

1-1 By: Burrows (Senate Sponsor - Hinojosa) H.B. No. 3954
 1-2 (In the Senate - Received from the House April 23, 2019;
 1-3 April 24, 2019, read first time and referred to Committee on
 1-4 Finance; May 7, 2019, reported favorably by the following vote:
 1-5 Yeas 14, Nays 0; May 7, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to motor fuel taxes applicable to gasoline and diesel fuel
 1-26 within the bulk transfer system.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 162.001, Tax Code, is amended by
 1-29 amending Subdivisions (11), (12), and (57) and adding Subdivisions
 1-30 (40-b) and (42-a) to read as follows:

1-31 (11) "Bulk transfer" means a transfer of motor fuel
 1-32 from one location to another within the United States by pipeline or
 1-33 marine movement within a bulk transfer/terminal system, including:

1-34 (A) a marine vessel movement of motor fuel owned
 1-35 by a licensed supplier or permissive supplier [~~from a refinery or~~
 1-36 ~~terminal to a terminal~~];

1-37 (B) a pipeline movement of motor fuel from a
 1-38 refinery, motor fuel storage facility, or terminal to a terminal or
 1-39 motor fuel storage facility;

1-40 (C) a book transfer or in-tank transfer of motor
 1-41 fuel within a terminal or motor fuel storage facility between
 1-42 licensed suppliers before completion of removal across the rack;
 1-43 and

1-44 (D) a two-party exchange between licensed
 1-45 suppliers or between licensed suppliers and permissive suppliers.

1-46 (12) "Bulk transfer/terminal system" means the motor
 1-47 fuel distribution system consisting of refineries, pipelines,
 1-48 marine vessels, motor fuel storage facilities, and IRS-approved
 1-49 terminals. Motor fuel is in the bulk transfer/terminal system if
 1-50 the motor fuel is in a refinery, a pipeline, a motor fuel storage
 1-51 facility, a terminal, or a marine vessel transporting motor fuel
 1-52 owned by a licensed supplier or permissive supplier [~~to a refinery~~
 1-53 ~~or terminal~~]. Motor fuel is not in the bulk transfer/terminal
 1-54 system if the motor fuel is in [~~a motor fuel storage facility,~~
 1-55 ~~including~~]:

1-56 (A) a bulk plant that is not part of a refinery or
 1-57 terminal;

1-58 (B) the motor fuel supply tank of an engine or a
 1-59 motor vehicle; or

1-60 (C) [~~a marine vessel transporting motor fuel to a~~
 1-61 ~~motor fuel storage facility that is not in the bulk~~

2-1 ~~transfer/terminal system, or~~
 2-2 [~~D~~] a tank car, railcar, trailer, truck, or
 2-3 other equipment suitable for ground transportation.
 2-4 (40-b) "Marine vessel" includes a marine barge.
 2-5 (42-a) "Motor fuel storage facility" means a storage
 2-6 facility supplied by pipeline or marine vessel that does not have a
 2-7 rack for removal of motor fuel by truck, railcar, or any other means
 2-8 of conveyance that is outside the bulk transfer/terminal system.
 2-9 (57) "Supplier" means a person that:
 2-10 (A) is subject to the general taxing jurisdiction
 2-11 of this state;
 2-12 (B) is registered under Section 4101, Internal
 2-13 Revenue Code, for transactions in motor fuel in the bulk
 2-14 transfer/terminal distribution system, and is:
 2-15 (i) a position holder in motor fuel in a
 2-16 terminal or refinery in this state and may concurrently also be a
 2-17 position holder in motor fuel in another state; [~~or~~]
 2-18 (ii) a person who receives motor fuel in
 2-19 this state under a two-party exchange; or
 2-20 (iii) a person who owns motor fuel in a
 2-21 marine vessel in this state; and
 2-22 (C) may also be a terminal operator, provided
 2-23 that a terminal operator is not considered to also be a "supplier"
 2-24 based solely on the fact that the terminal operator handles motor
 2-25 fuel consigned to it within a terminal.
 2-26 SECTION 2. Section 162.101, Tax Code, is amended by
 2-27 amending Subsection (e-1) and adding Subsection (e-3) to read as
 2-28 follows:
 2-29 (e-1) A tax is imposed on gasoline that is otherwise exempt
 2-30 from taxation under Section 162.104(a)(4) or (7) if the gasoline is
 2-31 sold into a truck or railcar in this state to a person who does not
 2-32 hold a license under Section 162.105(1), (2), (3), (4), or (6). The
 2-33 person who [~~that~~] sold the gasoline is liable for and shall collect
 2-34 and remit the tax.
 2-35 (e-3) A tax is imposed on gasoline that is otherwise exempt
 2-36 from taxation under Section 162.104(a)(7) if the gasoline is sold
 2-37 into a marine vessel in this state to a person who does not hold a
 2-38 license under Section 162.105(1), (2), (3), (4), or (6) unless the
 2-39 exporter of record is licensed under Section 162.105(1), (2), (3),
 2-40 (4), or (6). The person who sold the gasoline is liable for and
 2-41 shall collect and remit the tax.
 2-42 SECTION 3. Section 162.104(a), Tax Code, is amended to read
 2-43 as follows:
 2-44 (a) The tax imposed by this subchapter does not apply to
 2-45 gasoline:
 2-46 (1) sold to the United States for its exclusive use,
 2-47 provided that the exemption does not apply with respect to fuel sold
 2-48 or delivered to a person operating under a contract with the United
 2-49 States;
 2-50 (2) sold to a public school district in this state for
 2-51 the district's exclusive use;
 2-52 (3) sold to a commercial transportation company or a
 2-53 metropolitan rapid transit authority operating under Chapter 451,
 2-54 Transportation Code, that provides public school transportation
 2-55 services to a school district under Section 34.008, Education Code,
 2-56 and that uses the gasoline only to provide those services;
 2-57 (4) exported by either a licensed supplier or a
 2-58 licensed exporter from this state to any other state, provided that
 2-59 the bill of lading indicates the destination state and the supplier
 2-60 collects the destination state tax;
 2-61 (5) moved by truck or railcar between licensed
 2-62 suppliers or licensed permissive suppliers and in which the
 2-63 gasoline removed from the first terminal comes to rest in the second
 2-64 terminal, provided that the removal from the second terminal rack
 2-65 is subject to the tax imposed by this subchapter;
 2-66 (6) delivered or sold into a storage facility of a
 2-67 licensed aviation fuel dealer from which gasoline will be delivered
 2-68 solely into the fuel supply tanks of aircraft or aircraft servicing
 2-69 equipment, or sold from one licensed aviation fuel dealer to

3-1 another licensed aviation fuel dealer who will deliver the aviation
3-2 fuel exclusively into the fuel supply tanks of aircraft or aircraft
3-3 servicing equipment;

3-4 (7) exported to a foreign country if the bill of lading
3-5 or shipping documents indicate [~~indicates~~] the foreign destination
3-6 and the fuel is actually exported to the foreign country;

3-7 (8) sold to a volunteer fire department in this state
3-8 for the department's exclusive use; or

3-9 (9) sold to a nonprofit entity that is organized for
3-10 the sole purpose of and engages exclusively in providing emergency
3-11 medical services and that uses the gasoline exclusively to provide
3-12 emergency medical services, including rescue and ambulance
3-13 services.

3-14 SECTION 4. Section 162.201, Tax Code, is amended by
3-15 amending Subsection (e-1) and adding Subsection (e-3) to read as
3-16 follows:

3-17 (e-1) A tax is imposed on diesel fuel that is otherwise
3-18 exempt from taxation under Section 162.204(a)(4) or (7) if the
3-19 diesel fuel is sold into a truck or railcar in this state to a person
3-20 who does not hold a license under Section 162.205(a)(1), (2), (3),
3-21 (4), or (6). The person who [~~that~~] sold the diesel fuel is liable
3-22 for and shall collect and remit the tax.

3-23 (e-3) A tax is imposed on diesel fuel that is otherwise
3-24 exempt from taxation under Section 162.204(a)(7) if the diesel fuel
3-25 is sold into a marine vessel in this state to a person who does not
3-26 hold a license under Section 162.205(a)(1), (2), (3), (4), or (6),
3-27 unless the exporter of record is licensed under Section
3-28 162.205(a)(1), (2), (3), (4), or (6). The person who sold the diesel
3-29 fuel is liable for and shall collect and remit the tax.

3-30 SECTION 5. Section 162.204(a), Tax Code, is amended to read
3-31 as follows:

3-32 (a) The tax imposed by this subchapter does not apply to:

3-33 (1) diesel fuel sold to the United States for its
3-34 exclusive use, provided that the exemption does not apply to diesel
3-35 fuel sold or delivered to a person operating under a contract with
3-36 the United States;

3-37 (2) diesel fuel sold to a public school district in
3-38 this state for the district's exclusive use;

3-39 (3) diesel fuel sold to a commercial transportation
3-40 company or a metropolitan rapid transit authority operating under
3-41 Chapter 451, Transportation Code, that provides public school
3-42 transportation services to a school district under Section 34.008,
3-43 Education Code, and that uses the diesel fuel only to provide those
3-44 services;

3-45 (4) diesel fuel exported by either a licensed supplier
3-46 or a licensed exporter from this state to any other state, provided
3-47 that the bill of lading indicates the destination state and the
3-48 supplier collects the destination state tax;

3-49 (5) diesel fuel moved by truck or railcar between
3-50 licensed suppliers or licensed permissive suppliers and in which
3-51 the diesel fuel removed from the first terminal comes to rest in the
3-52 second terminal, provided that the removal from the second terminal
3-53 rack is subject to the tax imposed by this subchapter;

3-54 (6) diesel fuel delivered or sold into a storage
3-55 facility of a licensed aviation fuel dealer from which the diesel
3-56 fuel will be delivered solely into the fuel supply tanks of aircraft
3-57 or aircraft servicing equipment, or sold from one licensed aviation
3-58 fuel dealer to another licensed aviation fuel dealer who will
3-59 deliver the diesel fuel exclusively into the fuel supply tanks of
3-60 aircraft or aircraft servicing equipment;

3-61 (7) diesel fuel exported to a foreign country if the
3-62 bill of lading or shipping documents indicate [~~indicates~~] the
3-63 foreign destination and the fuel is actually exported to the
3-64 foreign country;

3-65 (8) dyed diesel fuel sold or delivered by a supplier to
3-66 another supplier and dyed diesel fuel sold or delivered by a
3-67 supplier or distributor into the bulk storage facility of a dyed
3-68 diesel fuel bonded user or to a purchaser who provides a signed
3-69 statement as provided by Section 162.206;

4-1 (9) the volume of water, fuel ethanol, renewable
4-2 diesel, biodiesel, or mixtures thereof that are blended together
4-3 with taxable diesel fuel when the finished product sold or used is
4-4 clearly identified on the retail pump, storage tank, and sales
4-5 invoice as a combination of diesel fuel and water, fuel ethanol,
4-6 renewable diesel, biodiesel, or mixtures thereof;

4-7 (10) dyed diesel fuel sold by a supplier or permissive
4-8 supplier to a distributor, or by a distributor to another
4-9 distributor;

4-10 (11) dyed diesel fuel delivered by a license holder
4-11 into the fuel supply tanks of railway engines, motorboats, or
4-12 refrigeration units or other stationary equipment powered by a
4-13 separate motor from a separate fuel supply tank;

4-14 (12) dyed kerosene when delivered by a supplier,
4-15 distributor, or importer into a storage facility at a retail
4-16 business from which all deliveries are exclusively for heating,
4-17 cooking, lighting, or similar nonhighway use;

4-18 (13) diesel fuel used by a person, other than a
4-19 political subdivision, who owns, controls, operates, or manages a
4-20 commercial motor vehicle as defined by Section 548.001,
4-21 Transportation Code, if the fuel:

4-22 (A) is delivered exclusively into the fuel supply
4-23 tank of the commercial motor vehicle; and

4-24 (B) is used exclusively to transport passengers
4-25 for compensation or hire between points in this state on a fixed
4-26 route or schedule;

4-27 (14) diesel fuel sold to a volunteer fire department
4-28 in this state for the department's exclusive use; or

4-29 (15) diesel fuel sold to a nonprofit entity that is
4-30 organized for the sole purpose of and engages exclusively in
4-31 providing emergency medical services and that uses the diesel fuel
4-32 exclusively to provide emergency medical services, including
4-33 rescue and ambulance services.

4-34 SECTION 6. The changes in law made by this Act do not affect
4-35 tax liability accruing before the effective date of this Act. That
4-36 liability continues in effect as if this Act had not been enacted,
4-37 and the former law is continued in effect for the collection of
4-38 taxes due and for civil and criminal enforcement of the liability
4-39 for those taxes.

4-40 SECTION 7. This Act takes effect September 1, 2019.

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