

By: Anderson

H.B. No. 3313

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of counties 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

(B) for gasoline in a situation described by

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

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

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

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

20 (8) sold to a county in this state for the county's  
21 exclusive use.

22 SECTION 2. Sections 162.125(a) and (c), Tax Code, are  
23 amended to read as follows:

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

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

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

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

9           (4) a licensed aviation fuel dealer if the seller is a  
10 licensed distributor; ~~[or]~~

11           (5) a commercial transportation company that provides  
12 public school transportation services to a school district under  
13 Section 34.008, Education Code, and that uses the gasoline  
14 exclusively to provide those services; or

15           (6) a county in this state for the county's exclusive  
16 use.

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

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

27           (2) is a public school district in this state and the

1 gasoline is for the district's exclusive use;

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

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

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

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

18 (7) is a county in this state and the gasoline is for  
19 the county's exclusive use.

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

25 SECTION 4. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2005.