

By: Burrows

H.B. No. 3954

A BILL TO BE ENTITLED

AN ACT

relating to motor fuel taxes applicable to gasoline and diesel fuel within the bulk transfer system.

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

SECTION 1. Section 162.001, Tax Code, is amended by amending Subdivisions (11), (12), and (57) and adding Subdivisions (40-b) and (42-a) to read as follows:

(11) "Bulk transfer" means a transfer of motor fuel from one location to another within the United States by pipeline or marine movement within a bulk transfer/terminal system, including:

(A) a marine vessel movement of motor fuel owned by a licensed supplier or permissive supplier [~~from a refinery or terminal to a terminal~~];

(B) a pipeline movement of motor fuel from a refinery, motor fuel storage facility, or terminal to a terminal or motor fuel storage facility;

(C) a book transfer or in-tank transfer of motor fuel within a terminal or motor fuel storage facility between licensed suppliers before completion of removal across the rack; and

(D) a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(12) "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines,

1 marine vessels, motor fuel storage facilities, and IRS-approved
2 terminals. Motor fuel is in the bulk transfer/terminal system if
3 the motor fuel is in a refinery, a pipeline, a motor fuel storage
4 facility, a terminal, or a marine vessel transporting motor fuel
5 owned by a licensed supplier or permissive supplier [~~to a refinery~~
6 ~~or terminal~~]. Motor fuel is not in the bulk transfer/terminal
7 system if the motor fuel is in [~~a motor fuel storage facility,~~
8 ~~including~~]:

9 (A) a bulk plant that is not part of a refinery or
10 terminal;

11 (B) the motor fuel supply tank of an engine or a
12 motor vehicle; or

13 (C) [~~a marine vessel transporting motor fuel to a~~
14 ~~motor fuel storage facility that is not in the bulk~~
15 ~~transfer/terminal system; or~~

16 [~~(D)~~] a tank car, railcar, trailer, truck, or
17 other equipment suitable for ground transportation.

18 (40-b) "Marine vessel" includes a marine barge.

19 (42-a) "Motor fuel storage facility" means a storage
20 facility supplied by pipeline or marine vessel that does not have a
21 rack for removal of motor fuel by truck, railcar, or any other means
22 of conveyance that is outside the bulk transfer/terminal system.

23 (57) "Supplier" means a person that:

24 (A) is subject to the general taxing jurisdiction
25 of this state;

26 (B) is registered under Section 4101, Internal
27 Revenue Code, for transactions in motor fuel in the bulk

1 transfer/terminal distribution system, and is:

2 (i) a position holder in motor fuel in a
3 terminal or refinery in this state and may concurrently also be a
4 position holder in motor fuel in another state; ~~or~~

5 (ii) a person who receives motor fuel in
6 this state under a two-party exchange; or

7 (iii) a person who owns motor fuel in a
8 marine vessel in this state; and

9 (C) may also be a terminal operator, provided
10 that a terminal operator is not considered to also be a "supplier"
11 based solely on the fact that the terminal operator handles motor
12 fuel consigned to it within a terminal.

13 SECTION 2. Section 162.101, Tax Code, is amended by
14 amending Subsection (e-1) and adding Subsection (e-3) to read as
15 follows:

16 (e-1) A tax is imposed on gasoline that is otherwise exempt
17 from taxation under Section 162.104(a)(4) or (7) if the gasoline is
18 sold into a truck or railcar in this state to a person who does not
19 hold a license under Section 162.105(1), (2), (3), (4), or (6). The
20 person who ~~that~~ sold the gasoline is liable for and shall collect
21 and remit the tax.

22 (e-3) A tax is imposed on gasoline that is otherwise exempt
23 from taxation under Section 162.104(a)(7) if the gasoline is sold
24 into a marine vessel in this state to a person who does not hold a
25 license under Section 162.105(1), (2), (3), (4), or (6) unless the
26 exporter of record is licensed under Section 162.105(1), (2), (3),
27 (4), or (6). The person who sold the gasoline is liable for and

1 shall collect and remit the tax.

2 SECTION 3. Section 162.104(a), Tax Code, is amended to read
3 as follows:

4 (a) The tax imposed by this subchapter does not apply to
5 gasoline:

6 (1) sold to the United States for its exclusive use,
7 provided that the exemption does not apply with respect to fuel sold
8 or delivered to a person operating under a contract with the United
9 States;

10 (2) sold to a public school district in this state for
11 the district's exclusive use;

12 (3) sold to a commercial transportation company or a
13 metropolitan rapid transit authority operating under Chapter 451,
14 Transportation Code, that provides public school transportation
15 services to a school district under Section 34.008, Education Code,
16 and that uses the gasoline only to provide those services;

17 (4) exported by either a licensed supplier or a
18 licensed exporter from this state to any other state, provided that
19 the bill of lading indicates the destination state and the supplier
20 collects the destination state tax;

21 (5) moved by truck or railcar between licensed
22 suppliers or licensed permissive suppliers and in which the
23 gasoline removed from the first terminal comes to rest in the second
24 terminal, provided that the removal from the second terminal rack
25 is subject to the tax imposed by this subchapter;

26 (6) delivered or sold into a storage facility of a
27 licensed aviation fuel dealer from which gasoline will be delivered

1 solely into the fuel supply tanks of aircraft or aircraft servicing
2 equipment, or sold from one licensed aviation fuel dealer to
3 another licensed aviation fuel dealer who will deliver the aviation
4 fuel exclusively into the fuel supply tanks of aircraft or aircraft
5 servicing equipment;

6 (7) exported to a foreign country if the bill of lading
7 or shipping documents indicate [~~indicates~~] the foreign destination
8 and the fuel is actually exported to the foreign country;

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

11 (9) sold to a nonprofit entity that is organized for
12 the sole purpose of and engages exclusively in providing emergency
13 medical services and that uses the gasoline exclusively to provide
14 emergency medical services, including rescue and ambulance
15 services.

16 SECTION 4. Section 162.201, Tax Code, is amended by
17 amending Subsection (e-1) and adding Subsection (e-3) to read as
18 follows:

19 (e-1) A tax is imposed on diesel fuel that is otherwise
20 exempt from taxation under Section 162.204(a)(4) or (7) if the
21 diesel fuel is sold into a truck or railcar in this state to a person
22 who does not hold a license under Section 162.205(a)(1), (2), (3),
23 (4), or (6). The person who [~~that~~] sold the diesel fuel is liable
24 for and shall collect and remit the tax.

25 (e-3) A tax is imposed on diesel fuel that is otherwise
26 exempt from taxation under Section 162.204(a)(7) if the diesel fuel
27 is sold into a marine vessel in this state to a person who does not

1 hold a license under Section 162.205(a)(1), (2), (3), (4), or (6),
2 unless the exporter of record is licensed under Section
3 162.205(a)(1), (2), (3), (4), or (6). The person who sold the diesel
4 fuel is liable for and shall collect and remit the tax.

5 SECTION 5. Section 162.204(a), Tax Code, is amended to read
6 as follows:

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

8 (1) diesel fuel sold to the United States for its
9 exclusive use, provided that the exemption does not apply to diesel
10 fuel sold or delivered to a person operating under a contract with
11 the United States;

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

14 (3) diesel fuel sold to a commercial transportation
15 company or a metropolitan rapid transit authority operating under
16 Chapter 451, Transportation Code, that provides public school
17 transportation services to a school district under Section 34.008,
18 Education Code, and that uses the diesel fuel only to provide those
19 services;

20 (4) diesel fuel exported by either a licensed supplier
21 or a licensed exporter from this state to any other state, provided
22 that the bill of lading indicates the destination state and the
23 supplier collects the destination state tax;

24 (5) diesel fuel moved by truck or railcar between
25 licensed suppliers or licensed permissive suppliers and in which
26 the diesel fuel removed from the first terminal comes to rest in the
27 second terminal, provided that the removal from the second terminal

1 rack is subject to the tax imposed by this subchapter;

2 (6) diesel fuel delivered or sold into a storage
3 facility of a licensed aviation fuel dealer from which the diesel
4 fuel will be delivered solely into the fuel supply tanks of aircraft
5 or aircraft servicing equipment, or sold from one licensed aviation
6 fuel dealer to another licensed aviation fuel dealer who will
7 deliver the diesel fuel exclusively into the fuel supply tanks of
8 aircraft or aircraft servicing equipment;

9 (7) diesel fuel exported to a foreign country if the
10 bill of lading or shipping documents indicate [~~indicates~~] the
11 foreign destination and the fuel is actually exported to the
12 foreign country;

13 (8) dyed diesel fuel sold or delivered by a supplier to
14 another supplier and dyed diesel fuel sold or delivered by a
15 supplier or distributor into the bulk storage facility of a dyed
16 diesel fuel bonded user or to a purchaser who provides a signed
17 statement as provided by Section 162.206;

18 (9) the volume of water, fuel ethanol, renewable
19 diesel, biodiesel, or mixtures thereof that are blended together
20 with taxable diesel fuel when the finished product sold or used is
21 clearly identified on the retail pump, storage tank, and sales
22 invoice as a combination of diesel fuel and water, fuel ethanol,
23 renewable diesel, biodiesel, or mixtures thereof;

24 (10) dyed diesel fuel sold by a supplier or permissive
25 supplier to a distributor, or by a distributor to another
26 distributor;

27 (11) dyed diesel fuel delivered by a license holder

1 into the fuel supply tanks of railway engines, motorboats, or
2 refrigeration units or other stationary equipment powered by a
3 separate motor from a separate fuel supply tank;

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

8 (13) diesel fuel used by a person, other than a
9 political subdivision, who owns, controls, operates, or manages a
10 commercial motor vehicle as defined by Section 548.001,
11 Transportation Code, if the fuel:

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

14 (B) is used exclusively to transport passengers
15 for compensation or hire between points in this state on a fixed
16 route or schedule;

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

19 (15) diesel fuel sold to a nonprofit entity that is
20 organized for the sole purpose of and engages exclusively in
21 providing emergency medical services and that uses the diesel fuel
22 exclusively to provide emergency medical services, including
23 rescue and ambulance services.

24 SECTION 6. The changes in law made by this Act do not affect
25 tax liability accruing before the effective date of this Act. That
26 liability continues in effect as if this Act had not been enacted,
27 and the former law is continued in effect for the collection of

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1 taxes due and for civil and criminal enforcement of the liability
2 for those taxes.

3 SECTION 7. This Act takes effect September 1, 2019.