

CHAPTER 905

H.B. No. 1463

An Act relating to the application of motor fuel taxes on motor fuel brought into the state in or delivered into certain fuel supply tanks of motor vehicles.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 153.104, Tax Code, is amended to read as follows:

Sec. 153.104. **EXCEPTIONS.** The tax imposed by this subchapter does not apply to gasoline:

(1) brought into this state in the fuel tank of a vehicle with a capacity of less than 60 [42] gallons when the tank is connected to the carburetor or fuel injection system of the power plant providing the propulsion of the vehicle;

(2) delivered by a permitted distributor to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or a barge for export from this state if the gasoline is moved forthwith outside the state;

(3) sold by a permitted distributor to another permitted distributor;

(4) sold to the federal government for its exclusive use;

(5) delivered by a permitted distributor into a storage facility of a permitted aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(6) sold by one aviation fuel dealer to another aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment.

SECTION 2. Section 153.108, Tax Code, is amended to read as follows:

Sec. 153.108. **INTERSTATE TRUCKER'S PERMIT.** An interstate trucker's permit authorizes a person who imports gasoline into Texas in the fuel supply tanks of motor vehicles having an aggregate capacity of 60 [42] or more gallons to report and pay the tax due on the gasoline imported into this state or to claim a credit or refund of the tax paid on gasoline purchased in Texas and used in other states.

SECTION 3. Section 153.109(a), Tax Code, is amended to read as follows:

(a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle into this state for commercial purposes with fuel supply tanks having an aggregate capacity of 60 [42] or more gallons may obtain a trip permit. The trip permit must be obtained prior to entry into the state or at the time of entry.

SECTION 4. Section 153.206(d), Tax Code, is amended to read as follows:

(d) An interstate trucker who imports diesel fuel into Texas in the fuel supply tanks of a motor vehicle having an aggregate capacity of 60 [42] or more gallons for each vehicle shall report and pay the tax at the rate imposed on diesel fuel that is imported and used on Texas highways. The number of gallons of diesel fuel used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of diesel fuel delivered into the fuel supply tanks of motor vehicles in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of diesel fuel used in Texas. An interstate trucker shall remit all taxes due by him based on the diesel fuel tax rate for each gallon on diesel fuel consumed within the state at the time of the filing of the quarterly report.

SECTION 5. Section 153.211, Tax Code, is amended to read as follows:

Sec. 153.211. **INTERSTATE TRUCKER'S PERMIT.** An interstate trucker's permit authorizes a person who imports diesel fuel into the state in the fuel supply tanks of motor vehicles having an aggregate capacity of 60 [42] or more gallons for each vehicle to report and pay the tax due on diesel fuel imported into this state or to claim a credit or a refund of the tax paid on diesel fuel purchased in this state and then used in other states. An interstate trucker may not make tax-free purchases of diesel fuel.

SECTION 6. Section 153.212(a), Tax Code, is amended to read as follows:

(a) In lieu of an annual interstate trucker's permit, a person bringing motor vehicles into this state for commercial purposes with fuel supply tanks having an aggregate capacity of 60 [42] or more gallons for each vehicle may obtain a trip permit.

SECTION 7. Section 153.220(a), Tax Code, is amended to read as follows:

(a) A delivery of diesel fuel into the fuel supply tanks of a motor vehicle having an aggregate capacity of 60 [42] or more gallons shall be evidenced by an invoice issued in duplicate by a dealer or an invoice or a distribution log issued by a bonded user or other user.

SECTION 8. This Act takes effect September 1, 1985.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 9, 1985, by a non-record vote; passed by the Senate on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 15, 1985

Effective: September 1, 1985