

By: Peña, King of Parker, Farabee, Bonnen,
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H.B. No. 387

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 or a
16 metropolitan rapid transit authority operating under Chapter 451,
17 Transportation Code, that provides public school transportation
18 services to a school district under Section 34.008, Education Code,
19 and that uses the gasoline only to provide those services;

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

23 (A) for gasoline in a situation described by
24 Subsection (d), the bill of lading indicates the destination state

1 and the supplier collects the destination state tax; or

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

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

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

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

22 (8) sold to a volunteer fire department in this state
23 for the department's exclusive use.

24 SECTION 2. Section 162.125, Tax Code, is amended by adding
25 Subsection (g-1) to read as follows:

26 (g-1) A volunteer fire department exempt from the tax
27 imposed under this subchapter that paid tax on the purchase of

1 gasoline is entitled to a refund of the tax paid, and the volunteer
2 fire department may file a refund claim with the comptroller for
3 that amount.

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

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

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

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

13 (3) diesel fuel sold to a commercial transportation
14 company or a metropolitan rapid transit authority operating under
15 Chapter 451, Transportation Code, that provides public school
16 transportation services to a school district under Section 34.008,
17 Education Code, and that uses the diesel fuel only to provide those
18 services;

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

22 (A) for diesel fuel 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

25 (B) for diesel fuel in a situation described by
26 Subsection (e), the bill of lading indicates the destination state,
27 the diesel fuel is subsequently exported, and the exporter is

1 licensed in the destination state to pay that state's tax and has an
2 exporter's license issued under this subchapter;

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

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

15 (7) diesel fuel exported to a foreign country if the
16 bill of lading indicates the foreign destination and the fuel is
17 actually exported to the foreign country;

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

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

1 thereof;

2 (10) dyed diesel fuel sold by a supplier or permissive
3 supplier to a distributor, or by a distributor to another
4 distributor;

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

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

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

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

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

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

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

26 (f-1) A volunteer fire department exempt from the tax
27 imposed under this subchapter that paid tax on the purchase of

1 diesel fuel is entitled to a refund of the tax paid, and the
2 volunteer fire department may file a refund claim with the
3 comptroller for that amount.

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

9 SECTION 6. This Act takes effect July 1, 2009, if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for effect on that
13 date, this Act takes effect September 1, 2009.