

## **BILL ANALYSIS**

Senate Research Center

S.B. 958  
By: Hegar  
Finance  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1981, the 67th Legislature enacted legislation exempting certain agricultural items from taxation. These items included horses, mules, and work animals; animals produced for human consumption or to be sold in the regular course of business; chemicals used on farms and ranches; fertilizer; machinery used on farms and ranches; and machinery used in the processing, packing, or marketing of agricultural products.

Additional amendments to the statute were passed during the Second Called Session of the 68th Legislature, the 70th Legislature, the 73rd Legislature, and the 74th Legislature.

This bill exempts agricultural aircraft operations from sales and use taxes on machinery and equipment used to dispense economic poison; to dispense any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control; or engaged in dispensing activities directly affecting agriculture, horticulture, or forest preservation, but not including the dispensing of live insects.

S.B. 958 amends current law relating to an exemption from the sales and use tax for certain aircraft, including machinery and equipment used in an agricultural aircraft operation.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 151.316(a), Tax Code, to provide that machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3, are exempt from the taxes imposed by this chapter (Limited Sales, Excise, and Use Tax).

SECTION 2. Amends Section 151.328, Tax Code, by amending Subsections (a) and (b) and adding Subsection (h), as follows:

- (a) Exempts aircraft from the taxes imposed by this chapter if:
  - (1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;
  - (2) sold to a person who:
    - (A) has a sales tax permit issued under this chapter; and
    - (B) uses the aircraft for the purpose of providing flight instruction that is:
      - (i) recognized by the Federal Aviation Administration (FAA);
      - (ii) under the direct or general supervision of a flight instructor certified by FAA; and

(iii) designed to lead to a pilot certificate or rating issued by FAA or otherwise required by a rule or regulation of FAA;

(3) sold to a foreign government;

(4) sold in this state to a person for use and registration in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state; or

(5) sold in this state to a person for use exclusively in connection with an agricultural use, as defined by Section 23.51 (Definitions), and used for:

(A) predator control;

(B) wildlife or livestock capture;

(C) wildlife or livestock surveys;

(D) census counts of wildlife or livestock;

(E) animal or plant health inspection services; or

(F) crop dusting, pollination, or seeding.

(b) Exempts repair, remodeling, and maintenance services to aircraft, including an engine or other component part of aircraft, operated by a person described by Subsection (a)(1), (a)(2), or (a)(5) from the taxes imposed by this chapter. Makes nonsubstantive changes.

(h) Provides that for purposes of the exemption under Subsection (a)(5), an aircraft is considered to be for use exclusively in connection with an agricultural use if 95 percent of the use of the aircraft is for a purpose described by Subsections (a)(5)(A)-(F). Provides that travel of less than 30 miles each way to a location to perform a service described by Subsections (a)(5)(A)-(F) does not disqualify an aircraft from the exemption under Subsection (a)(5). Requires a person who claims an exemption under Subsection (a)(5) to maintain and make available to the comptroller flight records for all uses of the aircraft.

SECTION 3. Provides that the changes in law made by this Act to Section 151.328, Tax Code, are a clarification of existing law and do not imply that the former law may be construed as inconsistent with the law as amended by this Act.

SECTION 4. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that the liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. Effective date: September 1, 2009.