

AN ACT

1
2 relating to an exemption from the sales and use tax for certain
3 aircraft, including machinery and equipment used in an agricultural
4 aircraft operation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subsection (a), Section 151.316, Tax Code, is
7 amended to read as follows:

8 (a) The following items are exempted from the taxes imposed
9 by this chapter:

- 10 (1) horses, mules, and work animals;
- 11 (2) animal life the products of which ordinarily
12 constitute food for human consumption;
- 13 (3) feed for farm and ranch animals;
- 14 (4) feed for animals that are held for sale in the
15 regular course of business;
- 16 (5) seeds and annual plants the products of which:
- 17 (A) ordinarily constitute food for human
18 consumption;
- 19 (B) are to be sold in the regular course of
20 business; or
- 21 (C) are used to produce feed for animals exempted
22 by this section;
- 23 (6) fertilizers, fungicides, insecticides,
24 herbicides, defoliant, and desiccants exclusively used or

1 employed on a farm or ranch in the production of:

2 (A) food for human consumption;

3 (B) feed for animal life; or

4 (C) other agricultural products to be sold in the
5 regular course of business;

6 (7) machinery and equipment exclusively used or
7 employed on a farm or ranch in the building or maintaining of roads
8 or water facilities or in the production of:

9 (A) food for human consumption;

10 (B) grass;

11 (C) feed for animal life; or

12 (D) other agricultural products to be sold in the
13 regular course of business;

14 (8) machinery and equipment exclusively used in, and
15 pollution control equipment required as a result of, the
16 processing, packing, or marketing of agricultural products by an
17 original producer at a location operated by the original producer
18 for processing, packing, or marketing the producer's own products
19 if:

20 (A) 50 percent or more of the products processed,
21 packed, or marketed at or from the location are produced by the
22 original producer and not purchased or acquired from others; and

23 (B) the producer does not process, pack, or
24 market for consideration any agricultural products that belong to
25 other persons in an amount greater than five percent of the total
26 agricultural products processed, packed, or marketed by the
27 producer; [~~and~~]

cc
jdu

S.B. No. 958

1 (9) ice exclusively used by commercial fishing boats
2 in the storing of aquatic species including but not limited to
3 shrimp, other crustaceans, finfish, mollusks, and other similar
4 creatures; and

5 (10) machinery and equipment exclusively used in an
6 agricultural aircraft operation, as defined by 14 C.F.R. Section
7 137.3.

8 SECTION 2. Section 151.328, Tax Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (h) to read
10 as follows:

11 (a) Aircraft are exempted from the taxes imposed by this
12 chapter if:

13 (1) sold to a person using the aircraft as a
14 certificated or licensed carrier of persons or property;

15 (2) sold to a person who:
16 (A) has a sales tax permit issued under this
17 chapter; and

18 (B) uses the aircraft for the purpose of
19 providing flight instruction that is:

20 (i) recognized by the Federal Aviation
21 Administration;

22 (ii) under the direct or general
23 supervision of a flight instructor certified by the Federal
24 Aviation Administration; and

25 (iii) designed to lead to a pilot
26 certificate or rating issued by the Federal Aviation Administration
27 or otherwise required by a rule or regulation of the Federal

1 Aviation Administration;

2 (3) sold to a foreign government; [~~or~~]

3 (4) sold in this state to a person for use and
4 registration in another state or nation before any use in this state
5 other than flight training in the aircraft and the transportation
6 of the aircraft out of this state; or

7 (5) sold in this state to a person for use exclusively
8 in connection with an agricultural use, as defined by Section
9 23.51, and used for:

10 (A) predator control;

11 (B) wildlife or livestock capture;

12 (C) wildlife or livestock surveys;

13 (D) census counts of wildlife or livestock;

14 (E) animal or plant health inspection services;

15 or

16 (F) crop dusting, pollination, or seeding.

17 (b) Repair, remodeling, and maintenance services to
18 aircraft, including an engine or other component part of aircraft,
19 operated by a person described by Subsection (a)(1), [~~or~~] (a)(2),
20 or (a)(5) are exempted from the taxes imposed by this chapter.

21 (h) For purposes of the exemption under Subsection (a)(5),
22 an aircraft is considered to be for use exclusively in connection
23 with an agricultural use if 95 percent of the use of the aircraft is
24 for a purpose described by Subsections (a)(5)(A)-(F). Travel of
25 less than 30 miles each way to a location to perform a service
26 described by Subsections (a)(5)(A)-(F) does not disqualify an
27 aircraft from the exemption under Subsection (a)(5). A person who

1 claims an exemption under Subsection (a)(5) must maintain and make
2 available to the comptroller flight records for all uses of the
3 aircraft.

4 SECTION 3. The changes in law made by this Act to Section
5 151.328, Tax Code, are a clarification of existing law and do not
6 imply that the former law may be construed as inconsistent with the
7 law as amended by this Act.

8 SECTION 4. The change in law made by this Act does not
9 affect tax liability accruing before the effective date of this
10 Act. That liability continues in effect as if this Act had not been
11 enacted, and the former law is continued in effect for the
12 collection of taxes due and for civil and criminal enforcement of
13 the liability for those taxes.

14 SECTION 5. This Act takes effect September 1, 2009.

David Newkirk
President of the Senate

Jim Strawn
Speaker of the House

I hereby certify that S.B. No. 958 passed the Senate on May 7, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2009, by the following vote: Yeas 31, Nays 0.

Patsy Law
Secretary of the Senate

I hereby certify that S.B. No. 958 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

19 JUN 09
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 19 2009

Colby Hunter III