STATE OF NEW YORK

7875

IN SENATE

January 18, 2022

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:

Section 1. Legislative findings and declarations. The legislature hereby finds that commercial tugboat, barge and other commercial towboat operators are subject to the petroleum business tax when their vessels are used in commercial tugboat, barge and other commercial towboat operations. The legislature further finds that such commercial tugboat, barge and other commercial towboat operators endure an administrative and unexpected financial burden as a result of such law that is not warranted by the minimal amounts to be collected from the commercial tugboat, barge and other commercial towboat operators under such law, as determined by the state of New York.

The legislature, therefore, declares that it is in the best interest of the commercial tugboat, barge and other commercial towboat industry of the state of New York to exempt the commercial tugboat, barge and other commercial towboat industry from this tax.

§ 2. Paragraph 2 of subdivision (b) of section 301-a of the tax law, as added by section 154 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(2) Motor fuel brought into this state in the fuel tank connecting with the engine of a vessel propelled by the use of such motor fuel shall be deemed to constitute a taxable use of motor fuel for the purposes of this subdivision to the extent that the fuel is consumed in the operation of the vessel in this state. Provided, however, that this paragraph shall not apply to (i) a recreational motor boat or (ii) subsequent to August thirty-first, nineteen hundred ninety-four, a commercial fishing vessel (as defined in subdivision (j) of section 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.

LBD13954-03-1

in this state is used to operate such vessel while it is engaged in the harvesting of fish for sale **or (iii) subsequent to August thirty-first, two thousand twenty-two, a commercial tugboat, barge or other commercial towboat operator if the motor fuel imported and consumed in this state is used to operate vessels of such operators while such operator is engaged in commercial tugboat, barge or other commercial towboat operations in the state**. Provided, further, that tax liability for gallonage that a vessel consumes shall be the tax liability with respect to the positive difference between the gallonage consumed in this state during the reporting period and the gallonage purchased in this state (upon which the tax imposed by this section has been paid) during such period. A credit or refund shall be available for any excess of tax liability for gallonage purchased in this state during the period over tax liability on gallonage so consumed in this state during such period, which excess shall be presumed to have been used outside this state.

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

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

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

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

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