

BILL ANALYSIS

Senate Research Center

S.B. 1933
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1933 is a clarification in the motor fuels tax law to ensure consistency and the tax-free status of bulk movements of gasoline and diesel as they have been since the current structure was passed into law in 2003.

This is an agreed-to bill worked out by the industry and the comptroller of the public accounts of the State of Texas (comptroller). There is no known opposition to the bill.

First, the bill affirms that transporting gasoline and diesel by barge from one storage facility to another is not taxable, provided that both parties are licensed with the comptroller. Under state law, fuel becomes taxable at the "rack," which is where the tanker trucks fill up their cargo bays to take the fuel away to gas stations. Movements of fuel through pipelines and with barges before it gets to the rack are within the "bulk transfer system" and not taxable.

The comptroller found a grey area in the law that needs clarification. Current law does not clearly provide that bulk barge movements to large storage facilities are part of the bulk transfer system unless there is also a truck or rail loading rack there. S.B. 1933 preserves the way the law has generally been administered since it was passed in 2003, and will keep Texas' operations in line with the way the other states and the federal government operate.

Second, the bill ensures that exports of fuel to foreign countries remain tax-free. Again, this is not a change from longstanding practice, but clarifies that if the seller is licensed and is the exporter of record for US Customs purposes, the foreign customer is not required to be licensed. It also clarifies what shipping documents are required to substantiate the foreign export.

Third, the bill provides a definition for "motor fuels storage facilities." This clarifies that such facilities are part of the bulk transfer system so that fuel does not become taxable as a result of simply being delivered to and stored in such facilities.

As proposed, S.B. 1933 amends current law relating to movements of 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 Subsections (11), (12), (57), and by adding Subsections (42-a) and (63), as follows:

(11) Defines "bulk transfer" to mean a transfer of motor fuel from one location to another within the United States 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, a motor fuel storage facility, or terminal to a terminal or a motor fuel storage facility;

(C) makes a conforming change; and

(D) makes no changes to this paragraph.

(12) Defines "bulk transfer/terminal system" to mean the motor fuel distribution system consisting of refineries, pipelines, marine vessels, motor fuel storage facilities, 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 a permissive supplier, rather than in a refinery, a pipeline, a terminal, or a marine vessel transporting motor fuel to a refinery or terminal. Deletes existing text providing that motor fuel is not in the bulk transfer/terminal system if the motor fuel is in a motor storage facility, including certain locations including a marine vessel transporting fuel to a motor fuel storage facility that is not in the bulk transfer/terminal system. Makes nonsubstantive changes.

(42-a) Defines "motor fuel storage facility" to mean a storage facility supplied by pipeline or marine vessel that does not have a rack for removal of motor fuel by truck or railcar or by any other means of conveyance that is outside the bulk transfer/terminal system.

(57) Adds a person who is registered under Section 4101, Internal Revenue Code, for transaction in motor fuel in the bulk transfer/terminal distribution system and is a person who owns motor fuel in a marine vessel in this state to the list of persons included in the definition of "supplier."

(63) Provides that a marine vessel includes a marine barge.

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

(e-1) Creates Subdivision (1) from existing text and provides that a tax is imposed on gasoline, rather than on gasoline that is otherwise exempt from taxation, if:

(1) the gasoline is otherwise exempt from taxation under Section 162.104(a)(4) (relating to an exemption for certain exported gasoline) or (7) (relating to foreign gasoline exports) and the gasoline is sold into a truck or a railcar in this state to a person who does not hold a license under Section 162.105(1), (2), (3), (4), or (6) (relating to certain persons required to be licensed). Provides that the person who sold the gasoline is liable for and is required to collect and remit, rather than to collect, the tax; or

(2) the gasoline is otherwise exempt from taxation under Section 162.104(a)(7) and 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), 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 is required to collect and remit the tax.

SECTION 3. Amends 162.104, Tax Code, by amending (a)(7), as follows:

(7) exported to a foreign country if the bill of lading or shipping documents indicate, rather than 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 (e-1), as follows:

(e-1) Creates Subdivision (1) from existing text and provides that a tax is imposed on diesel fuel, rather than on diesel fuel that is otherwise exempt from taxation under Section 162.204(a)(4) or (7), if:

(1) the diesel fuel is otherwise exempt from taxation under Section 162.204(a)(4) (relating to an exemption for certain exported diesel fuel) or (7) (relating to foreign diesel fuel exports) and the diesel fuel is sold into a truck or a railcar in this state to a person who does not hold a license under Section 162.105(1), (2), (3), (4), or (6) (relating to certain persons required to be licensed). Provides that the person who sold the diesel fuel is liable for and is required to collect and remit, rather than to collect, the tax; or

(2) the diesel fuel is otherwise exempt from taxation under Section 162.204(a)(7) and the diesel fuel 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), unless the exporter of record is licensed under Section 162.105(1), (2), (3), (4), or (6). Provides that the person who sold the diesel fuel is liable for and is required to collect and remit the tax.

SECTION 5. Amends Section 162.204, Tax Code, by amending (a)(7) to make conforming changes.

SECTION 6. Effective date: September 1, 2019.