

1-1 By: Estes S.B. No. 254
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Finance;
1-4 April 14, 2009, reported favorably by the following vote: Yeas 13,
1-5 Nays 0; April 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the exemption of volunteer fire departments from
1-9 certain motor fuel taxes.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Section 162.104, Tax Code, is
1-12 amended to read as follows:

1-13 (a) The tax imposed by this subchapter does not apply to
1-14 gasoline:

1-15 (1) sold to the United States for its exclusive use,
1-16 provided that the exemption does not apply with respect to fuel sold
1-17 or delivered to a person operating under a contract with the United
1-18 States;

1-19 (2) sold to a public school district in this state for
1-20 the district's exclusive use;

1-21 (3) sold to a commercial transportation company or a
1-22 metropolitan rapid transit authority operating under Chapter 451,
1-23 Transportation Code, that provides public school transportation
1-24 services to a school district under Section 34.008, Education Code,
1-25 and that uses the gasoline only to provide those services;

1-26 (4) exported by either a licensed supplier or a
1-27 licensed exporter from this state to any other state, provided
1-28 that:

1-29 (A) for gasoline in a situation described by
1-30 Subsection (d), the bill of lading indicates the destination state
1-31 and the supplier collects the destination state tax; or

1-32 (B) for gasoline in a situation described by
1-33 Subsection (e), the bill of lading indicates the destination state,
1-34 the gasoline is subsequently exported, and the exporter is licensed
1-35 in the destination state to pay that state's tax and has an
1-36 exporter's license issued under this subchapter;

1-37 (5) moved by truck or railcar between licensed
1-38 suppliers or licensed permissive suppliers and in which the
1-39 gasoline removed from the first terminal comes to rest in the second
1-40 terminal, provided that the removal from the second terminal rack
1-41 is subject to the tax imposed by this subchapter;

1-42 (6) delivered or sold into a storage facility of a
1-43 licensed aviation fuel dealer from which gasoline will be delivered
1-44 solely into the fuel supply tanks of aircraft or aircraft servicing
1-45 equipment, or sold from one licensed aviation fuel dealer to
1-46 another licensed aviation fuel dealer who will deliver the aviation
1-47 fuel exclusively into the fuel supply tanks of aircraft or aircraft
1-48 servicing equipment; ~~or~~

1-49 (7) exported to a foreign country if the bill of lading
1-50 indicates the foreign destination and the fuel is actually exported
1-51 to the foreign country; or

1-52 (8) sold to a volunteer fire department in this state
1-53 for the department's exclusive use.

1-54 SECTION 2. Section 162.125, Tax Code, is amended by adding
1-55 Subsection (g-1) to read as follows:

1-56 (g-1) A volunteer fire department exempt from the tax
1-57 imposed under this subchapter that paid tax on the purchase of
1-58 gasoline is entitled to a refund of the tax paid, and the volunteer
1-59 fire department may file a refund claim with the comptroller for
1-60 that amount.

1-61 SECTION 3. Subsection (a), Section 162.204, Tax Code, is
1-62 amended to read as follows:

1-63 (a) The tax imposed by this subchapter does not apply to:

1-64 (1) diesel fuel sold to the United States for its

- 2-1 exclusive use, provided that the exemption does not apply to diesel
 2-2 fuel sold or delivered to a person operating under a contract with
 2-3 the United States;
- 2-4 (2) diesel fuel sold to a public school district in
 2-5 this state for the district's exclusive use;
- 2-6 (3) diesel fuel sold to a commercial transportation
 2-7 company or a metropolitan rapid transit authority operating under
 2-8 Chapter 451, Transportation Code, that provides public school
 2-9 transportation services to a school district under Section 34.008,
 2-10 Education Code, and that uses the diesel fuel only to provide those
 2-11 services;
- 2-12 (4) diesel fuel exported by either a licensed supplier
 2-13 or a licensed exporter from this state to any other state, provided
 2-14 that:
- 2-15 (A) for diesel fuel in a situation described by
 2-16 Subsection (d), the bill of lading indicates the destination state
 2-17 and the supplier collects the destination state tax; or
- 2-18 (B) for diesel fuel in a situation described by
 2-19 Subsection (e), the bill of lading indicates the destination state,
 2-20 the diesel fuel is subsequently exported, and the exporter is
 2-21 licensed in the destination state to pay that state's tax and has an
 2-22 exporter's license issued under this subchapter;
- 2-23 (5) diesel fuel moved by truck or railcar between
 2-24 licensed suppliers or licensed permissive suppliers and in which
 2-25 the diesel fuel removed from the first terminal comes to rest in the
 2-26 second terminal, provided that the removal from the second terminal
 2-27 rack is subject to the tax imposed by this subchapter;
- 2-28 (6) diesel fuel delivered or sold into a storage
 2-29 facility of a licensed aviation fuel dealer from which the diesel
 2-30 fuel will be delivered solely into the fuel supply tanks of aircraft
 2-31 or aircraft servicing equipment, or sold from one licensed aviation
 2-32 fuel dealer to another licensed aviation fuel dealer who will
 2-33 deliver the diesel fuel exclusively into the fuel supply tanks of
 2-34 aircraft or aircraft servicing equipment;
- 2-35 (7) diesel fuel exported to a foreign country if the
 2-36 bill of lading indicates the foreign destination and the fuel is
 2-37 actually exported to the foreign country;
- 2-38 (8) dyed diesel fuel sold or delivered by a supplier to
 2-39 another supplier and dyed diesel fuel sold or delivered by a
 2-40 supplier or distributor into the bulk storage facility of a dyed
 2-41 diesel fuel bonded user or to a purchaser who provides a signed
 2-42 statement as provided by Section 162.206;
- 2-43 (9) the volume of water, fuel ethanol, biodiesel, or
 2-44 mixtures thereof that are blended together with taxable diesel fuel
 2-45 when the finished product sold or used is clearly identified on the
 2-46 retail pump, storage tank, and sales invoice as a combination of
 2-47 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
 2-48 thereof;
- 2-49 (10) dyed diesel fuel sold by a supplier or permissive
 2-50 supplier to a distributor, or by a distributor to another
 2-51 distributor;
- 2-52 (11) dyed diesel fuel delivered by a license holder
 2-53 into the fuel supply tanks of railway engines, motorboats, or
 2-54 refrigeration units or other stationary equipment powered by a
 2-55 separate motor from a separate fuel supply tank;
- 2-56 (12) dyed kerosene when delivered by a supplier,
 2-57 distributor, or importer into a storage facility at a retail
 2-58 business from which all deliveries are exclusively for heating,
 2-59 cooking, lighting, or similar nonhighway use; ~~or~~
- 2-60 (13) diesel fuel used by a person, other than a
 2-61 political subdivision, who owns, controls, operates, or manages a
 2-62 commercial motor vehicle as defined by Section 548.001,
 2-63 Transportation Code, if the fuel:
- 2-64 (A) is delivered exclusively into the fuel supply
 2-65 tank of the commercial motor vehicle; and
- 2-66 (B) is used exclusively to transport passengers
 2-67 for compensation or hire between points in this state on a fixed
 2-68 route or schedule; or
- 2-69 (14) diesel fuel sold to a volunteer fire department

3-1 in this state for the department's exclusive use.

3-2 SECTION 4. Section 162.227, Tax Code, is amended by adding
3-3 Subsection (f-1) to read as follows:

3-4 (f-1) A volunteer fire department exempt from the tax
3-5 imposed under this subchapter that paid tax on the purchase of
3-6 diesel fuel is entitled to a refund of the tax paid, and the
3-7 volunteer fire department may file a refund claim with the
3-8 comptroller for that amount.

3-9 SECTION 5. The change in law made by this Act does not
3-10 affect taxes imposed before the effective date of this Act, and the
3-11 law in effect before the effective date of this Act is continued in
3-12 effect for purposes of the liability for and collection of those
3-13 taxes.

3-14 SECTION 6. This Act takes effect July 1, 2009, if it
3-15 receives a vote of two-thirds of all the members elected to each
3-16 house, as provided by Section 39, Article III, Texas Constitution.
3-17 If this Act does not receive the vote necessary for effect on that
3-18 date, this Act takes effect September 1, 2009.

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