

By: Gonzalez Toureilles

H.B. No. 3144

A BILL TO BE ENTITLED

1 AN ACT
2 relating to an exemption from the sales and use tax for parts for
3 certain machinery and equipment used in agricultural operations and
4 for aircraft used in connection with agriculture.

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

6 SECTION 1. Section 151.316(a), Tax Code, is amended to read
7 as follows:

8 (a) The following items are exempted from the taxes imposed
9 by this chapter:

- 10 (1) horses, mules, and work animals;
- 11 (2) animal life the products of which ordinarily
12 constitute food for human consumption;
- 13 (3) feed for farm and ranch animals;
- 14 (4) feed for animals that are held for sale in the
15 regular course of business;
- 16 (5) seeds and annual plants the products of which:
- 17 (A) ordinarily constitute food for human
18 consumption;
- 19 (B) are to be sold in the regular course of
20 business; or
- 21 (C) are used to produce feed for animals exempted
22 by this section;
- 23 (6) fertilizers, fungicides, insecticides,
24 herbicides, defoliants, and desiccants exclusively used or

1 employed on a farm or ranch in the production of:

2 (A) food for human consumption;

3 (B) feed for animal life; or

4 (C) other agricultural products to be sold in the
5 regular course of business;

6 (7) machinery and equipment exclusively used or
7 employed on a farm or ranch in the building or maintaining of roads
8 or water facilities or in the production of:

9 (A) food for human consumption;

10 (B) grass;

11 (C) feed for animal life; or

12 (D) other agricultural products to be sold in the
13 regular course of business;

14 (8) machinery and equipment exclusively used in, and
15 pollution control equipment required as a result of, the
16 processing, packing, or marketing of agricultural products by an
17 original producer at a location operated by the original producer
18 for processing, packing, or marketing the producer's own products
19 if:

20 (A) 50 percent or more of the products processed,
21 packed, or marketed at or from the location are produced by the
22 original producer and not purchased or acquired from others; and

23 (B) the producer does not process, pack, or
24 market for consideration any agricultural products that belong to
25 other persons in an amount greater than five percent of the total
26 agricultural products processed, packed, or marketed by the
27 producer; [~~and~~]

1 (9) ice exclusively used by commercial fishing boats
2 in the storing of aquatic species including but not limited to
3 shrimp, other crustaceans, finfish, mollusks, and other similar
4 creatures;

5 (10) tangible personal property, including a tire,
6 sold or used to be installed as a component part of a motor vehicle,
7 machinery, or other equipment exclusively used or employed on a
8 farm or ranch in the building or maintaining of roads or water
9 facilities or in the production of:

10 (A) food for human consumption;

11 (B) grass;

12 (C) feed for animal life; or

13 (D) other agricultural products to be sold in the
14 regular course of business; and

15 (11) machinery and equipment exclusively used in an
16 agricultural aircraft operation, as defined by 14 C.F.R. Section
17 137.3.

18 SECTION 2. Section 151.328, Tax Code, is amended by
19 amending Subsections (a) and (b) and adding Subsection (h) to read
20 as follows:

21 (a) Aircraft are exempted from the taxes imposed by this
22 chapter if:

23 (1) sold to a person using the aircraft as a
24 certificated or licensed carrier of persons or property;

25 (2) sold to a person who:

26 (A) has a sales tax permit issued under this
27 chapter; and

1 (B) uses the aircraft for the purpose of
2 providing flight instruction that is:

3 (i) recognized by the Federal Aviation
4 Administration;

5 (ii) under the direct or general
6 supervision of a flight instructor certified by the Federal
7 Aviation Administration; and

8 (iii) designed to lead to a pilot
9 certificate or rating issued by the Federal Aviation Administration
10 or otherwise required by a rule or regulation of the Federal
11 Aviation Administration;

12 (3) sold to a foreign government; ~~or~~

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

17 (5) sold in this state to a person for use exclusively
18 in connection with an agricultural use, as defined by Section
19 23.51, and used for:

20 (A) predator control;

21 (B) wildlife or livestock capture;

22 (C) wildlife or livestock surveys;

23 (D) census counts of wildlife or livestock;

24 (E) animal or plant health inspection services;

25 or

26 (F) crop dusting, pollination, or seeding.

27 (b) Repair, remodeling, and maintenance services to

1 aircraft, including an engine or other component part of aircraft,
2 operated by a person described by Subsection (a)(1), ~~or~~ (a)(2),
3 or (a)(5) are exempted from the taxes imposed by this chapter.

4 (h) For purposes of the exemption under Subsection (a)(5),
5 an aircraft is considered to be for use exclusively in connection
6 with an agricultural use if 95 percent of the use of the aircraft is
7 for a purpose described by Subsections (a)(5)(A) through (F).
8 Travel of less than 30 miles each way to a location to perform a
9 service described by Subsections (a)(5)(A) through (F) does not
10 disqualify an aircraft from the exemption under Subsection (a)(5).
11 A person who claims an exemption under Subsection (a)(5) must
12 maintain and make available to the comptroller flight records for
13 all uses of the aircraft.

14 SECTION 3. The change in law made by this Act by the
15 amendment of Section 151.316(a), Tax Code, does not affect tax
16 liability accruing before the effective date of this Act. That
17 liability continues in effect as if this Act had not been enacted,
18 and the former law is continued in effect for the collection of
19 taxes due and for civil and criminal enforcement of the liability
20 for those taxes.

21 SECTION 4. The changes in law made by this Act to Section
22 151.328, Tax Code, are a clarification of existing law and do not
23 imply that the former law may be construed as inconsistent with the
24 law as amended by this Act.

25 SECTION 5. This Act takes effect September 1, 2009.