

# STATE OF NEW YORK

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7875

## IN SENATE

January 18, 2022

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 commercial tugboats, barges and other commercial towboats

The People of the State of New York, represented in Senate and Assembly, 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 unexpected financial burden as a result of such law that is not  
8 warranted by the minimal amounts to be collected from the commercial  
9 tugboat, barge and other commercial towboat operators under such law, as  
10 determined by 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 § 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  
25 commercial fishing vessel (as defined in subdivision (j) of section  
26 three hundred of this article) if the motor fuel imported and consumed

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 in this state is used to operate such vessel while it is engaged in the  
2 harvesting of fish for sale or (iii) subsequent to August thirty-first,  
3 two thousand twenty-two, a commercial tugboat, barge or other commercial  
4 towboat operator if the motor fuel imported and consumed in this state  
5 is used to operate vessels of such operators while such operator is  
6 engaged in commercial tugboat, barge or other commercial towboat oper-  
7 ations in the state. Provided, further, that tax liability for gallonege  
8 that a vessel consumes shall be the tax liability with respect to the  
9 positive difference between the gallonege consumed in this state during  
10 the reporting period and the gallonege purchased in this state (upon  
11 which the tax imposed by this section has been paid) during such period.  
12 A credit or refund shall be available for any excess of tax liability  
13 for gallonege purchased in this state during the period over tax liabil-  
14 ity on gallonege so consumed in this state during such period, which  
15 excess shall be presumed to have been used outside this state.

16 § 3. Subparagraph (B) of paragraph 1 of subdivision (c) of section  
17 301-a of the tax law, as amended by section 19 of part K of chapter 61  
18 of the laws of 2011, is amended to read as follows:

19 (B) Highway diesel motor fuel brought into this state in the fuel tank  
20 connecting with the engine of a vessel propelled by the use of such  
21 diesel motor fuel shall be deemed to constitute a taxable use of diesel  
22 motor fuel for the purpose of this paragraph to the extent of the fuel  
23 that is consumed in the operation of the vessel in this state. Provided,  
24 however, this paragraph shall not apply to (i) a recreational motor boat  
25 or (ii) a commercial fishing vessel (as defined in subdivision (j) of  
26 section three hundred of this article) if the highway diesel motor fuel  
27 imported into and consumed in this state is used to operate such commer-  
28 cial fishing vessel while it is engaged in the harvesting of fish for  
29 sale or (iii) subsequent to August thirty-first, two thousand twenty-  
30 two, a commercial tugboat, barge or other commercial towboat operator if  
31 the highway diesel motor fuel imported and consumed in this state is  
32 used to operate vessels of such operator while such operator is engaged  
33 in commercial tugboat, barge or other commercial towboat operations in  
34 this state. Provided, further, that tax liability for gallonege that a  
35 vessel consumes in this state shall be the tax liability with respect to  
36 the positive difference between the gallonege consumed in this state  
37 during the reporting period and the gallonege purchased in this state  
38 (upon which the tax imposed by this section has been paid) during such  
39 period. A credit or refund shall be available for any excess of tax  
40 liability for gallonege purchased in this state during the period over  
41 tax liability on gallonege so consumed in this state during such period,  
42 which excess shall be presumed to have been used outside this state.

43 § 4. Section 301-b of the tax law is amended by adding a new subdivi-  
44 sion (j) to read as follows:

45 (j) Exemption for commercial tugboat, barge, or other commercial  
46 towboat operators. A use by a commercial tugboat, barge, or other  
47 commercial towboat operator of non-highway diesel motor fuel or residual  
48 petroleum product where such non-highway diesel motor fuel or residual  
49 petroleum product was used and consumed by a commercial tugboat, barge,  
50 or other commercial towboat operator in commercial tugboat, barge, or  
51 other commercial towboat operations in the state.

52 § 5. This act shall take effect August 31, 2022.