

By: Leibowitz

H.B. No. 3268

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain metropolitan rapid transit  
authorities from motor fuel taxes.

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

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

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

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

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

(3) sold to a commercial transportation company ~~[or a  
metropolitan rapid transit authority operating under Chapter 451,  
Transportation Code,~~] that provides public school transportation  
services to a school district under Section 34.008, Education Code,  
and that uses the gasoline only to provide those services;

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

(A) for gasoline in a situation described by  
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 metropolitan rapid transit authority  
23 operating under Chapter 451, Transportation Code, for the  
24 authority's exclusive use.

25 SECTION 2. Section 162.125(a), Tax Code, is amended to read  
26 as follows:

27 (a) A license holder may take a credit on a return for the

1 period in which the sale occurred if the license holder paid tax on  
2 the purchase of gasoline and subsequently resells the gasoline  
3 without collecting the tax to:

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

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

9 (3) an exporter licensed under this subchapter if the  
10 seller is a licensed supplier or distributor and the exporter  
11 subsequently exports the gasoline to another state;

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

14 (5) a commercial transportation company ~~[or a~~  
15 ~~metropolitan rapid transit authority operating under Chapter 451,~~  
16 ~~Transportation Code,~~] that provides public school transportation  
17 services to a school district under Section 34.008, Education Code,  
18 and that uses the gasoline exclusively to provide those services;  
19 or

20 (6) a metropolitan rapid transit authority operating  
21 under Chapter 451, Transportation Code, for the authority's  
22 exclusive use.

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

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

26 (1) diesel fuel sold to the United States for its  
27 exclusive use, provided that the exemption does not apply to diesel

1 fuel sold or delivered to a person operating under a contract with  
2 the United States;

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

5 (3) diesel fuel sold to a commercial transportation  
6 company [~~or a metropolitan rapid transit authority operating under~~  
7 ~~Chapter 451, Transportation Code,~~] that provides public school  
8 transportation services to a school district under Section 34.008,  
9 Education Code, and that uses the diesel fuel only to provide those  
10 services;

11 (4) diesel fuel exported by either a licensed supplier  
12 or a licensed exporter from this state to any other state, provided  
13 that:

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

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

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

27 (6) diesel fuel delivered or sold into a storage

1 facility of a licensed aviation fuel dealer from which the diesel  
2 fuel will be delivered solely into the fuel supply tanks of aircraft  
3 or aircraft servicing equipment, or sold from one licensed aviation  
4 fuel dealer to another licensed aviation fuel dealer who will  
5 deliver the diesel fuel exclusively into the fuel supply tanks of  
6 aircraft or aircraft servicing equipment;

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

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

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

21 (10) dyed diesel fuel sold by a supplier or permissive  
22 supplier to a distributor, or by a distributor to another  
23 distributor;

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

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

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

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

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

14           (14) diesel fuel sold to a metropolitan rapid transit  
15 authority operating under Chapter 451, Transportation Code, for the  
16 authority's exclusive use.

17       SECTION 4. Section 162.227(a), Tax Code, is amended to read  
18 as follows:

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

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

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

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

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

(5) a commercial transportation company ~~[or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code,~~] that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services; or

(6) a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, for the authority's exclusive use.

SECTION 5. The heading to Section 162.3021, Tax Code, is amended to read as follows:

Sec. 162.3021. EXEMPTIONS ~~[SCHOOL DISTRICT TRANSPORTATION AND COUNTY EXEMPTION]~~.

SECTION 6. Section 162.3021, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The ~~[Subject to Section 162.3022, the]~~ tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a commercial transportation company ~~[or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code,~~] that uses the gas exclusively to provide public school transportation services to a school district under Section 34.008,

Education Code, or to the use of liquefied petroleum gas by that company for that purpose. A motor vehicle that uses liquefied petroleum gas and that is owned by a commercial transportation company ~~[or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code,]~~ and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

(c) The tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, if the gas is sold for the authority's exclusive use. A motor vehicle that uses liquefied petroleum gas and that is owned by the authority is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION 7. The following are repealed:

- (1) Section 162.1275, Tax Code;
- (2) Section 162.2275, Tax Code; and
- (3) Section 162.3022, Tax Code.

SECTION 8. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That 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 9. This Act takes effect July 1, 2009, if it receives a vote of two-thirds of all members elected to each house,



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1 as provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for effect on that date,  
3 this Act takes effect September 1, 2009.