

By: Orr

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

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

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

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

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

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

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

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

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

23 (6) diesel fuel delivered or sold into a storage
24 facility of a licensed aviation fuel dealer from which the diesel
25 fuel will be delivered solely into the fuel supply tanks of aircraft
26 or aircraft servicing equipment, or sold from one licensed aviation
27 fuel dealer to another licensed aviation fuel dealer who will

1 deliver the diesel fuel exclusively into the fuel supply tanks of
2 aircraft or aircraft servicing equipment;

3 (7) diesel fuel exported to a foreign country if the
4 bill of lading indicates the foreign destination and the fuel is
5 actually exported to the foreign country;

6 (8) dyed diesel fuel sold or delivered by a supplier to
7 another supplier and dyed diesel fuel sold or delivered by a
8 supplier or distributor into the bulk storage facility of a dyed
9 diesel fuel bonded user or to a purchaser who provides a signed
10 statement as provided by Section 162.206;

11 (9) the volume of water, fuel ethanol, biodiesel, or
12 mixtures thereof that are blended together with taxable diesel fuel
13 when the finished product sold or used is clearly identified on the
14 retail pump, storage tank, and sales invoice as a combination of
15 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
16 thereof;

17 (10) dyed diesel fuel sold by a supplier or permissive
18 supplier to a distributor, or by a distributor to another
19 distributor;

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

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

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

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

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

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

12 SECTION 4. Sections 162.227(a) and (c), Tax Code, are
13 amended to read as follows:

14 (a) A license holder may take a credit on a return for the
15 period in which the sale occurred if the license holder paid tax on
16 the purchase of diesel fuel and subsequently resells the diesel
17 fuel without collecting the tax to:

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

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

23 (3) an exporter licensed under this subchapter if the
24 seller is a licensed supplier or distributor and the exporter
25 subsequently exports the diesel fuel to another state;

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

1 (5) a commercial transportation company that provides
2 public school transportation services to a school district under
3 Section 34.008, Education Code, and that uses the diesel fuel
4 exclusively to provide those services; or

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

7 (c) A license holder may take a credit on a return for the
8 period in which the purchase occurred, and a person who does not
9 hold a license under this subchapter, other than a license as an
10 aviation fuel dealer, may file a refund claim with the comptroller
11 if the license holder or person paid tax on diesel fuel and the
12 license holder or person:

13 (1) is the United States government and the diesel
14 fuel is for its exclusive use, provided that a credit or refund is
15 not allowed for diesel fuel used by a license holder or person
16 operating under a contract with the United States;

17 (2) is a public school district in this state and the
18 diesel fuel is for the district's exclusive use;

19 (3) is a commercial transportation company that
20 provides public school transportation services to a school district
21 under Section 34.008, Education Code, and the diesel fuel is used
22 exclusively to provide those services; ~~or~~

23 (4) is a licensed aviation fuel dealer who delivers
24 the diesel fuel into the fuel supply tanks of aircraft or aircraft
25 servicing equipment; or

26 (5) is a volunteer fire department in this state and
27 the diesel fuel is for the department's exclusive use.

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