

CHAPTER 386

H.B. No. 1702

AN ACT

relating to an exemption from motor fuel taxes and vehicle registration fees for certain providers of school transportation services.

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 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;

(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; [or]

(7) sold to a public school district in this state for its exclusive use; or

(8) sold to a commercial transportation company that provides public school transportation services to a school district under Section 21.181, Education Code, and used by the company exclusively to provide those services.

SECTION 2. Section 153.119(a), Tax Code, is amended to read as follows:

(a) A person who exports, sells to the federal government, to [or] a public school district in this state, or to a commercial transportation company for exclusive use in providing public school transportation services to a school district under Section 21.181, Education Code, without having added the amount of the tax imposed by this chapter to his selling price, loses by fire or other accident, or uses gasoline for the purpose of operating or propelling a motorboat, tractor used for agricultural purposes, or stationary engine, or for another purpose except in a vehicle operated or intended to be operated on the public highways of this state, and who has paid the tax imposed on gasoline by this chapter either directly or indirectly is, when the person has complied with the invoice and filing provisions of this section and the rules of the comptroller, entitled to reimbursement of the tax paid by him, less a filing fee and any amount allowed distributors, wholesalers or jobbers, dealers, or others under Section 153.105(c) of this code. A public school district that has paid the tax imposed under this chapter on gasoline used by the district or a commercial transportation company that has paid the tax imposed under this chapter on gasoline used by the company exclusively to provide public school transportation services to a school district under Section 21.181, Education Code, is entitled to reimbursement of the amount of the tax paid in the same manner and subject to the same procedures as other exempted users.

SECTION 3. Section 153.203, Tax Code, is amended to read as follows:

Sec. 153.203. EXCEPTIONS. The tax imposed by this subchapter does not apply to:

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

(2) diesel fuel sold by a permitted supplier to the federal government for its exclusive use;

(3) diesel fuel sold or delivered by a permitted supplier to another permitted supplier or bonded user, to the bulk storage facility of a diesel tax prepaid user, or to a purchaser who provides a signed statement as provided by Section 153.205 of this code, but not including a delivery of tax-free diesel fuel into the fuel supply tanks of a motor vehicle, except for a motor vehicle owned by the federal government;

(4) diesel fuel sold or delivered by a permitted supplier into the storage facility of a permitted aviation fuel dealer, from which diesel fuel will be sold or delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(5) diesel fuel sold or delivered by a permitted supplier into fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(6) kerosene when delivered by a permitted supplier into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;

(7) diesel fuel sold or delivered by one aviation fuel dealer to another aviation fuel dealer who will deliver the diesel fuel exclusively into the supply tanks of aircraft or aircraft servicing equipment; ~~or~~

(8) diesel fuel sold by a permitted supplier to a public school district in this state for its exclusive use; or

(9) *diesel fuel sold by a permitted supplier to a commercial transportation company that provides public school transportation services to a school district under Section 21.181, Education Code, and used by the company exclusively to provide those services.*

SECTION 4. Section 153.222(a), Tax Code, is amended to read as follows:

(a) A dealer who has paid tax on diesel fuel that has been used or sold for use by the dealer for any purpose other than propelling a motor vehicle on the public highways of this state or that has been sold to the United States or a public school district in this state for the exclusive use of the purchaser, or to a commercial transportation company for exclusive use in providing public school transportation services to a school district under Section 21.181, Education Code, without adding the amount of the tax to his selling price, and a user who has paid tax on any diesel fuel that has been used by him for a purpose other than propelling a motor vehicle on the public highways, ~~or who~~ is a public school district and has paid the tax on diesel fuel purchased for its exclusive use, or is a commercial transportation company and has paid the tax on diesel fuel used by the company exclusively to provide public school transportation services to a school district under Section 21.181, Education Code, may file a claim for a refund of taxes paid, less the deduction allowed vendors and a filing fee.

SECTION 5. Section 153.3021, Tax Code, is amended to read as follows:

Sec. 153.3021. SCHOOL DISTRICT TRANSPORTATION AND COUNTY EXEMPTION. (a) The tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a public school district or county in this state or to the use of liquefied petroleum gas by a public school district or county in this state.

~~[(b)]~~ A motor vehicle that uses liquefied petroleum gas and that is operated by a public school district or county in this state is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

(b) The tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a commercial transportation company that uses the gas exclusively to provide public school transportation services to a school district under Section 21.181, Education Code, or to the use of liquefied petroleum gas by such a company for that purpose. A motor vehicle that uses liquefied petroleum gas and that is owned by a commercial transportation company and used exclusively to provide public school transportation services to a school district

under Section 21.181, Education Code, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION 6. Section 3(c), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Owners of motor vehicles, trailers and semi-trailers which are the property of and used exclusively in the service of the United States Government, the State of Texas, or any county, city or school district thereof, *or which are the property of a commercial transportation company and are used exclusively to provide public school transportation services to a school district under Section 21.181, Education Code, and its subsequent amendments*, shall apply annually to the Department as provided in Section 3-aa of this Act to register all such vehicles, but shall not be required to pay the registration fees herein prescribed, provided that application is made at the time of registration by a person who has the proper authority to certify that such vehicles are the property of and used exclusively in the service of the United States Government, the State of Texas, or a county, city or school district thereof, *or are the property of a commercial transportation company and are used exclusively to provide public school transportation services to a school district under Section 21.181, Education Code, and its subsequent amendments*, as the case may be. Owners of vehicles designed and used exclusively for fire fighting shall apply to the Department as provided in Section 3-aa of this Act to register all such vehicles, but shall not be required to pay the registration fees herein prescribed, provided that application is made at the time of registration by a person who has the proper authority to certify that such vehicles are used exclusively for fire fighting; and provided further, that such person shall supply the Department with a reasonable description of the vehicle and the fire fighting equipment mounted thereon. A vehicle owned by a volunteer fire department and used exclusively in the conduct of business of the department shall be registered without the payment of an annual registration fee, if the application for registration is accompanied by a statement that the vehicle is owned by, and used exclusively in the conduct of business of, the department and signed by a person with authority to act for the department, and if the application is approved as provided in Section 3-aa of this Act. An owner of a land vehicle used exclusively in county marine law enforcement activities, which may include rescue operations, shall apply to the Department as provided in Section 3-aa of this Act to register the vehicle but is exempt from paying a registration fee. The owner shall include with the application for registration a statement signed by a person with authority to act for a county sheriff's department that states that the vehicle is used exclusively in marine law enforcement activities under the direction of the department. An exempted vehicle may be privately owned and operated by a volunteer if it is used only for marine law enforcement activities.

SECTION 7. (a) This Act takes effect September 1, 1993, and applies only to vehicle registrations and sales of gasoline, diesel fuel, and liquefied petroleum gas made on or after that date.

(b) If a commercial transportation company has purchased gasoline, diesel fuel, or liquefied petroleum gas in bulk quantities before the effective date of this Act, paid the amount of the tax imposed by Chapter 153, Tax Code, and used the gasoline, diesel fuel, or liquefied petroleum gas to provide school transportation services to a school district after the effective date of this Act, the company may apply for a refund for the amount of the taxes paid only on the fuel so used after the effective date of this Act, subject to the same allowances, deductions, and filing fees applicable to refunds made for sales made after the effective date of this Act.

(c) A refund of the amount of tax paid on liquefied petroleum gas through the purchase of a liquefied gas tax decal shall be calculated according to the method determined by the comptroller of public accounts that fairly and equitably allocates fuel use during the period of validity of the decal between use before the effective date of this Act and after the effective date of this Act.

SECTION 8. 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 April 7, 1993, by a non-record vote; passed by the Senate on May 20, 1993, by a viva-voce vote.

Approved June 2, 1993.

Effective Sept. 1, 1993.