of (insert proposed rate) cents per
23 gallon."

24 Sec. 370.355. COMPUTATION OF TAX. (a) A person, including
25 a dealer or jobber, who makes a sale of gasoline in a county
26 authorized to impose the tax to a person who uses the gasoline to
27 propel a motor vehicle on the public highways of this state shall

1 collect the tax authorized by this subchapter for the benefit of the
2 county.

3 (b) The seller shall add the amount of the tax authorized by
4 this subchapter to the selling price of gasoline, and the tax is a
5 part of the gasoline price, is a debt owed to the seller, and is
6 recoverable at law in the same manner as the gasoline fuel charge.

7 (c) The tax authorized by this subchapter is in addition to
8 the tax imposed by Chapter 162, Tax Code.

9 Sec. 370.356. EXEMPTIONS APPLICABLE. The exemptions
10 provided by Section 162.104, Tax Code, apply to the tax authorized
11 by this subchapter.

12 Sec. 370.357. EFFECTIVE DATE OF TAX. After the imposition
13 of the tax has been approved in a county, the commissioners court of
14 the county shall issue an order prescribing the date on which the
15 adoption of the tax will take effect.

16 Sec. 370.358. COLLECTION AND ENFORCEMENT OF TAX. (a) A
17 person, including a dealer or jobber, required to collect the tax
18 authorized by this subchapter shall report and send the taxes to the
19 county as provided by the county.

20 (b) The county may prescribe monetary penalties, including
21 interest charges, for failure to keep records required by this
22 subchapter, to report when required, or to pay the tax when due.

23 (c) The county may permit a person who is required to
24 collect the tax authorized by this subchapter to retain a
25 percentage of the amount collected and required to be reported as
26 reimbursement to the person for the costs of collecting the tax.
27 The county may provide that the person may retain the amount only if

1 the person pays the tax and files reports as required by the county.

2 (d) The county attorney may bring suit against a person who
3 violates this subchapter.

4 Sec. 370.359. REFUND. (a) A person who has paid the tax
5 authorized by this subchapter on gasoline used by the person for a
6 purpose other than to propel a motor vehicle on the public highways
7 of this state or for a use exempted under Section 370.356 may file a
8 claim for a refund.

9 (b) The county shall prescribe the procedures a person must
10 use to obtain a refund under this section.

11 Sec. 370.360. REQUIRED PERMIT. The county may require a
12 dealer, jobber, or other person required to collect, report, and
13 pay the tax authorized by this subchapter to obtain a permit from
14 the county.

15 Sec. 370.361. USE OF TAX PROCEEDS. A county may use net tax
16 revenue received under this subchapter only for transportation
17 purposes.

18 SECTION 2. This Act takes effect on the date on which the
19 constitutional amendment proposed by the 79th Legislature, Regular
20 Session, 2005, authorizing a county to impose a local tax on the
21 sale of gasoline takes effect. If that amendment is not approved by
22 the voters, this Act has no effect.