

By: Orr, Otto, Pena, Cook of Colorado,  
et al.

H.B. No. 685

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the exemption of volunteer fire departments from  
3 certain motor fuel taxes.

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

5 SECTION 1. Section 162.104(a), Tax Code, is amended to read  
6 as follows:

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

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

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

15 (3) sold to a commercial transportation company that  
16 provides public school transportation services to a school district  
17 under Section 34.008, Education Code, and that uses the gasoline  
18 only to provide those services;

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

22 (A) for gasoline in a situation described by  
23 Subsection (d), the bill of lading indicates the destination state  
24 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. Section 162.125, Tax Code, is amended by adding  
24 Subsection (g-1) to read as follows:

25 (g-1) A volunteer fire department exempt from the tax  
26 imposed under this subchapter that paid tax on the purchase of  
27 gasoline is entitled to a refund of the tax paid, and the volunteer

1 fire department may file a refund claim with the comptroller for  
2 that amount.

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

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

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

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

12 (3) diesel fuel sold to a commercial transportation  
13 company that provides public school transportation services to a  
14 school district under Section 34.008, Education Code, and that uses  
15 the diesel fuel only to provide those services;

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

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

22 (B) for diesel fuel in a situation described by  
23 Subsection (e), the bill of lading indicates the destination state,  
24 the diesel fuel is subsequently exported, and the exporter is  
25 licensed in the destination state to pay that state's tax and has an  
26 exporter's license issued under this subchapter;

27 (5) diesel fuel moved by truck or railcar between

1 licensed suppliers or licensed permissive suppliers and in which  
2 the diesel fuel removed from the first terminal comes to rest in the  
3 second terminal, provided that the removal from the second terminal  
4 rack is subject to the tax imposed by this subchapter;

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

12 (7) diesel fuel exported to a foreign country if the  
13 bill of lading indicates the foreign destination and the fuel is  
14 actually exported to the foreign country;

15 (8) dyed diesel fuel sold or delivered by a supplier to  
16 another supplier and dyed diesel fuel sold or delivered by a  
17 supplier or distributor into the bulk storage facility of a dyed  
18 diesel fuel bonded user or to a purchaser who provides a signed  
19 statement as provided by Section 162.206;

20 (9) the volume of water, fuel ethanol, biodiesel, or  
21 mixtures thereof that are blended together with taxable diesel fuel  
22 when the finished product sold or used is clearly identified on the  
23 retail pump, storage tank, and sales invoice as a combination of  
24 diesel fuel and water, fuel ethanol, biodiesel, or mixtures  
25 thereof;

26 (10) dyed diesel fuel sold by a supplier or permissive  
27 supplier to a distributor, or by a distributor to another

1 distributor;

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

6 (12) dyed kerosene when delivered by a supplier,  
7 distributor, or importer into a storage facility at a retail  
8 business from which all deliveries are exclusively for heating,  
9 cooking, lighting, or similar nonhighway use; [~~or~~]

10 (13) diesel fuel used by a person, other than a  
11 political subdivision, who owns, controls, operates, or manages a  
12 commercial motor vehicle as defined by Section 548.001,  
13 Transportation Code, if the fuel:

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

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

19 (14) diesel fuel sold to a volunteer fire department  
20 in this state for the department's exclusive use.

21 SECTION 4. Section 162.227, Tax Code, is amended by adding  
22 Subsection (f-1) to read as follows:

23 (f-1) A volunteer fire department exempt from the tax  
24 imposed under this subchapter that paid tax on the purchase of  
25 diesel fuel is entitled to a refund of the tax paid, and the  
26 volunteer fire department may file a refund claim with the  
27 comptroller for that amount.

1           SECTION 5. The change in law made by this Act does not  
2 affect taxes imposed before the effective date of this Act, and the  
3 law in effect before the effective date of this Act is continued in  
4 effect for purposes of the liability for and collection of those  
5 taxes.

6           SECTION 6. This Act takes effect July 1, 2007, if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for effect on that  
10 date, this Act takes effect September 1, 2007.