

By: King of Uvalde, Darby, et al.

H.B. No. 2691

A BILL TO BE ENTITLED

AN ACT

relating to a sales and use tax exemption and an oil and gas severance tax credit for the use of alternative base fluids in energized fracturing operations; imposing a civil penalty.

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

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3555 to read as follows:

Sec. 151.3555. ALTERNATIVE BASE FLUIDS AND RELATED TANGIBLE PERSONAL PROPERTY. (a) In this section, "alternative base fluids" has the meaning assigned by Section 205.001.

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

(1) the sale, use, or other consumption of alternative base fluids used in connection with an energized fracturing operation in an oil or gas well; and

(2) tangible personal property specifically used to process, reuse, or recycle alternative base fluids that will be used in energized fracturing work performed at an oil or gas well.

SECTION 2. Subtitle I, Title 2, Tax Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. TAX CREDIT FOR OIL AND GAS PRODUCED USING ALTERNATIVE BASE FLUIDS

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Alternative base fluids" means a continuous phase

1 fluid that is used in energized fracturing operations to produce  
2 oil and gas. The term includes nitrogen, carbon dioxide, and fluids  
3 other than water.

4 (2) "Operator" means the person responsible for the  
5 actual physical operation of an oil or gas well.

6 Sec. 205.002. CREDIT FOR USE OF ALTERNATIVE BASE  
7 FLUIDS. (a) The operator of an oil or gas well is entitled to a  
8 credit as provided by this chapter if the volume of alternative base  
9 fluids the operator uses as a substitution for water to produce the  
10 oil or gas in an energized fracturing operation is equal to at least  
11 20 percent of the total volume of fluid used in the fracturing  
12 operation.

13 (b) The amount of credit to which an operator is entitled  
14 under this chapter is an amount equal to a percentage of the taxes  
15 imposed by Chapter 201 or 202 in the absence of the credit, but  
16 after any other applicable tax credits or exemptions. The  
17 percentage is equal to the lesser of:

18 (1) the percentage of the total volume of the base  
19 fluids used in the fracturing operation that is alternative base  
20 fluids; or

21 (2) 50 percent.

22 (c) The credit is allocated to each person who bears the tax  
23 under Section 201.205 or 202.156, as applicable, according to the  
24 person's proportionate share in the oil or gas produced.

25 Sec. 205.003. APPLICATION. (a) To qualify for the credit  
26 provided under this chapter, the person responsible for paying the  
27 tax must apply to the comptroller.

1       (b) The application must include any information required  
2 by the comptroller and the FracFocus.org Hydraulic Fracturing Fluid  
3 Product Component Information Disclosure report documenting the  
4 Maximum Ingredient Concentration in HF Fluid (% by Mass) converted  
5 to volume of the alternative base fluids for energized fracturing  
6 operations for oil and gas production. The volume of alternative  
7 base fluids is calculated according to the normal volume that the  
8 base fluids would occupy as measured at the temperature and  
9 pressure conditions at the ground surface before injection into the  
10 well bore.

11       Sec. 205.004. PENALTIES. (a) A person is liable to this  
12 state for a civil penalty if the person makes or subscribes an  
13 application, report, or other document that forms the basis for an  
14 application under Section 205.003 and submits it to the comptroller  
15 knowing that it contains a false or untrue material fact. The amount  
16 of the penalty may not exceed the sum of:

- 17               (1) \$10,000; and  
18               (2) the amount of the credit claimed.

19       (b) The attorney general may recover a penalty under  
20 Subsection (a) in a suit brought on behalf of the state. Venue for  
21 the suit is in Travis County.

22       SECTION 3. The comptroller shall adopt rules necessary to  
23 administer Chapter 205, Tax Code, as added by this Act, not later  
24 than December 31, 2015.

25       SECTION 4. Chapter 205, Tax Code, as added by this Act  
26 applies only to oil or gas produced on or after the effective date  
27 of this Act. Oil or gas produced before the effective date of this

1 Act is subject to the law in effect when the oil or gas was produced,  
2 and that law is continued in effect for that purpose.

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

9 SECTION 6. (a) Except as provided by Subsection (b) of this  
10 section, this Act takes effect January 1, 2016.

11 (b) Section 3 of this Act takes effect immediately if this  
12 Act receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, Section 3 of this Act takes effect September 1, 2015.