

By: Guillen, Morales of Maverick, et al.

H.B. No. 1294

Substitute the following for H.B. No. 1294:

By: Guerra

C.S.H.B. No. 1294

A BILL TO BE ENTITLED

1

AN ACT

2 relating to an exemption from motor fuel taxes for certain fuel used
3 by a rural transit district to provide public transportation.

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

5 SECTION 1. Effective January 1, 2024, Section 162.104(a),
6 Tax Code, is amended to read as follows:

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

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

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

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

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

24 (5) moved by truck or railcar between licensed

1 suppliers or licensed permissive suppliers and in which the
2 gasoline removed from the first terminal comes to rest in the second
3 terminal, provided that the removal from the second terminal rack
4 is subject to the tax imposed by this subchapter;

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

12 (7) exported to a foreign country if the bill of lading
13 or shipping documents indicate the foreign destination and the fuel
14 is actually exported to the foreign country;

15 (8) sold to a volunteer fire department in this state
16 for the department's exclusive use; ~~[or]~~

17 (9) sold to a nonprofit entity that is organized for
18 the sole purpose of and engages exclusively in providing emergency
19 medical services and that uses the gasoline exclusively to provide
20 emergency medical services, including rescue and ambulance
21 services; or

22 (10) sold to a rural transit district created under
23 Chapter 458, Transportation Code, that uses the gasoline
24 exclusively to provide public transportation.

25 SECTION 2. Effective January 1, 2024, Section 162.125(a),
26 Tax Code, is amended to read as follows:

27 (a) A license holder may take a credit on a return for the

1 period in which the sale occurred if the license holder paid tax on
2 the purchase of gasoline and subsequently resells the gasoline
3 without collecting the tax to:

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

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

9 (3) an exporter licensed under this subchapter if the
10 seller is a licensed supplier or distributor and the exporter
11 subsequently exports the gasoline to another state;

12 (4) a licensed aviation fuel dealer if the seller is a
13 licensed distributor; ~~or~~

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

20 (6) a rural transit district created under Chapter
21 458, Transportation Code, that uses the gasoline exclusively to
22 provide public transportation.

23 SECTION 3. Section 162.125(g), Tax Code, is amended to read
24 as follows:

25 (g) A transit company that paid tax on the purchase of
26 gasoline, and is not otherwise entitled to a refund of that tax
27 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 4. 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 RURAL TRANSIT DISTRICTS.

6 (a) A rural transit district created under Chapter 458,
7 Transportation Code, is entitled to a refund in the amount provided
8 by this section of taxes paid under this subchapter for gasoline
9 used to provide public transportation and may file a refund claim
10 with the comptroller for that amount.

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

- 13 (1) vehicle mileage;
14 (2) hours of service provided; and
15 (3) fuel consumed.

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

20 (d) The amount of the refund under Subsection (a) is equal
21 to the amount of tax paid under this subchapter for gasoline that
22 qualifies for the refund and is purchased by the rural transit
23 district.

24 (e) Notwithstanding Subsection (d), the amount of the
25 refund under Subsection (a) is equal to:

- 26 (1) 50 percent of the amount of tax paid under this
27 subchapter for gasoline that qualifies for the refund and is

1 purchased by the rural transit district on or after January 1, 2022,
2 and before January 1, 2023; and

3 (2) 75 percent of the amount of tax paid under this
4 subchapter for gasoline that qualifies for the refund and is
5 purchased by the rural transit district on or after January 1, 2023,
6 and before January 1, 2024.

7 (f) Subsection (e) and this subsection expire September 1,
8 2024.

9 SECTION 5. Effective January 1, 2024, Section 162.204(a),
10 Tax Code, is amended to read as follows:

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

12 (1) diesel fuel sold to the United States for its
13 exclusive use, provided that the exemption does not apply to diesel
14 fuel sold or delivered to a person operating under a contract with
15 the United States;

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

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

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

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

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

13 (7) diesel fuel exported to a foreign country if the
14 bill of lading or shipping documents indicate the foreign
15 destination and the fuel is actually exported to the foreign
16 country;

17 (8) dyed diesel fuel sold or delivered by a supplier to
18 another supplier and dyed diesel fuel sold or delivered by a
19 supplier or distributor into the bulk storage facility of a dyed
20 diesel fuel bonded user or to a purchaser who provides a signed
21 statement as provided by Section [162.206](#);

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

1 (10) dyed diesel fuel sold by a supplier or permissive
2 supplier to a distributor, or by a distributor to another
3 distributor;

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

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

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

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

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

21 (14) diesel fuel sold to a volunteer fire department
22 in this state for the department's exclusive use; ~~[or]~~

23 (15) diesel fuel sold to a nonprofit entity that is
24 organized for the sole purpose of and engages exclusively in
25 providing emergency medical services and that uses the diesel fuel
26 exclusively to provide emergency medical services, including
27 rescue and ambulance services; or

1 (16) diesel fuel sold to a rural transit district
2 created under Chapter 458, Transportation Code, that uses the
3 diesel fuel exclusively to provide public transportation.

4 SECTION 6. Effective January 1, 2024, Section 162.227(a),
5 Tax Code, is amended to read as follows:

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

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

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

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

18 (4) a licensed aviation fuel dealer if the seller is a
19 licensed distributor; ~~or~~

20 (5) a commercial transportation company or a
21 metropolitan rapid transit authority operating under Chapter 451,
22 Transportation Code, that provides public school transportation
23 services to a school district under Section 34.008, Education Code,
24 and that uses the diesel fuel exclusively to provide those
25 services; or

26 (6) a rural transit district created under Chapter
27 458, Transportation Code, that uses the diesel fuel exclusively to

1 provide public transportation.

2 SECTION 7. Section 162.227(f), Tax Code, is amended to read
3 as follows:

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

8 SECTION 8. Subchapter C, Chapter 162, Tax Code, is amended
9 by adding Section 162.2276 to read as follows:

10 Sec. 162.2276. REFUND FOR CERTAIN RURAL TRANSIT DISTRICTS.

11 (a) A rural transit district created under Chapter 458,
12 Transportation Code, is entitled to a refund in the amount provided
13 by this section of taxes paid under this subchapter for diesel fuel
14 used to provide public transportation and may file a refund claim
15 with the comptroller for that amount.

16 (b) The refund claim under Subsection (a) must contain
17 information regarding:

- 18 (1) vehicle mileage;
- 19 (2) hours of service provided; and
- 20 (3) fuel consumed.

21 (c) A rural transit district that requests a refund under
22 this section shall maintain all supporting documentation relating
23 to the refund until the sixth anniversary of the date of the
24 request.

25 (d) The amount of the refund under Subsection (a) is equal
26 to the amount of tax paid under this subchapter for diesel fuel that
27 qualifies for the refund and is purchased by the rural transit

1 district.

2 (e) Notwithstanding Subsection (d), the amount of the
3 refund under Subsection (a) is equal to:

4 (1) 50 percent of the amount of tax paid under this
5 subchapter for diesel fuel that qualifies for the refund and is
6 purchased by the rural transit district on or after January 1, 2022,
7 and before January 1, 2023; and

8 (2) 75 percent of the amount of tax paid under this
9 subchapter for diesel fuel that qualifies for the refund and is
10 purchased by the rural transit district on or after January 1, 2023,
11 and before January 1, 2024.

12 (f) Subsection (e) and this subsection expire September 1,
13 2024.

14 SECTION 9. Effective January 1, 2024, Section 162.356(a),
15 Tax Code, is amended to read as follows:

16 (a) The tax imposed by this subchapter does not apply to
17 compressed natural gas or liquefied natural gas delivered into the
18 fuel supply tank of:

19 (1) a motor vehicle operated exclusively by the United
20 States, provided that the exemption does not apply with respect to
21 fuel delivered into the fuel supply tank of a motor vehicle of a
22 person operating under a contract with the United States;

23 (2) a motor vehicle operated exclusively by a public
24 school district in this state;

25 (3) a motor vehicle operated exclusively by a
26 commercial transportation company or a metropolitan rapid transit
27 authority operating under Chapter 451, Transportation Code, that

1 provides public school transportation services to a school district
2 under Section 34.008, Education Code, and that uses the fuel only to
3 provide those services;

4 (4) a motor vehicle operated exclusively by a
5 volunteer fire department in this state;

6 (5) a motor vehicle operated exclusively by a
7 municipality or county in this state;

8 (6) a motor vehicle operated exclusively by a
9 nonprofit electric cooperative corporation organized under Chapter
10 161, Utilities Code;

11 (7) a motor vehicle operated exclusively by a
12 nonprofit telephone cooperative corporation organized under
13 Chapter 162, Utilities Code;

14 (8) a motor vehicle that is not registered for use on
15 the public highways of this state and that is used exclusively
16 off-highway;

17 (9) a motor vehicle operated exclusively by a
18 nonprofit entity that is organized for the sole purpose of and
19 engages exclusively in providing emergency medical services and
20 that uses the fuel exclusively to provide emergency medical
21 services, including rescue and ambulance services;

22 (9-a) a motor vehicle operated exclusively by a rural
23 transit district created under Chapter 458, Transportation Code,
24 that uses the fuel exclusively to provide public transportation;

25 (10) off-highway equipment, a stationary engine, a
26 motorboat, an aircraft, equipment used solely for servicing
27 aircraft and used exclusively off-highway, a locomotive, or any

1 device other than a motor vehicle operated or intended to be
2 operated on the public highways; or

3 (11) except as provided by Subsection (b), a motor
4 vehicle:

5 (A) used to provide the services of a transit
6 company, including a metropolitan rapid transit authority under
7 Chapter 451, Transportation Code, or a regional transportation
8 authority under Chapter 452, Transportation Code; and

9 (B) operated by a person who on January 1, 2015,
10 paid tax on compressed natural gas or liquefied natural gas as
11 provided by Section 162.312, as that section existed on that date.

12 SECTION 10. Subchapter D-1, Chapter 162, Tax Code, is
13 amended by adding Section 162.3685 to read as follows:

14 Sec. 162.3685. REFUND FOR CERTAIN RURAL TRANSIT DISTRICTS.

15 (a) A rural transit district created under Chapter 458,
16 Transportation Code, is entitled to a refund in the amount provided
17 by this section of taxes paid under this subchapter for compressed
18 natural gas or liquefied natural gas delivered into the fuel supply
19 tank of a motor vehicle used to provide public transportation and
20 may file a refund claim with the comptroller for that amount.

21 (b) The refund claim under Subsection (a) must contain
22 information regarding:

- 23 (1) vehicle mileage;
24 (2) hours of service provided; and
25 (3) fuel consumed.

26 (c) A rural transit district that requests a refund under
27 this section shall maintain all supporting documentation relating

1 to the refund until the sixth anniversary of the date of the
2 request.

3 (d) The amount of the refund under Subsection (a) is equal
4 to the amount of tax paid under this subchapter for compressed
5 natural gas or liquefied natural gas that qualifies for the refund
6 and is delivered into the fuel supply tank of a motor vehicle.

7 (e) Notwithstanding Subsection (d), the amount of the
8 refund under Subsection (a) is equal to:

9 (1) 50 percent of the amount of tax paid under this
10 subchapter for compressed natural gas or liquefied natural gas that
11 qualifies for the refund and is delivered into the fuel supply tank
12 of a motor vehicle on or after January 1, 2022, and before January
13 1, 2023; and

14 (2) 75 percent of the amount of tax paid under this
15 subchapter for compressed natural gas or liquefied natural gas that
16 qualifies for the refund and is delivered into the fuel supply tank
17 of a motor vehicle on or after January 1, 2023, and before January
18 1, 2024.

19 (f) Subsection (e) and this subsection expire September 1,
20 2024.

21 SECTION 11. A tax imposed by Chapter 162, Tax Code, does not
22 apply to gasoline, diesel fuel, compressed natural gas, or
23 liquefied natural gas to the extent a rural transit district is
24 entitled to a refund of the tax under Section 162.1276(e)(1) or (2),
25 Section 162.2276(e)(1) or (2), or Section 162.3685(e)(1) or (2),
26 Tax Code, as added by this Act. However, the tax must be paid as
27 otherwise required by law and a rural transit district may apply to

1 the comptroller for the refund provided by that added law.

2 SECTION 12. A change in law made by this Act does not affect
3 tax liability accruing before the effective date of the change in
4 law. That liability continues in effect as if this Act had not been
5 enacted, and the former law is continued in effect for the
6 collection of taxes due and for civil and criminal enforcement of
7 the liability for those taxes.

8 SECTION 13. Except as otherwise provided by this Act, this
9 Act takes effect January 1, 2022.