

7031

2007-2008 Regular Sessions

I N A S S E M B L Y

March 26, 2007

Introduced by M. of A. CUSICK -- read once and referred to the
Committee
on Ways and Means

AN ACT to amend the tax law, in relation to providing an exemption
from
the payments of the petroleum business tax on the operation of
commer-
cial tugboats, barges and other commercial towboats

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND
ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and declarations. The
legislature
2 hereby finds that commercial tugboat, barge and other commercial
towboat
3 operators are subject to the petroleum business tax when their
vessels
4 are used in commercial tugboat, barge and other commercial towboat
oper-
5 ations. The legislature further finds that such commercial
tugboat,
6 barge and other commercial towboat operators endure an
administrative
7 and financial burden as a result of such law that is not warranted
by
8 the minimal amounts to be collected from the commercial tugboat,
barge
9 and other commercial towboat operators under such law, as determined
by
10 the state of New York.
11 The legislature, therefore, declares that it is in the best
interest
12 of the commercial tugboat, barge and other commercial towboat
industry
13 of the state of New York to exempt the commercial tugboat, barge
and
14 other commercial towboat industry from this tax.
15 S 2. Paragraph 2 of subdivision (b) of section 301-a of the tax
law,
16 as added by section 154 of part A of chapter 389 of the laws of 1997,
is

17 amended to read as follows:
18 (2) Motor fuel brought into this state in the fuel tank
connecting
19 with the engine of a vessel propelled by the use of such motor
fuel
20 shall be deemed to constitute a taxable use of motor fuel for
the
21 purposes of this subdivision to the extent that the fuel is consumed
in
22 the operation of the vessel in this state. Provided, however, that
this
23 paragraph shall not apply to (i) a recreational motor boat or
(ii)
24 subsequent to August thirty-first, nineteen hundred ninety-four,
a

EXPLANATION--Matter in ITALICS (underscored) is new; matter in
brackets

{ } is old law to be omitted.

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1 commercial fishing vessel (as defined in subdivision (j) of
section
2 three hundred of this article) if the motor fuel imported and
consumed
3 in this state is used to operate such vessel while it is engaged in
the
4 harvesting of fish for sale OR (III) SUBSEQUENT TO AUGUST THIRTY-
FIRST,
5 TWO THOUSAND SEVEN, A COMMERCIAL TUGBOAT, BARGE OR OTHER
COMMERCIAL
6 TOWBOAT OPERATOR IF THE MOTOR FUEL IMPORTED AND CONSUMED IN THIS
STATE
7 IS USED TO OPERATE VESSELS OF SUCH OPERATORS WHILE SUCH OPERATOR
IS
8 ENGAGED IN COMMERCIAL TUGBOAT, BARGE OR OTHER COMMERCIAL TOWBOAT
OPER-
9 ATIONS IN THE STATE. Provided, further, that tax liability for gallo-
gallo-
10 nage that a vessel consumes shall be the tax liability with respect
to
11 the positive difference between the gallonage consumed in this
state
12 during the reporting period and the gallonage purchased in this
state
13 (upon which the tax imposed by this section has been paid) during
such
14 period. A credit or refund shall be available for any excess of
tax
15 liability for gallonage purchased in this state during the period
over
16 tax liability on gallonage so consumed in this state during such
period,
17 which excess shall be presumed to have been used outside this state.

18 S 3. Subparagraph (B) of paragraph 1 of subdivision (c) of
section
19 301-a of the tax law, as added by section 154 of part A of chapter
389
20 of the laws of 1997, is amended to read as follows:
21 (B) Diesel motor fuel brought into this state in the fuel
tank
22 connecting with the engine of a vessel propelled by the use of
such
23 diesel motor fuel shall be deemed to constitute a taxable use of
diesel
24 motor fuel for the purpose of this paragraph to the extent of the
fuel
25 that is consumed in the operation of the vessel in this state.
Provided,
26 however, this paragraph shall not apply to (i) a recreational motor
boat
27 or (ii) subsequent to August thirty-first, nineteen hundred ninety-
four,
28 a commercial fishing vessel (as defined in subdivision (j) of
section
29 three hundred of this article) if the diesel motor fuel imported
into
30 and consumed in this state is used to operate such commercial
fishing
31 vessel while it is engaged in the harvesting of fish for sale OR
(III)
32 SUBSEQUENT TO AUGUST THIRTY-FIRST, TWO THOUSAND SEVEN, A
COMMERCIAL
33 TUGBOAT, BARGE OR OTHER COMMERCIAL TOWBOAT OPERATOR IF THE DIESEL
MOTOR
34 FUEL IMPORTED AND CONSUMED IN THIS STATE IS USED TO OPERATE VESSELS
OF
35 SUCH OPERATOR WHILE SUCH OPERATOR IS ENGAGED IN COMMERCIAL
TUGBOAT,
36 BARGE OR OTHER COMMERCIAL TOWBOAT OPERATIONS IN THIS STATE.
Provided,
37 further, that tax liability for gallonage that a vessel consumes in
this
38 state shall be the tax liability with respect to the positive
difference
39 between the gallonage consumed in this state during the reporting
period
40 and the gallonage purchased in this state (upon which the tax imposed
by
41 this section has been paid) during such period. A credit or refund
shall
42 be available for any excess of tax liability for gallonage purchased
in
43 this state during the period over tax liability on gallonage so
consumed
44 in this state during such period, which excess shall be presumed to
have
45 been used outside this state.
46 S 4. This act shall take effect August 31, 2007.