

House Bill 3144
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 151.316(a), 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 employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or
 - (C) other agricultural products to be sold in the regular course of business;
- (7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:
 - (A) food for human consumption;
 - (B) grass;
 - (C) feed for animal life; or
 - (D) other agricultural products to be sold in the regular

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course of business;

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

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

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

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

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

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

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course of business; and

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

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

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

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

(2) sold to a person who:

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

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

(i) recognized by the Federal Aviation Administration;

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

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

(3) sold to a foreign government; [Ø]

(4) sold in this state to a person for use and registration

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course of business;

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

(12) tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code.

No equivalent provision.

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in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state; or

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

(A) predator control;

(B) wildlife or livestock capture;

(C) wildlife or livestock surveys;

(D) census counts of wildlife or livestock;

(E) animal or plant health inspection services; or

(F) crop dusting, pollination, or seeding.

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

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

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SECTION 3. The change in law made by this Act by the amendment of Section 151.316(a), Tax Code, 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 4. The changes in law made by this Act to Section 151.328, Tax Code, are a clarification of existing law and do not imply that the former law may be construed as inconsistent with the law as amended by this Act.

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

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SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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