

## **BILL ANALYSIS**

C.S.H.B. 3468  
By: Parker  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas' ambulance services, interested parties note, are first responders in the state's emergency response system and are a vital component of the health care delivery system. Without efficient ambulance services, the parties continue, patients will suffer and overall health care costs will rise. According to the parties, changes in Medicare reimbursement and increasing operating costs have placed demands on ambulance service providers and have forced many communities in Texas to provide some form of tax subsidy to their 9-1-1 ambulance providers. C.S.H.B. 3468 seeks to provide needed relief to community ambulance services with a minimal impact on the state budget by means of an exemption, credit, and refund relating to the payment of motor fuel taxes by certain entities that operate ambulances.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3468 amends the Tax Code to exempt from the gasoline tax and the diesel fuel tax gasoline and diesel fuel sold to an entity that uses the fuel exclusively for an ambulance operated by a person licensed under the Emergency Health Care Act and that has an agreement with a local governmental entity to provide emergency ambulance services. The bill authorizes the holder of a license relating to motor fuel taxes to take a credit on a tax return for the period in which a sale of gasoline or diesel fuel occurred if the license holder paid tax on the purchase and subsequently resells the fuel without collecting the tax to such an entity.

C.S.H.B. 3468 entitles an entity to a refund of gasoline and diesel fuel taxes paid for fuel used to operate an ambulance and authorizes the entity to file a refund claim with the comptroller of public accounts for the amount of those taxes if the entity uses the fuel exclusively for an ambulance operated by a person licensed under the Emergency Health Care Act and has an agreement with a local governmental entity to provide emergency ambulance services. The bill requires the refund claim to contain information regarding vehicle mileage, hours of service provided, and fuel consumed. The bill requires an entity that requests a refund to maintain all supporting documentation relating to the refund until the sixth anniversary of the request date.

### **EFFECTIVE DATE**

September 1, 2015.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3468 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Section 162.104(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

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

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

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 162.104(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

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

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

fuel supply tanks of aircraft or aircraft servicing equipment;

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country; [ø]

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

(9) sold to an entity that:

(A) uses the gasoline exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 2. Section 162.125(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; [ø]

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

(6) an entity that:

(A) uses the gasoline exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

fuel supply tanks of aircraft or aircraft servicing equipment;

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country; [ø]

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

(9) sold to an entity that:

(A) uses the gasoline exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 2. Section 162.125(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; [ø]

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

(6) an entity that:

(A) uses the gasoline exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 3. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1276 to read as follows:

Sec. 162.1276. REFUND FOR CERTAIN AMBULANCE OPERATORS. (a) An entity is entitled to a refund of taxes paid under this subchapter for gasoline used to operate an ambulance and may file a refund claim with the comptroller for the amount of those taxes if the entity:

(1) uses the fuel exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(2) has an agreement with a local governmental entity to provide emergency ambulance services.

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

(1) vehicle mileage;

(2) hours of service provided; and

(3) fuel consumed.

(c) An entity that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 4. Section 162.204(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates

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(1) uses the gasoline exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(2) has an agreement with a local governmental entity to provide emergency ambulance services.

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

(1) vehicle mileage;

(2) hours of service provided; and

(3) fuel consumed.

(c) An entity that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 4. Section 162.204(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates

the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

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

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

(7) 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;

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

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

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

(11) dyed diesel fuel delivered by a license holder into the 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;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for

the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

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

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

(7) 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;

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

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

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

(11) dyed diesel fuel delivered by a license holder into the 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;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for

heating, cooking, lighting, or similar nonhighway use;

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

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

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

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

(15) diesel fuel sold to an entity that:

(A) uses the fuel exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 5. Section 162.227(a), Tax Code, is amended to read as follows:

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

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

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

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

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

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

(6) an entity that:

heating, cooking, lighting, or similar nonhighway use;

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

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

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

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

(15) diesel fuel sold to an entity that:

(A) uses the diesel fuel exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 5. Section 162.227(a), Tax Code, is amended to read as follows:

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

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

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

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

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

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

(6) an entity that:

(A) uses the fuel exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 6. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2276 to read as follows:

Sec. 162.2276. REFUND FOR CERTAIN AMBULANCE OPERATORS. (a) An entity is entitled to a refund of taxes paid under this subchapter for diesel fuel used to operate an ambulance and may file a refund claim with the comptroller for the amount of those taxes if the entity:

(A) uses the fuel exclusively for an ambulance operated by a person who has been issued a license by the Department of State Health Services; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

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

(1) vehicle mileage;

(2) hours of service provided; and

(3) fuel consumed.

(c) An entity that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 7. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. 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 8. This Act takes effect September 1, 2015.

(A) uses the diesel fuel exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(B) has an agreement with a local governmental entity to provide emergency ambulance services.

SECTION 6. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2276 to read as follows:

Sec. 162.2276. REFUND FOR CERTAIN AMBULANCE OPERATORS. (a) An entity is entitled to a refund of taxes paid under this subchapter for diesel fuel used to operate an ambulance and may file a refund claim with the comptroller for the amount of those taxes if the entity:

(1) uses the diesel fuel exclusively for an ambulance operated by a person licensed under Chapter 773, Health and Safety Code; and

(2) has an agreement with a local governmental entity to provide emergency ambulance services.

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

(1) vehicle mileage;

(2) hours of service provided; and

(3) fuel consumed.

(c) An entity that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.