

AN ACT

relating to an exemption from the sales and use tax for certain aircraft, including machinery and equipment used in an agricultural aircraft operation.

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

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

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

(1) horses, mules, and work animals;

(2) animal life the products of which ordinarily constitute food for human consumption;

(3) feed for farm and ranch animals;

(4) feed for animals that are held for sale in the regular course of business;

(5) seeds and annual plants the products of which:

(A) ordinarily constitute food for human consumption;

(B) are to be sold in the regular course of business; or

(C) are used to produce feed for animals exempted by this section;

(6) fertilizers, fungicides, insecticides, 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; and

5           (10) machinery and equipment exclusively used in an  
6 agricultural aircraft operation, as defined by 14 C.F.R. Section  
7 137.3.

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

11           (a) Aircraft are exempted from the taxes imposed by this  
12 chapter if:

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

15                 (2) sold to a person who:

16                         (A) has a sales tax permit issued under this  
17 chapter; and

18                         (B) uses the aircraft for the purpose of  
19 providing flight instruction that is:

20                                 (i) recognized by the Federal Aviation  
21 Administration;

22                                 (ii) under the direct or general  
23 supervision of a flight instructor certified by the Federal  
24 Aviation Administration; and

25                                 (iii) designed to lead to a pilot  
26 certificate or rating issued by the Federal Aviation Administration  
27 or otherwise required by a rule or regulation of the Federal

1 Aviation Administration;

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

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

7 (5) sold in this state to a person for use exclusively  
8 in connection with an agricultural use, as defined by Section  
9 23.51, and used for:

10 (A) predator control;

11 (B) wildlife or livestock capture;

12 (C) wildlife or livestock surveys;

13 (D) census counts of wildlife or livestock;

14 (E) animal or plant health inspection services;

15 or

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

17 (b) Repair, remodeling, and maintenance services to  
18 aircraft, including an engine or other component part of aircraft,  
19 operated by a person described by Subsection (a)(1), ~~or~~ (a)(2),  
20 or (a)(5) are exempted from the taxes imposed by this chapter.

21 (h) For purposes of the exemption under Subsection (a)(5),  
22 an aircraft is considered to be for use exclusively in connection  
23 with an agricultural use if 95 percent of the use of the aircraft is  
24 for a purpose described by Subsections (a)(5)(A)-(F). Travel of  
25 less than 30 miles each way to a location to perform a service  
26 described by Subsections (a)(5)(A)-(F) does not disqualify an  
27 aircraft from the exemption under Subsection (a)(5). A person who

1 claims an exemption under Subsection (a)(5) must maintain and make  
2 available to the comptroller flight records for all uses of the  
3 aircraft.

4           SECTION 3. The changes in law made by this Act to Section  
5 151.328, Tax Code, are a clarification of existing law and do not  
6 imply that the former law may be construed as inconsistent with the  
7 law as amended by this Act.

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

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

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 958 passed the Senate on May 7, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2009, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 958 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor