

BILL ANALYSIS

Senate Research Center
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H.B. 3954
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised regarding the process for documenting certain bulk movements of gasoline and diesel fuel for purposes of motor fuel tax liability, the exemption status of fuel exported to foreign destinations, and the use of certain motor fuel storage facilities. It has been suggested that confusion regarding these matters and how certain activities and entities are defined in law may lead to unnecessary motor fuel tax payments, audit deficiency findings by the comptroller of public accounts of the State of Texas, and time-consuming motor fuel tax refund requests by taxpayers. H.B. 3954 seeks to avoid these outcomes by providing for an exemption for certain gasoline and diesel fuel sold into a marine vessel in Texas and clarifying the meaning of certain related terms.

H.B. 3954 amends current law relating to motor fuel taxes applicable to gasoline and diesel fuel within the bulk transfer system.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

(11) Redefines "bulk transfer" as a transfer of motor fuel from one location to another within the United States, rather than from one location to another, 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, rather than a marine vessel movement of motor fuel 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, rather than a pipeline movement of motor fuel from a refinery or terminal to a terminal;

(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, rather than a book transfer or in-tank transfer of motor fuel within a terminal between licensed suppliers before completion of removal across the rack; and

(D) makes no changes to this paragraph.

(12) Redefines "bulk transfer/terminal system" as the motor fuel distribution system consisting of refineries, pipelines, marine vessels, motor fuel storage facilities, and IRS-approved terminals, rather than the motor fuel distribution system consisting of refineries, pipelines, marine vessels, and IRS-approved terminals. Provides that motor

fuel is in the bulk transfer/terminal system if the motor fuel is in a refinery, a pipeline, a motor fuel storage facility, a terminal, or a marine vessel transporting motor fuel owned by a licensed supplier or permissive supplier, rather than if the motor fuel is in a refinery, a pipeline, a terminal, or a marine vessel transporting motor fuel to a refinery or terminal. Provides that motor fuel is not in the bulk transfer/terminal system if the motor fuel is in, rather than if the motor fuel is in a motor fuel storage facility, including:

(A) makes no changes to this paragraph;

(B) makes a nonsubstantive change to this paragraph; or

(C) deletes existing text relating to a marine vessel transporting motor fuel to a motor fuel storage facility that is not in the bulk transfer/terminal system, creates this paragraph from existing Paragraph (D) and deletes that subsection designation.

(40-b) Defines "marine vessel."

(42-a) Defines "motor fuel storage facility."

(57) Redefines "supplier" as certain persons, including a person who owns motor fuel in a marine vessel in this state and makes nonsubstantive changes to this subdivision.

SECTION 2. Amends Section 162.101, Tax Code, by amending Subsection (e-1) and adding Subsection (e-3), as follows:

(e-1) Provides that a tax is imposed on gasoline that is otherwise exempt from certain taxation if the gasoline is sold into a truck or railcar in this state, rather than sold in this state, to a person who does not hold a certain license. Provides that the person who sold the gasoline is liable for and required to collect and remit the tax, rather than is liable for and required to collect the tax. Makes a nonsubstantive change to this subsection.

(e-3) Provides that a tax is imposed on gasoline that is otherwise exempt from taxation under Section 162.104(a)(7) (relating to providing that certain tax does not apply to gasoline exported by certain entities from this state to any other state, provided that certain conditions are met) if the gasoline is sold into a marine vessel in this state to a person who does not hold a license under Section 162.105(1), (2), (3), (4), or (6), relating to motor fuel licenses, unless the exporter of record is licensed under Section 162.105(1), (2), (3), (4), or (6). Provides that the person who sold the gasoline is liable for and required to collect and remit the tax.

SECTION 3. Amends Section 162.104(a), Tax Code, to provide that the tax imposed by this subchapter (Gasoline Tax) does not apply to certain gasoline, including gasoline exported to a foreign country if the bill of lading or shipping documents indicate, rather than if the bill of lading indicates, the foreign destination and the fuel is actually exported to the foreign country.

SECTION 4. Amends Section 162.201, Tax Code, by amending Subsection (e-1) and adding Subsection (e-3), as follows:

(e-1) Makes conforming changes to this subsection.

(e-3) Provides that a tax is imposed on diesel fuel that is otherwise exempt from taxation under Section 162.204(a)(7) (relating to providing that certain tax does not apply to diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country) if the diesel fuel is sold into a marine vessel in this state to a person who does not hold a license under Section 162.205(1), (2), (3), (4), or (6), relating to diesel fuel licenses, unless the exporter of record is licensed under Section 162.205(1), (2), (3), (4), or (6). Provides that the person who sold the diesel fuel is liable for and required to collect and remit the tax.

SECTION 5. Amends Section 162.204(a), Tax Code, to make a conforming change to this subsection.

SECTION 6. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 7. Effective date: September 1, 2019.