

By: Guillen

H.B. No. 311

Substitute the following for H.B. No. 311:

By: Hilderbran

C.S.H.B. No. 311

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of certain transit districts 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;

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 volunteer fire department in this state
23 for the department's exclusive use; or

24 (9) sold to a transit district created under Chapter
25 458, Transportation Code, that uses the gasoline exclusively to
26 provide public transportation.

27 SECTION 2. Sections 162.125(a) and (g), Tax Code, are

amended to read as follows:

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

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

(2) a public school district in this state for the 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 gasoline 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 gasoline exclusively to provide those services; or

(6) a transit district created under Chapter 458, Transportation Code, that uses the gasoline exclusively to provide public transportation.

(g) A transit company that paid tax on the purchase of gasoline, and is not otherwise entitled to a refund of that tax under this subchapter, may seek a refund with the comptroller in an

1 amount equal to one cent per gallon for gasoline used in transit
2 vehicles.

3 SECTION 3. Subchapter B, Chapter 162, Tax Code, is amended
4 by adding Section 162.1276 to read as follows:

5 Sec. 162.1276. REFUND FOR CERTAIN TRANSIT DISTRICTS. (a) A
6 transit district created under Chapter 458, Transportation Code, is
7 entitled to a refund of taxes paid under this subchapter for
8 gasoline used to provide public transportation and may file a
9 refund claim with the comptroller for the amount of those taxes.

10 (b) The refund claim under Subsection (a) must contain
11 information regarding:

12 (1) vehicle mileage;

13 (2) hours of service provided; and

14 (3) fuel consumed.

15 (c) A transit district that requests a refund under this
16 section shall maintain all supporting documentation relating to the
17 refund until the sixth anniversary of the date of the request.

18 SECTION 4. Section 162.204(a), Tax Code, is amended to read
19 as follows:

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

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

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

27 (3) diesel fuel sold to a commercial transportation

1 company or a metropolitan rapid transit authority operating under
2 Chapter 451, Transportation Code, that provides public school
3 transportation services to a school district under Section 34.008,
4 Education Code, and that uses the diesel fuel only to provide those
5 services;

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

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

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

17 (5) diesel fuel moved by truck or railcar between
18 licensed suppliers or licensed permissive suppliers and in which
19 the diesel fuel removed from the first terminal comes to rest in the
20 second terminal, provided that the removal from the second terminal
21 rack is subject to the tax imposed by this subchapter;

22 (6) diesel fuel delivered or sold into a storage
23 facility of a licensed aviation fuel dealer from which the diesel
24 fuel will be delivered solely into the fuel supply tanks of aircraft
25 or aircraft servicing equipment, or sold from one licensed aviation
26 fuel dealer to another licensed aviation fuel dealer who will
27 deliver the diesel fuel exclusively into the fuel supply tanks of

1 aircraft or aircraft servicing equipment;

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

5 (8) dyed diesel fuel sold or delivered by a supplier to
6 another supplier and dyed diesel fuel sold or delivered by a
7 supplier or distributor into the bulk storage facility of a dyed
8 diesel fuel bonded user or to a purchaser who provides a signed
9 statement as provided by Section 162.206;

10 (9) the volume of water, fuel ethanol, renewable
11 diesel, biodiesel, or mixtures thereof that are blended together
12 with taxable diesel fuel when the finished product sold or used is
13 clearly identified on the retail pump, storage tank, and sales
14 invoice as a combination of diesel fuel and water, fuel ethanol,
15 renewable diesel, biodiesel, or mixtures thereof;

16 (10) dyed diesel fuel sold by a supplier or permissive
17 supplier to a distributor, or by a distributor to another
18 distributor;

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

23 (12) dyed kerosene when delivered by a supplier,
24 distributor, or importer into a storage facility at a retail
25 business from which all deliveries are exclusively for heating,
26 cooking, lighting, or similar nonhighway use;

27 (13) diesel fuel used by a person, other than a

1 political subdivision, who owns, controls, operates, or manages a
2 commercial motor vehicle as defined by Section 548.001,
3 Transportation Code, if the fuel:

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

6 (B) is used exclusively to transport passengers
7 for compensation or hire between points in this state on a fixed
8 route or schedule; ~~or~~

9 (14) diesel fuel sold to a volunteer fire department
10 in this state for the department's exclusive use; or

11 (15) diesel fuel sold to a transit district created
12 under Chapter 458, Transportation Code, that uses the diesel fuel
13 exclusively to provide public transportation.

14 SECTION 5. Sections 162.227(a) and (f), Tax Code, are
15 amended to read as follows:

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

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

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

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

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

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

9 (6) a transit district created under Chapter 458,
10 Transportation Code, that uses the diesel fuel exclusively to
11 provide public transportation.

12 (f) A transit company who paid tax on the purchase of diesel
13 fuel, and is not otherwise entitled to a refund of that tax under
14 this subchapter, may seek a refund with the comptroller of one-half
15 of one cent per gallon for diesel fuel used in transit vehicles.

16 SECTION 6. Subchapter C, Chapter 162, Tax Code, is amended
17 by adding Section 162.2276 to read as follows:

18 Sec. 162.2276. REFUND FOR CERTAIN TRANSIT DISTRICTS. (a) A
19 transit district created under Chapter 458, Transportation Code, is
20 entitled to a refund of taxes paid under this subchapter for diesel
21 fuel used to provide public transportation and may file a refund
22 claim with the comptroller for the amount of those taxes.

23 (b) The refund claim under Subsection (a) must contain
24 information regarding:

25 (1) vehicle mileage;

26 (2) hours of service provided; and

27 (3) fuel consumed.

1 (c) A transit district that requests a refund under this
2 section shall maintain all supporting documentation relating to the
3 refund until the sixth anniversary of the date of the request.

4 SECTION 7. Subchapter D, Chapter 162, Tax Code, is amended
5 by adding Sections 162.3023 and 162.3024 to read as follows:

6 Sec. 162.3023. TRANSIT DISTRICT EXEMPTION. (a) Subject to
7 Section 162.3024, the tax imposed by this subchapter does not apply
8 to the sale of liquefied petroleum gas to a transit district created
9 under Chapter 458, Transportation Code, that uses the gas
10 exclusively to provide public transportation, or to the use of
11 liquefied petroleum gas by that district for that purpose.

12 (b) A motor vehicle that uses liquefied petroleum gas, that
13 is owned by a transit district created under Chapter 458,
14 Transportation Code, and that is used exclusively to provide public
15 transportation is not required to have a liquefied gas tax decal or
16 a special use liquefied gas tax decal.

17 Sec. 162.3024. EXCLUSIVE USE FOR TRANSIT DISTRICTS. (a)
18 This section applies to a transit district created under Chapter
19 458, Transportation Code, that is not required under Section
20 162.3023 to have a liquefied gas tax decal or a special use
21 liquefied gas tax decal for liquefied gas used to provide public
22 transportation.

23 (b) The transit district shall maintain the following
24 supporting documentation relating to the services provided under
25 the contract until the sixth anniversary of the date of the services
26 provided:

27 (1) vehicle mileage;

1 (2) hours of service provided; and

2 (3) fuel consumed.

3 (c) The comptroller may adopt rules to implement this
4 section.

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

11 SECTION 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2013.