

By: Reynolds

H.B. No. 2226

A BILL TO BE ENTITLED

AN ACT

relating to state and municipal motor fuel taxes; providing civil penalties; creating criminal offenses; requiring occupational licenses; authorizing the imposition of taxes; providing for increases and decreases in the rates of taxes.

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

SECTION 1. Title 3, Tax Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. LOCAL MOTOR FUEL TAXES

CHAPTER 401. MUNICIPAL MOTOR FUEL TAXES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 401.001. MEANINGS OF WORDS AND PHRASES. A word or phrase used in this chapter that is defined by Chapter 162 has the meaning assigned by that chapter.

SUBCHAPTER B. TAX AUTHORIZED; USE OF REVENUE

Sec. 401.051. MUNICIPAL MOTOR FUEL TAXES AUTHORIZED. (a) Notwithstanding Section 162.014, if approved by a majority of the votes cast in a municipality at an election held for that purpose, the municipality shall impose taxes at the rate of one cent per gallon on the sale of gasoline and diesel fuel that is sold in the municipality by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of this state. The rates of the taxes shall be adjusted as provided by

1 Sections 162.1026 and 162.2026 on January 1 of each year after the
2 year in which the taxes are first imposed.

3 (b) The tax authorized by this section is in addition to the
4 tax imposed by Chapter 162 and shall be collected in conjunction
5 with that tax when gasoline or diesel fuel is removed from a
6 terminal using the terminal rack, other than by bulk transfer, to be
7 sold or delivered into a municipality that has imposed the tax
8 authorized by this section.

9 Sec. 401.052. USE OF REVENUE. The revenue collected under
10 this chapter may be used as provided by Section 7-a, Article VIII,
11 Texas Constitution.

12 SUBCHAPTER C. ELECTION

13 Sec. 401.101. ELECTION. (a) The governing body of a
14 municipality may call an election on the issue of imposing motor
15 fuel taxes under this chapter by a vote of a majority of its
16 members.

17 (b) An election called under this section must be held on
18 the uniform election date in May or November.

19 Sec. 401.102. BALLOT WORDING. The ballot shall be printed
20 to provide for voting for or against the proposition: "A motor fuel
21 tax is adopted within the city at a rate of one cent per gallon of
22 gasoline or diesel fuel sold in the city. The rate may be increased
23 or decreased each year to account for inflation or deflation."

24 Sec. 401.103. OFFICIAL RESULTS OF ELECTION. (a) Not later
25 than 10 days after an election in which the voters approve the
26 adoption of a tax authorized by this chapter, the governing body of
27 the municipality shall by resolution or ordinance entered in its

1 minutes of proceedings declare the results of the election. A
2 resolution or ordinance under this section must include statements
3 showing:

- 4 (1) the date of the election;
5 (2) the proposition on which the vote was held;
6 (3) the total number of votes cast for and against the
7 proposition; and
8 (4) the number of votes by which the proposition was
9 approved.

10 (b) If the imposition of a tax under this chapter is
11 approved by the voters, the municipal secretary shall send to the
12 comptroller a certified copy of the resolution or the ordinance
13 along with a map of the municipality clearly showing its
14 boundaries.

15 (c) Not later than the 30th day after the date the
16 comptroller receives a certified copy of an ordinance or resolution
17 showing the adoption of the tax, the comptroller shall notify the
18 municipal secretary of the date provided by Section 401.151(d) or
19 (e) when the comptroller will begin collecting the tax.

20 SUBCHAPTER D. ADMINISTRATION

21 Sec. 401.151. DUTIES OF COMPTROLLER RELATING TO MUNICIPAL
22 MOTOR FUEL TAXES. (a) The comptroller shall administer, collect,
23 and enforce a tax imposed on the sale of gasoline or diesel fuel
24 approved in accordance with the provisions of this chapter. The tax
25 shall be exclusively administered, collected, and enforced in
26 conformance with Chapter 162 governing the taxes imposed on the
27 sale of gasoline and diesel fuel, except that Subchapter F, Chapter

1 162 does not apply. References in Chapter 162 to taxes imposed under
2 that chapter also include taxes imposed under this chapter.

3 (b) The exemptions provided by Sections 162.104 and 162.204
4 apply to taxes imposed under this chapter.

5 (c) The comptroller may adopt reasonable rules and
6 prescribe forms that are consistent with this chapter and Chapter
7 162 for the administration, collection, reporting, and enforcement
8 of the taxes imposed under this chapter.

9 (d) Except as provided by Subsection (e), a tax authorized
10 by this chapter takes effect on the first day of the first calendar
11 quarter following the expiration of the first complete quarter
12 occurring after the date of the election authorizing the tax under
13 Section 401.051.

14 (e) If the comptroller determines that an effective date
15 provided by Subsection (d) will occur before the comptroller can
16 reasonably take the action required to begin collecting the tax,
17 the comptroller may delay the effective date until the first day of
18 the first calendar quarter following the date the comptroller
19 declares that the comptroller is ready to begin collecting the tax.

20 (f) Before making a distribution to a municipality under
21 Section 401.154, the comptroller shall deduct any costs incurred by
22 the comptroller related to the comptroller's preparations to
23 administer, collect, and enforce a tax on the sale of gasoline or
24 diesel fuel approved in accordance with this chapter. Each
25 municipality that approves the imposition of taxes on the sale of
26 gasoline and diesel fuel shall pay a pro rata amount of the
27 comptroller's costs in preparing to administer, collect, and

1 enforce the taxes. If only one municipality elects to approve the
2 imposition of taxes on the sale of gasoline and diesel fuel in its
3 jurisdiction, that municipality bears all of the costs incurred by
4 the comptroller but may recover pro rata shares of this cost from
5 other municipalities that approve the imposition of the taxes.

6 Sec. 401.152. ADOPTION OF RULES RELATING TO MOTOR FUEL
7 TAXES. (a) Before the comptroller may adopt rules under Section
8 401.151, the comptroller must consult with representatives of:

9 (1) the entities that would be required to:

10 (A) collect and remit a motor fuel tax imposed
11 under this chapter; and

12 (B) file reports with the comptroller relating to
13 a motor fuel tax imposed under this chapter; and

14 (2) municipalities in which the voters have approved
15 the imposition of a motor fuel tax under this chapter.

16 (b) Rules adopted under Section 401.151 must provide for the
17 uniform administration and reporting of all motor fuel taxes
18 imposed by a municipality under this chapter. A municipality may
19 not impose requirements on an entity required to collect a motor
20 fuel tax under this chapter that are not specifically authorized by
21 the rules adopted under Section 401.151.

22 (c) Rules adopted under Section 401.151:

23 (1) may require the comptroller to report sufficient
24 information to each municipality imposing a motor fuel tax under
25 this chapter to ensure proper allocation of revenue by the
26 municipality under this chapter;

27 (2) may not require the comptroller to report

1 proprietary information collected from an individual taxpayer in a
2 way that would be subject to public disclosure; and

3 (3) may not authorize a municipality imposing a motor
4 fuel tax under this chapter to contract with a private entity to
5 perform any duty or responsibility associated with the collection,
6 enforcement, or administration of the tax.

7 Sec. 401.153. TRUST ACCOUNT. The comptroller shall deposit
8 the municipal taxes collected by the comptroller under this chapter
9 and Chapter 162 in trust in a separate suspense account of the
10 municipality for which the taxes were collected.

11 Sec. 401.154. DISTRIBUTION OF TRUST FUNDS. The comptroller
12 shall each month distribute to a municipality the municipality's
13 share of the taxes collected by the comptroller under this chapter
14 and Chapter 162.

15 Sec. 401.155. STATE'S SHARE. Before making a distribution
16 to a municipality under Section 401.154, the comptroller shall
17 deduct an amount not to exceed two percent of the amount of the
18 taxes collected for the municipality during the period for which a
19 distribution is made as the state's charge for its services. The
20 comptroller shall credit the amount deducted to the general revenue
21 fund. The comptroller shall adjust the percentage of the amount
22 deducted each state fiscal year considering the projected
23 expenditures necessary for the collection, administrative, and
24 enforcement functions related to the municipal motor fuel taxes.

25 Sec. 401.156. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The
26 comptroller may retain in the suspense account of a municipality a
27 portion of the municipality's share of the tax collected for the

1 municipality under this chapter and Chapter 162 not to exceed five
2 percent of the amount distributed to the municipality.

3 (b) From the amounts retained in a municipality's suspense
4 account, the comptroller may correct erroneous deposits to the
5 account, make refunds for overpayments to the account, and redeem
6 dishonored checks and drafts deposited to the credit of the
7 account.

8 Sec. 401.157. INTEREST ON TRUST ACCOUNT. Interest earned
9 on all deposits made by the comptroller under this subchapter shall
10 be credited to the suspense account of the municipality.

11 SECTION 2. Section 162.001, Tax Code, is amended by adding
12 Subdivisions (44-a), (44-b), (56-a), (56-b), and (57-a) to read as
13 follows:

14 (44-a) "Municipal diesel fuel tax" means the tax
15 imposed by Section 162.2011 or 162.2035.

16 (44-b) "Municipal gasoline tax" means the tax imposed
17 by Section 162.1011 or 162.1035.

18 (56-a) "State diesel fuel tax" means the tax imposed
19 by Section 162.201 or 162.203.

20 (56-b) "State gasoline tax" means the tax imposed by
21 Section 162.101 or 162.103.

22 (57-a) "Taxing municipality" means a municipality
23 that has adopted the taxes authorized by Chapter 401.

24 SECTION 3. Sections 162.004(e) and (g), Tax Code, are
25 amended to read as follows:

26 (e) A person to whom a shipping document was issued shall:

27 (1) carry the shipping document in the barge, vessel,

1 railroad tank car, or other transport vehicle for which the
2 document was issued when transporting the motor fuel described in
3 the document;

4 (2) show the shipping document on request to any law
5 enforcement officer, representative of the comptroller, or other
6 authorized individual, when transporting the motor fuel described;

7 (3) deliver the motor fuel to the destination state
8 printed on the shipping document unless the person:

9 (A) notifies the comptroller and the destination
10 state, if a diversion program is in place, before transporting the
11 motor fuel into a state other than the printed destination state,
12 that the person has received instructions after the shipping
13 document was issued to deliver the motor fuel to a different
14 destination state;

15 (B) receives from the comptroller and
16 destination state, if a diversion program is in place, a diversion
17 number authorizing the diversion; and

18 (C) writes on the shipping document the change in
19 destination state and the diversion number; ~~and~~

20 (4) if delivering the motor fuel into a municipality
21 in this state, denote on the shipping document the municipality to
22 which the motor fuel will be delivered or, in the case of a split
23 load, each municipality in which a portion of the motor fuel will be
24 delivered; and

25 (5) give a copy of the shipping document to the person
26 to whom the motor fuel is delivered.

27 (g) The person to whom motor fuel is delivered by barge,

1 vessel, railroad tank car, or transport vehicle may not accept
2 delivery of the motor fuel if the destination state shown on the
3 shipping document for the motor fuel is a state other than this
4 state, except that the person may accept the [~~that~~] delivery if the
5 document contains a diversion number authorized by the comptroller
6 and destination state, if applicable, and has received a properly
7 completed shipping document listing the municipality, if
8 applicable, in this state in which the person accepts delivery. The
9 person to whom the motor fuel is delivered shall examine the
10 shipping document to determine that the destination state is this
11 state and, if applicable, that the municipality in this state is the
12 municipality in which the person accepts delivery[7] and shall
13 retain a copy of the shipping document at the delivery location or
14 another place until the fourth anniversary of the date of delivery.

15 SECTION 4. Section 162.005(e), Tax Code, is amended to read
16 as follows:

17 (e) The comptroller may revoke a license if the license
18 holder:

19 (1) purchases for export motor fuel on which the tax
20 was not paid under this chapter and subsequently diverts or causes
21 the motor fuel to be diverted to a destination in this state or to
22 any destination other than the originally designated state or
23 country without first obtaining a diversion number; or

24 (2) delivers motor fuel on which the municipal
25 gasoline tax or municipal diesel fuel tax is due without issuing a
26 properly completed shipping document listing the taxing
27 municipality in which the delivery occurred.

1 SECTION 5. Section 162.006(a), Tax Code, is amended to read
2 as follows:

3 (a) The comptroller may suspend a person's license without
4 notice or a hearing for the person's failure to comply with this
5 chapter or a rule adopted under this chapter or Chapter 401 if the
6 person's continued operation constitutes an immediate and
7 substantial threat to the collection of taxes imposed by this
8 chapter and attributable to the person's operation.

9 SECTION 6. Section 162.012, Tax Code, is amended to read as
10 follows:

11 Sec. 162.012. PRESUMPTIONS. (a) A person licensed under
12 this chapter or required to be licensed under this chapter, or other
13 user, who fails to keep a record, issue an invoice, or file a return
14 or report required by this chapter is presumed to have sold or used
15 for taxable purposes all motor fuel shown by an audit by the
16 comptroller to have been sold to the license holder or other
17 user. Motor fuel unaccounted for is presumed to have been sold or
18 used for taxable purposes.

19 (b) If an exporter claims an exemption under Section
20 162.104(a)(4) or 162.204(a)(4) and fails to report subsequent
21 tax-free sales in this state of the motor fuel for which the
22 exemption was claimed as required by Section 162.1155 or 162.2165,
23 or to produce proof of payment of tax to the destination state or
24 proof that the transaction was exempt in the destination state, the
25 exporter is presumed to have not paid the destination state's tax or
26 this state's tax on the motor fuel and the comptroller shall assess
27 the tax imposed by this chapter on the motor fuel against the

1 exporter.

2 (c) If a person claims an exemption from the municipal
3 gasoline tax or municipal diesel fuel tax and fails to produce proof
4 of delivery to a nontaxing municipality or an unincorporated area
5 of the state, the person is presumed to have delivered the motor
6 fuel to a taxing municipality that imposes the tax on motor vehicle
7 fuels authorized by Chapter 401.

8 (d) The comptroller may fix or establish the amount of
9 taxes, penalties, and interest due this state from the records of
10 deliveries or from any records or information available. If a tax
11 claim, as developed from this procedure, is not paid, after the
12 opportunity to request a redetermination, the claim and any audit
13 made by the comptroller or any report filed by the license holder or
14 other user is evidence in any suit or judicial proceedings filed by
15 the attorney general and is prima facie evidence of the correctness
16 of the claim or audit. A prima facie presumption of the
17 correctness of the claim may be overcome at the trial by evidence
18 adduced by the license holder or other user.

19 (e) [~~(b)~~] In the absence of records showing the number of
20 miles actually operated per gallon of motor fuel consumed, it is
21 presumed that not less than one gallon of motor fuel was consumed
22 for every four miles traveled. An interstate trucker may produce
23 evidence of motor fuel consumption to establish another mileage
24 factor. If an examination or audit made by the comptroller from the
25 records of an interstate trucker shows that a greater amount of
26 motor fuel was consumed than was reported by the interstate trucker
27 for tax purposes, the interstate trucker is liable for the tax,

1 penalties, and interest on the additional amount shown or the
2 trucker is entitled to a credit or refund on overpayments of tax
3 established by the audit.

4 SECTION 7. Section 162.015, Tax Code, is amended to read as
5 follows:

6 Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a)
7 On the effective date of an increase in the rate [~~rates~~] of a tax
8 [~~the taxes~~] imposed by this chapter, a distributor or dealer that
9 possesses for the purpose of sale 2,000 or more gallons of gasoline
10 or diesel fuel at each business location on which a tax [~~the taxes~~]
11 imposed by this chapter at a previous rate has [~~have~~] been paid
12 shall report to the comptroller the volume of that gasoline and
13 diesel fuel[~~]~~ and at the time of the report shall pay a tax on that
14 gasoline and diesel fuel at a rate equal to the rate of the tax
15 increase.

16 (b) On the effective date of a reduction of the rate [~~rates~~]
17 of a tax [~~taxes~~] imposed by this chapter, a distributor or dealer
18 that possesses for the purpose of sale 2,000 or more gallons of
19 gasoline or diesel fuel at each business location on which a tax
20 [~~the taxes~~] imposed by this chapter at the previous rate has [~~have~~]
21 been paid becomes entitled to a refund in an amount equal to the
22 difference in the amount of the tax [~~taxes~~] paid on that gasoline or
23 diesel fuel at the previous rate and at the rate in effect on the
24 effective date of the reduction in the tax rate [~~rates~~]. The rules
25 of the comptroller shall provide for the method of claiming a refund
26 under this chapter and may require that the refund for the dealer be
27 paid through the distributor or supplier from whom the dealer

1 received the fuel.

2 SECTION 8. Section 162.016, Tax Code, is amended by
3 amending Subsection (a) and adding Subsection (g-1) to read as
4 follows:

5 (a) A person may not import motor fuel to a destination in
6 this state or export motor fuel to a destination outside this state
7 by any means unless the person possesses a shipping document for
8 that fuel. The shipping document must include:

9 (1) the name and physical address of the terminal or
10 bulk plant from which the motor fuel was received for import or
11 export;

12 (2) the name of the carrier transporting the motor
13 fuel;

14 (3) the date the motor fuel was loaded;

15 (4) the type of motor fuel;

16 (5) the number of gallons:

17 (A) in temperature-adjusted gallons if purchased
18 from a terminal for export or import; or

19 (B) in temperature-adjusted gallons or in gross
20 gallons if purchased from a bulk plant;

21 (6) the destination state and, if the destination
22 state is this state and the gasoline or diesel fuel will be
23 delivered to a municipality, the municipality in this state to
24 which the gasoline or diesel fuel will be delivered [~~of the motor~~
25 ~~fuel~~] as represented by the purchaser of the motor fuel and the
26 number of gallons of the fuel to be delivered, if delivery is to
27 only one state;

1 (7) the name and physical address of the purchaser of
2 the motor fuel;

3 (8) the name of the person responsible for paying the
4 tax imposed by this chapter, as given to the terminal by the
5 purchaser if different from the licensed supplier or distributor;

6 (9) the destination state of each portion of a split
7 load of motor fuel if the motor fuel is to be delivered to more than
8 one state and, if a destination state is this state and the gasoline
9 or diesel fuel will be delivered to a municipality, the
10 municipality in this state to which the gasoline or diesel fuel will
11 be delivered; and

12 (10) any other information that, in the opinion of the
13 comptroller, is necessary for the proper administration of this
14 chapter.

15 (g-1) An importer or exporter who wants to deliver a single
16 cargo tank of motor fuel to a municipality in this state must issue
17 a properly completed shipping document denoting the municipality to
18 which the motor fuel will be delivered or, in the case of a split
19 load, each municipality to which a portion of the motor fuel will be
20 delivered.

21 SECTION 9. The heading to Section 162.101, Tax Code, is
22 amended to read as follows:

23 Sec. 162.101. POINT OF IMPOSITION OF STATE GASOLINE TAX.

24 SECTION 10. Sections 162.101(a), (b), (c), and (f), Tax
25 Code, are amended to read as follows:

26 (a) A tax is imposed on the removal of gasoline from the
27 terminal using the terminal rack, other than by bulk transfer. The

1 supplier or permissive supplier is liable for and shall collect the
2 tax imposed by this section [~~subchapter~~] from the person who orders
3 the withdrawal at the terminal rack.

4 (b) A tax is imposed at the time gasoline is imported into
5 this state, other than by a bulk transfer, for delivery to a
6 destination in this state. The supplier or permissive supplier is
7 liable for and shall collect the tax imposed by this section
8 [~~subchapter~~] from the person who imports the gasoline into this
9 state. If the seller is not a supplier or permissive supplier,
10 then the person who imports the gasoline into this state is liable
11 for and shall pay the tax.

12 (c) A tax is imposed on the removal of gasoline from the bulk
13 transfer/terminal system in this state. The supplier is liable for
14 and shall collect the tax imposed by this section [~~subchapter~~] from
15 the person who orders the removal from the bulk transfer terminal
16 system.

17 (f) A terminal operator in this state is considered a
18 supplier for the purpose of the tax imposed by [~~under~~] this section
19 [~~subchapter~~] unless at the time of removal:

20 (1) the terminal operator has a terminal operator's
21 license issued for the facility from which the gasoline is
22 withdrawn;

23 (2) the terminal operator verifies that the person who
24 removes the gasoline has a supplier's license; and

25 (3) the terminal operator does not have a reason to
26 believe that the supplier's license is not valid.

27 SECTION 11. Subchapter B, Chapter 162, Tax Code, is amended

1 by adding Section 162.1011 to read as follows:

2 Sec. 162.1011. IMPOSITION OF MUNICIPAL GASOLINE TAX; POINT
3 OF COLLECTION. (a) In a municipality that imposes taxes on motor
4 vehicle fuel authorized by Chapter 401, a tax is imposed on the
5 delivery of gasoline into the taxing municipality.

6 (b) A tax is imposed on gasoline that is otherwise exempt
7 from taxation under Section 162.104(a)(4) or (7) if the gasoline is
8 sold in this state to a person who does not hold a license under
9 Section 162.105(1), (2), (3), (4), or (6) and the gasoline is
10 subsequently delivered into a taxing municipality. The person who
11 delivered the gasoline into the taxing municipality is liable for
12 and shall collect the tax.

13 (c) A tax is imposed on gasoline that is otherwise exempt
14 from taxation under Section 162.104(a)(4) or (7) if before export
15 the gasoline is sold in this state to a person who holds a license
16 under Section 162.105(1), (2), (3), (4), or (6) and the gasoline is
17 delivered into a taxing municipality. The person who delivered the
18 gasoline into the taxing municipality is liable for and shall pay
19 the tax.

20 (d) The distributor shall collect the tax imposed by this
21 section from each person on delivery of gasoline into a taxing
22 municipality.

23 (e) In each subsequent sale of gasoline on which the tax has
24 been paid, the tax imposed by this section shall be collected from
25 the purchaser so that the tax is paid ultimately by the person who
26 uses the gasoline. Gasoline is considered to be used when it is
27 delivered into a fuel supply tank.

1 SECTION 12. Section 162.102, Tax Code, is amended to read as
2 follows:

3 Sec. 162.102. TAX RATES [~~RATE~~]. (a) Except as provided by
4 Section 162.1026, the state [~~The~~] gasoline tax rate is 20 cents for
5 each net gallon or fractional part of a net gallon on which the tax
6 is imposed under Section 162.101.

7 (b) In a taxing municipality, the municipal gasoline tax
8 rate for each net gallon or fractional part of a net gallon is the
9 rate established by Chapter 401, including the amount of
10 adjustments under Section 162.1026.

11 SECTION 13. The heading to Section 162.1025, Tax Code, is
12 amended to read as follows:

13 Sec. 162.1025. SEPARATE STATEMENT OF TAXES [~~TAX~~] COLLECTED
14 FROM PURCHASER.

15 SECTION 14. Sections 162.1025(a), (b), and (c), Tax Code,
16 are amended to read as follows:

17 (a) In each subsequent sale of gasoline on which the taxes
18 imposed by this subchapter have [~~tax has~~] been paid, the taxes [~~tax~~
19 ~~imposed by this subchapter~~] shall be collected from the purchaser
20 so that the taxes are [~~tax is~~] paid ultimately by the person who
21 uses the gasoline. Gasoline is considered to be used when it is
22 delivered into a fuel supply tank.

23 (b) The taxes [~~tax~~] imposed by this subchapter must be
24 stated separately from the sales price of gasoline and identified
25 as gasoline taxes [~~tax~~] on the invoice or receipt issued to a
26 purchaser. Backup gasoline taxes [~~tax~~] may be identified as
27 gasoline taxes [~~tax~~]. The taxes [~~tax~~] must be separately stated and

1 identified in the same manner on a shipping document, if the
2 shipping document includes the sales price of the gasoline.

3 (c) Except as provided by Subsection (d), the sales price of
4 gasoline stated on an invoice, receipt, or shipping document is
5 presumed to be exclusive of the taxes [~~tax~~] imposed by this
6 subchapter. The seller or purchaser may overcome the presumption
7 by using the seller's records to show that the taxes [~~tax~~] imposed
8 by this subchapter were [~~was~~] included in the sales price.

9 SECTION 15. Subchapter B, Chapter 162, Tax Code, is amended
10 by adding Section 162.1026 to read as follows:

11 Sec. 162.1026. ANNUAL RATE CHANGE ACCORDING TO CONSUMER
12 PRICE INDEX. (a) In this section:

13 (1) "Consumer price index" means the consumer price
14 index for all urban consumers for all items and for all regions of
15 the United States combined, as determined by the United States
16 Department of Labor, Bureau of Labor Statistics, or, if that index
17 is discontinued or superseded, a similar index selected or
18 calculated by the comptroller.

19 (2) "Consumer price index percentage change" means the
20 percentage increase or decrease in the consumer price index of a
21 given state fiscal year from the consumer price index of the
22 preceding state fiscal year.

23 (b) On January 1 of each year, the rates of state and
24 municipal gasoline taxes imposed under this subchapter in the
25 preceding year are increased or decreased by a percentage that is
26 equal to the consumer price index percentage change for the
27 preceding state fiscal year.

1 (c) Not later than November 1 of each year, the comptroller
2 shall:

3 (1) compute the new tax rates as provided by this
4 section;

5 (2) give the new tax rates to the secretary of state
6 for publication in the Texas Register; and

7 (3) notify each license holder under this subchapter
8 of the new tax rates.

9 SECTION 16. The heading to Section 162.103, Tax Code, is
10 amended to read as follows:

11 Sec. 162.103. BACKUP STATE GASOLINE TAX; LIABILITY.

12 SECTION 17. Sections 162.103(a) and (c), Tax Code, are
13 amended to read as follows:

14 (a) A backup tax is imposed at the rate prescribed by
15 Sections 162.102(a) and 162.1026 [Section 162.102] on:

16 (1) a person who obtains a refund of tax on gasoline by
17 claiming the gasoline was used for an off-highway purpose, but
18 actually uses the gasoline to operate a motor vehicle on a public
19 highway;

20 (2) a person who operates a motor vehicle on a public
21 highway using gasoline on which tax has not been paid;

22 (3) a person who sells to the ultimate consumer
23 gasoline on which tax has not been paid and who knew or had reason to
24 know that the gasoline would be used for a taxable purpose; and

25 (4) a person, other than a person exempted under
26 Section 162.104, who acquires gasoline on which tax has not been
27 paid from any source in this state.

1 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also
2 imposed on the ultimate consumer.

3 SECTION 18. Subchapter B, Chapter 162, Tax Code, is amended
4 by adding Section 162.1035 to read as follows:

5 Sec. 162.1035. BACKUP MUNICIPAL GASOLINE TAX; LIABILITY.

6 (a) A backup tax is imposed at the rate prescribed by Sections
7 162.102(b) and 162.1026 on:

8 (1) a person who, in a taxing municipality:

9 (A) delivers gasoline into the fuel supply tank
10 of a motor vehicle;

11 (B) purchases or receives gasoline from another
12 person; or

13 (C) sells or delivers gasoline to another person;
14 and

15 (2) a person who obtains a refund of the tax imposed by
16 Section 162.1011 for gasoline that the person delivered into the
17 fuel supply tank of a motor vehicle, purchased or acquired, or sold
18 or delivered in a taxing municipality.

19 (b) A person who sells gasoline subject to the tax imposed
20 by this section shall at the time of sale collect the tax from the
21 purchaser or recipient of the gasoline in addition to the selling
22 price and is liable to this state for the taxes collected at the
23 time and in the manner provided by this chapter.

24 (c) The following are exempt from the tax imposed by this
25 section:

26 (1) gasoline on which the tax imposed by Section
27 162.1011 has been paid; and

1 (2) gasoline exempt under Section 162.104.

2 (d) The tax imposed by this section is in addition to any
3 penalty imposed under this chapter.

4 SECTION 19. Section 162.104(a), Tax Code, is amended to
5 read as follows:

6 (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not
7 apply to gasoline:

8 (1) sold to the United States for its exclusive use,
9 provided that the exemption does not apply with respect to fuel sold
10 or delivered to a person operating under a contract with the United
11 States;

12 (2) sold to a public school district in this state for
13 the district's exclusive use;

14 (3) sold to a commercial transportation company or a
15 metropolitan rapid transit authority operating under Chapter 451,
16 Transportation Code, that provides public school transportation
17 services to a school district under Section 34.008, Education Code,
18 and that uses the gasoline only to provide those services;

19 (4) exported by either a licensed supplier or a
20 licensed exporter from this state to any other state, provided that
21 the bill of lading indicates the destination state and the supplier
22 collects the destination state tax;

23 (5) moved by truck or railcar between licensed
24 suppliers or licensed permissive suppliers and in which the
25 gasoline removed from the first terminal comes to rest in the second
26 terminal, provided that the removal from the second terminal rack
27 is subject to the state gasoline tax imposed by this subchapter;

1 (6) delivered or sold into a storage facility of a
2 licensed aviation fuel dealer from which gasoline will be delivered
3 solely into the fuel supply tanks of aircraft or aircraft servicing
4 equipment, or sold from one licensed aviation fuel dealer to
5 another licensed aviation fuel dealer who will deliver the aviation
6 fuel exclusively into the fuel supply tanks of aircraft or aircraft
7 servicing equipment;

8 (7) exported to a foreign country if the bill of lading
9 or shipping documents indicate the foreign destination and the fuel
10 is actually exported to the foreign country;

11 (8) sold to a volunteer fire department in this state
12 for the department's exclusive use; or

13 (9) sold to a nonprofit entity that is organized for
14 the sole purpose of and engages exclusively in providing emergency
15 medical services and that uses the gasoline exclusively to provide
16 emergency medical services, including rescue and ambulance
17 services.

18 SECTION 20. Section [162.105](#), Tax Code, is amended to read as
19 follows:

20 Sec. 162.105. PERSONS REQUIRED TO BE LICENSED. A person
21 shall obtain the appropriate license or licenses issued by the
22 comptroller before conducting the activities of:

23 (1) a supplier, who may also act as a distributor,
24 importer, exporter, blender, motor fuel transporter, dealer, or
25 aviation fuel dealer without securing a separate license, but who
26 is subject to all other conditions, requirements, and liabilities
27 imposed on those license holders;

1 (2) a permissive supplier, who may also act as a
2 distributor, importer, exporter, blender, motor fuel transporter,
3 dealer, or aviation fuel dealer without securing a separate
4 license, but who is subject to all other conditions, requirements,
5 and liabilities imposed on those license holders;

6 (3) a distributor, who may also act as an importer,
7 exporter, blender, [~~or~~] motor fuel transporter, or dealer without
8 securing a separate license, but who is subject to all other
9 conditions, requirements, and liabilities imposed on those license
10 holders;

11 (4) an importer, who may also act as an exporter,
12 blender, [~~or~~] motor fuel transporter, or dealer without securing a
13 separate license, but who is subject to all other conditions,
14 requirements, and liabilities imposed on those license holders;

15 (5) a terminal operator;

16 (6) an exporter;

17 (7) a blender;

18 (8) a motor fuel transporter;

19 (9) an aviation fuel dealer; [~~or~~]

20 (10) an interstate trucker; or

21 (11) a dealer.

22 SECTION 21. Sections 162.107(a) and (b), Tax Code, are
23 amended to read as follows:

24 (a) A person may elect to obtain a permissive supplier
25 license to collect the state gasoline tax imposed by [~~under~~] this
26 subchapter for gasoline that is removed at a terminal in another
27 state and has this state as the destination state.

1 (b) With respect to gasoline that is removed by the licensed
2 permissive supplier at a terminal located in another state and that
3 has this state as the destination state, a licensed permissive
4 supplier shall:

5 (1) collect the state gasoline tax due to this state on
6 the gasoline;

7 (2) waive any defense that this state lacks
8 jurisdiction to require the supplier to collect the state gasoline
9 tax due to this state on the gasoline under this subchapter;

10 (3) report and pay the state gasoline tax and the
11 municipal gasoline tax due on the gasoline in the same manner as if
12 the removal had occurred at a terminal located in this state;

13 (4) keep records of the removal of the gasoline and
14 submit to audits concerning the gasoline as if the removal had
15 occurred at a terminal located in this state; and

16 (5) report sales by the permissive supplier to a
17 person who is not licensed in this state.

18 SECTION 22. Section 162.108, Tax Code, is amended by adding
19 Subsection (a-1) to read as follows:

20 (a-1) In addition to the information required by Subsection
21 (a), an applicant for a license as a dealer must list on the
22 application:

23 (1) the street address, municipality, county, and zip
24 code of the location for which the applicant seeks a license to sell
25 or dispense motor fuel at retail;

26 (2) the applicant's social security number, driver's
27 license number, and federal employer identification number if the

1 applicant is a natural person who is not licensed as a supplier,
2 permissive supplier, or terminal operator; and

3 (3) if the applicant is a corporation, limited
4 liability company, professional association, partnership, or other
5 entity that is not licensed as a supplier, permissive supplier, or
6 terminal operator and is not wholly owned by an entity that is
7 licensed as a supplier, permissive supplier, or terminal operator,
8 the physical address, mailing address, social security number, and
9 driver's license number of:

10 (A) each natural person responsible for the
11 purchase of motor fuel for sale by the applicant; and

12 (B) each officer, director, manager, member,
13 shareholder, and partner of the applicant.

14 SECTION 23. Section 162.110(a), Tax Code, is amended to
15 read as follows:

16 (a) The license issued to a supplier, permissive supplier,
17 distributor, importer, exporter, terminal operator, blender, ~~or~~
18 motor fuel transporter, or dealer is permanent and is valid during
19 the period the license holder has in force and effect the required
20 bond or security and furnishes timely reports and supplements as
21 required, or until the license is surrendered by the holder or
22 canceled by the comptroller. The comptroller shall cancel a
23 license under this subsection if a purchase, sale, or use of
24 gasoline has not been reported by the license holder during the
25 previous nine months.

26 SECTION 24. Section 162.111(a), Tax Code, is amended to
27 read as follows:

1 (a) The comptroller shall determine the amount of security
2 required of a supplier, permissive supplier, distributor,
3 exporter, importer, dealer, or blender, taking into consideration
4 the amount of tax that has or is expected to become due from the
5 person, any past history of the person as a license holder under
6 this chapter or its predecessor, and the necessity to protect this
7 state against the failure to pay the tax as the tax becomes due.

8 SECTION 25. Sections 162.112(a) and (b), Tax Code, are
9 amended to read as follows:

10 (a) The comptroller, on or before December 20 of each year,
11 shall make available to all license holders an alphabetical list of
12 licensed suppliers, permissive suppliers, distributors, aviation
13 fuel dealers, importers, exporters, blenders, dealers, and
14 terminal operators. A supplemental list of additions and deletions
15 shall be made available to the license holders each month. A
16 current and effective license or the list furnished by the
17 comptroller is evidence of the validity of the license until the
18 comptroller notifies license holders of a change in the status of a
19 license holder.

20 (b) A licensed supplier, permissive supplier, dealer, or
21 distributor who sells gasoline tax-free to a person whose
22 supplier's, permissive supplier's, dealer's, or aviation fuel
23 dealer's license has been canceled or revoked under this chapter is
24 liable for any tax due on gasoline sold after receiving notice of
25 the cancellation or revocation.

26 SECTION 26. Sections 162.113(d), (d-1), and (e), Tax Code,
27 are amended to read as follows:

1 (d) The supplier or permissive supplier, after requesting a
2 credit under this section, shall terminate the ability of the
3 licensed distributor or licensed importer to defer the payment of
4 state gasoline tax. The supplier or permissive supplier may not
5 reinstate the right of the licensed distributor or licensed
6 importer to defer the payment of state gasoline tax until the first
7 anniversary of the date the supplier or permissive supplier
8 requested the credit, subject to Subsection (d-1).

9 (d-1) A supplier or permissive supplier may reinstate the
10 right of a licensed distributor or licensed importer to defer the
11 payment of state gasoline tax before the date prescribed by
12 Subsection (d) if the comptroller determines that:

13 (1) the supplier or permissive supplier erroneously
14 requested the credit that resulted in the termination of the
15 licensed distributor's or licensed importer's right to defer
16 payment; or

17 (2) the licensed distributor or licensed importer
18 failed to pay state gasoline taxes due because of circumstances
19 that may have been outside the distributor's or importer's control.

20 (e) A licensed distributor or licensed importer who makes
21 timely payments of the state gasoline tax imposed by [~~under~~] this
22 subchapter is entitled to retain an amount equal to 1.75 percent of
23 the total state gasoline tax [~~taxes~~] to be paid to the supplier or
24 permissive supplier to cover administrative expenses.

25 SECTION 27. Section 162.114(a), Tax Code, is amended to
26 read as follows:

27 (a) Except as provided by Subsection (b), each person who is

1 liable for the taxes [~~tax~~] imposed by this subchapter, a terminal
2 operator, a dealer, and a licensed distributor shall file a return
3 on or before the 25th day of the month following the end of each
4 calendar month.

5 SECTION 28. Sections 162.115(b), (c), (e), (g), and (h),
6 Tax Code, are amended to read as follows:

7 (b) A distributor shall keep:

8 (1) a record showing the number of gallons of:

9 (A) all gasoline inventories on hand at the first
10 of each month;

11 (B) all gasoline blended;

12 (C) all gasoline purchased or received, showing
13 the name of the seller and the date of each purchase or receipt;

14 (D) all gasoline sold, distributed, or used,
15 showing:

16 (i) the name of the purchaser;

17 (ii) if the gasoline was delivered to a
18 municipality in this state, the municipality to which the gasoline
19 was delivered;

20 (iii) the amount of municipal gasoline tax
21 collected from the purchaser, if any; and

22 (iv) the date of the sale, distribution, or
23 use; and

24 (E) all gasoline lost by fire, theft, or
25 accident;

26 (2) an itemized statement showing by load the number
27 of gallons of all gasoline:

1 (A) received during the preceding calendar month
2 for export and the location of the loading;

3 (B) sold, distributed, or used, showing:

4 (i) the name of the purchaser;

5 (ii) if the gasoline was delivered to a
6 municipality in this state, the municipality to which the gasoline
7 was delivered;

8 (iii) the amount of municipal gasoline tax
9 collected from the purchaser, if any; and

10 (iv) the date of the sale, distribution, or
11 use;

12 (C) exported from this state by destination state
13 or country; and

14 (D) [~~(C)~~] imported during the preceding calendar
15 month by state or country of origin; [~~and~~]

16 (3) for gasoline exported from this state, proof of
17 payment of tax to the destination state in a form acceptable to the
18 comptroller; and

19 (4) all shipping documents.

20 (c) An importer shall keep:

21 (1) a record showing the number of gallons of:

22 (A) all gasoline inventories on hand at the first
23 of each month;

24 (B) all gasoline compounded or blended;

25 (C) all gasoline purchased or received, showing
26 the name of the seller and the date of each purchase or receipt;

27 (D) all gasoline sold, distributed, or used,

1 showing the name of the purchaser, the municipality in this state,
2 if applicable, and the date of the sale, distribution, or use; and

3 (E) all gasoline lost by fire, theft, or
4 accident; and

5 (2) an itemized statement showing by load the number
6 of gallons of all gasoline:

7 (A) received during the preceding calendar month
8 for export and the location of the loading;

9 (B) sold, distributed, or used, showing the name
10 of the purchaser, the municipality or municipalities in this state,
11 if applicable, and the date of the sale, distribution, or use;

12 (C) exported from this state by destination state
13 or country; and

14 (D) [~~(C)~~] imported during the preceding calendar
15 month by state or country of origin.

16 (e) A blender shall keep a record showing the number of
17 gallons of:

18 (1) all gasoline inventories on hand at the first of
19 each month;

20 (2) all gasoline compounded or blended;

21 (3) all gasoline purchased or received, showing the
22 name of the seller and the date of each purchase or receipt;

23 (4) all gasoline sold, distributed, or used, showing
24 the name of the purchaser, the municipality in this state, if
25 applicable, and the date of the sale or use; and

26 (5) all gasoline lost by fire, theft, or accident.

27 (g) A motor fuel transporter shall keep a complete and

1 separate record of each intrastate and interstate transportation of
2 gasoline, showing:

3 (1) the date of transportation;

4 (2) the name of the consignor and consignee;

5 (3) the means of transportation;

6 (4) the quantity and kind of gasoline transported;

7 (5) full data concerning the diversion of shipments,
8 including the municipality in this state, if applicable, and the
9 number of gallons diverted from interstate to intrastate and
10 intrastate to interstate commerce; and

11 (6) the points of origin and destination, the
12 municipality in this state, if applicable, the number of gallons
13 shipped or transported, the date, the consignee and the consignor,
14 and the kind of gasoline that has been diverted.

15 (h) A dealer shall keep all shipping documents and a record
16 showing the number of gallons of:

17 (1) gasoline inventories on hand at the first of each
18 month;

19 (2) all gasoline purchased or received, showing the
20 name of the seller and the date of each purchase or receipt;

21 (3) all gasoline sold or used, showing the date of the
22 sale or use; and

23 (4) all gasoline lost by fire, theft, or accident.

24 SECTION 29. Section 162.116(c), Tax Code, is amended to
25 read as follows:

26 (c) A supplier or permissive supplier may take a credit for
27 any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a

1 previous period to the supplier or permissive supplier by a
2 licensed distributor or licensed importer as required by Section
3 162.113. The supplier or permissive supplier is eligible to take
4 the credit if the comptroller is notified of the default within 15
5 days after the default occurs. If a license holder pays to a
6 supplier or permissive supplier the tax owed, but the payment
7 occurs after the supplier or permissive supplier has taken a credit
8 on its return, the supplier or permissive supplier shall remit the
9 payment to the comptroller with the next monthly return after
10 receipt of the tax, plus a penalty of 10 percent of the amount of
11 unpaid taxes and interest at the rate provided by Section 111.060
12 beginning on the date the credit was taken.

13 SECTION 30. Section 162.118, Tax Code, is amended to read as
14 follows:

15 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S
16 RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return
17 and supplements of each distributor shall contain for the period
18 covered by the return:

19 (1) the number of net gallons of gasoline received by
20 the distributor during the month, sorted by product code, seller,
21 point of origin, destination state, carrier, and receipt date;

22 (2) the number of net gallons of gasoline removed at a
23 terminal rack by the distributor during the month, sorted by
24 product code, seller, terminal code, and carrier;

25 (3) the number of net gallons of gasoline removed by
26 the distributor during the month for export, sorted by product
27 code, terminal code, bulk plant address, destination state, and

1 carrier;

2 (4) the number of net gallons of gasoline removed by
3 the distributor during the month from a terminal located in another
4 state for conveyance to this state, as indicated on the shipping
5 document for the gasoline, sorted by product code, seller, terminal
6 code, bulk plant address, and carrier;

7 (5) the number of net gallons of gasoline the
8 distributor sold during the month in transactions exempt under
9 Section 162.104, sorted by product code and purchaser; ~~and~~

10 (6) the number of net gallons delivered into a taxing
11 municipality sorted by taxing municipality and purchaser; and

12 (7) any other information required by the comptroller.

13 (b) A distributor or importer who makes timely payments of
14 the municipal gasoline tax imposed by this subchapter is entitled
15 to retain an amount equal to two percent of the total municipal
16 gasoline taxes remitted to the comptroller to cover administrative
17 expenses.

18 SECTION 31. Section 162.123, Tax Code, is amended to read as
19 follows:

20 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.
21 The monthly return and supplements of each blender shall contain
22 for the period covered by the return:

23 (1) the number of net gallons of gasoline received by
24 the blender during the month, sorted by product code, seller, point
25 of origin, carrier, and receipt date;

26 (2) the number of net gallons of product blended with
27 gasoline during the month, sorted by product code, type of blending

1 agent if no product code exists, seller, and carrier;

2 (3) the number of net gallons of blended gasoline sold
3 during the month and the license number or name, ~~and~~ address, and,
4 if applicable, municipality of the entity receiving the blended
5 gasoline; and

6 (4) any other information required by the comptroller.

7 SECTION 32. Subchapter B, Chapter 162, Tax Code, is amended
8 by adding Section 162.1235 to read as follows:

9 Sec. 162.1235. INFORMATION REQUIRED ON DEALER'S RETURN.

10 The monthly return and supplements of each dealer shall contain for
11 the period covered by the return:

12 (1) the number of gallons of gasoline inventories on
13 hand at the first of each month, sorted by product code;

14 (2) the number of gallons of gasoline received by the
15 dealer during the month, sorted by seller;

16 (3) the number of gallons of gasoline inventories on
17 hand at the end of each month; and

18 (4) any other information required by the comptroller.

19 SECTION 33. Sections 162.125(g-1) and (g-2), Tax Code, are
20 amended to read as follows:

21 (g-1) A volunteer fire department exempt from the taxes
22 ~~[tax]~~ imposed under this subchapter that paid a tax on the purchase
23 of gasoline is entitled to a refund of the tax paid, and the
24 volunteer fire department may file a refund claim with the
25 comptroller for that amount.

26 (g-2) A nonprofit entity exempted under Section
27 162.104(a)(9) from the taxes ~~[tax]~~ imposed under this subchapter

1 that paid a tax on the purchase of gasoline is entitled to a refund
2 of the tax paid, and the entity may file a refund claim with the
3 comptroller for that amount.

4 SECTION 34. Sections 162.127(a) and (d), Tax Code, are
5 amended to read as follows:

6 (a) A refund claim must be filed on a form provided by the
7 comptroller, be supported by the original invoice issued by the
8 seller, and contain:

9 (1) the stamped or preprinted name and address of the
10 seller, including, if applicable, the municipality to which the
11 gasoline was delivered;

12 (2) the name and address of the purchaser;

13 (3) the date of delivery of the gasoline;

14 (4) the date of the issuance of the invoice, if
15 different from the date of fuel delivery;

16 (5) the number of gallons of gasoline delivered;

17 (6) the amount of state or municipal gasoline taxes
18 paid [tax], either separately stated from the selling price or
19 stated with a notation that both state and municipal gasoline taxes
20 are included if both apply [the selling price includes the tax]; and

21 (7) the type of vehicle or equipment, such as a
22 motorboat, railway engine, motor vehicle, off-highway vehicle, or
23 refrigeration unit or stationary engine, into which the fuel is
24 delivered.

25 (d) A distributor or person who does not hold a license who
26 files a valid refund claim with the comptroller shall be paid by a
27 warrant issued by the comptroller. For purposes of this section, a

1 distributor meets the requirement of filing a valid refund claim
2 for state and municipal gasoline taxes if the distributor
3 designates the gallons of gasoline sold or used that are the subject
4 of the refund claim on the monthly report submitted by the
5 distributor to the comptroller.

6 SECTION 35. The heading to Section 162.201, Tax Code, is
7 amended to read as follows:

8 Sec. 162.201. POINT OF IMPOSITION OF STATE DIESEL FUEL TAX.

9 SECTION 36. Sections 162.201(a), (b), (c), and (f), Tax
10 Code, are amended to read as follows:

11 (a) A tax is imposed on the removal of diesel fuel from the
12 terminal using the terminal rack other than by bulk transfer. The
13 supplier or permissive supplier is liable for and shall collect the
14 tax imposed by this section [~~subchapter~~] from the person who orders
15 the withdrawal at the terminal rack.

16 (b) A tax is imposed at the time diesel fuel is imported into
17 this state, other than by a bulk transfer, for delivery to a
18 destination in this state. The supplier or permissive supplier is
19 liable for and shall collect the tax imposed by this section
20 [~~subchapter~~] from the person who imports the diesel fuel into this
21 state. If the seller is not a supplier or permissive supplier, the
22 person who imports the diesel fuel into this state is liable for and
23 shall pay the tax.

24 (c) A tax is imposed on the removal of diesel fuel from the
25 bulk transfer/terminal system in this state. The supplier is
26 liable for and shall collect the tax imposed by this section
27 [~~subchapter~~] from the person who orders the removal from the bulk

1 transfer/terminal system.

2 (f) The terminal operator in this state is considered a
3 supplier for the purpose of the tax imposed under this section
4 [~~subchapter~~] unless at the time of removal:

5 (1) the terminal operator has a terminal operator's
6 license issued for the facility from which the diesel fuel is
7 withdrawn;

8 (2) the terminal operator verifies that the person who
9 removes the diesel fuel has a supplier's license; and

10 (3) the terminal operator does not have a reason to
11 believe that the supplier's license is not valid.

12 SECTION 37. Subchapter C, Chapter 162, Tax Code, is amended
13 by adding Section 162.2011 to read as follows:

14 Sec. 162.2011. IMPOSITION OF MUNICIPAL DIESEL FUEL TAX;
15 POINT OF COLLECTION. (a) In a municipality that imposes taxes on
16 motor vehicle fuel authorized by Chapter 401, a tax is imposed on
17 the delivery of diesel fuel into the taxing municipality.

18 (b) The distributor shall collect the tax imposed by this
19 section from each person on delivery of diesel fuel into a taxing
20 municipality.

21 (c) A tax is imposed on diesel fuel that is otherwise exempt
22 from taxation under Section 162.204(a)(4) or (7) if the diesel fuel
23 is sold in this state to a person who does not hold a license under
24 Section 162.205(a)(1), (2), (3), (4), or (6) and the diesel fuel is
25 subsequently delivered into a taxing municipality. The person who
26 delivered the diesel fuel into the taxing municipality is liable
27 for and shall collect the tax.

1 (d) A tax is imposed on diesel fuel that is otherwise exempt
2 from taxation under Section 162.204(a)(4) or (7) if before export
3 the diesel fuel is sold in this state to a person who holds a license
4 under Section 162.205(a)(1), (2), (3), (4), or (6) and the diesel
5 fuel is subsequently delivered to a taxing municipality. The
6 person who delivered the diesel fuel into the taxing municipality
7 is liable for and shall pay the tax.

8 (e) In each subsequent sale of diesel fuel on which the tax
9 has been paid, the tax imposed by this section shall be collected
10 from the purchaser so that the tax is paid ultimately by the person
11 who uses the diesel fuel. Diesel fuel is considered to be used when
12 it is delivered into a fuel supply tank.

13 SECTION 38. Section 162.202, Tax Code, is amended to read as
14 follows:

15 Sec. 162.202. TAX RATES [~~RATE~~]. (a) Except as provided by
16 Section 162.2026, the state [The] diesel fuel tax rate is 20 cents
17 for each net gallon or fractional part of a net gallon on which the
18 tax is imposed under Section 162.201.

19 (b) In a taxing municipality, the municipal diesel fuel tax
20 rate for each net gallon or fractional part of a net gallon is the
21 rate established by Chapter 401, including the amount of
22 adjustments under Section 162.2026.

23 SECTION 39. The heading to Section 162.2025, Tax Code, is
24 amended to read as follows:

25 Sec. 162.2025. SEPARATE STATEMENT OF TAXES [~~TAX~~]
26 FROM PURCHASER.

27 SECTION 40. Sections 162.2025(a), (b), and (c), Tax Code,

1 are amended to read as follows:

2 (a) In each subsequent sale of diesel fuel on which the
3 taxes imposed by this subchapter have ~~[tax has]~~ been paid, the taxes
4 ~~[tax imposed by this subchapter]~~ shall be collected from the
5 purchaser so that the taxes are ~~[tax is]~~ paid ultimately by the
6 person who uses the diesel fuel. Diesel fuel is considered to be
7 used when it is delivered into a fuel supply tank.

8 (b) The taxes ~~[tax]~~ imposed by this subchapter must be
9 stated separately from the sales price of diesel fuel and
10 identified as diesel fuel taxes ~~[tax]~~ on the invoice or receipt
11 issued to a purchaser. Backup diesel fuel taxes ~~[tax]~~ may be
12 identified as diesel fuel taxes ~~[tax]~~. The taxes ~~[tax]~~ must be
13 separately stated and identified in the same manner on a shipping
14 document, if the shipping document includes the sales price of the
15 diesel fuel.

16 (c) Except as provided by Subsection (d), the sales price of
17 diesel fuel stated on an invoice, receipt, or shipping document is
18 presumed to be exclusive of the taxes ~~[tax]~~ imposed by this
19 subchapter. The seller or purchaser may overcome the presumption
20 by using the seller's records to show that the taxes ~~[tax]~~ imposed
21 by this subchapter were ~~[was]~~ included in the sales price.

22 SECTION 41. Subchapter C, Chapter 162, Tax Code, is amended
23 by adding Section 162.2026 to read as follows:

24 Sec. 162.2026. ANNUAL RATE CHANGE ACCORDING TO CONSUMER
25 PRICE INDEX. (a) In this section:

26 (1) "Consumer price index" means the consumer price
27 index for all urban consumers for all items and for all regions of

1 the United States combined, as determined by the United States
2 Department of Labor, Bureau of Labor Statistics, or, if that index
3 is discontinued or superseded, a similar index selected or
4 calculated by the comptroller.

5 (2) "Consumer price index percentage change" means the
6 percentage increase or decrease in the consumer price index of a
7 given state fiscal year from the consumer price index of the
8 preceding state fiscal year.

9 (b) On January 1 of each year, the rates of state and
10 municipal diesel fuel taxes imposed under this subchapter in the
11 preceding year are increased or decreased by a percentage that is
12 equal to the consumer price index percentage change for the
13 preceding state fiscal year.

14 (c) Not later than November 1 of each year, the comptroller
15 shall:

16 (1) compute the new tax rates as provided by this
17 section;

18 (2) give the new tax rates to the secretary of state
19 for publication in the Texas Register; and

20 (3) notify each license holder under this subchapter
21 of the new tax rates.

22 SECTION 42. The heading to Section 162.203, Tax Code, is
23 amended to read as follows:

24 Sec. 162.203. BACKUP STATE DIESEL FUEL TAX; LIABILITY.

25 SECTION 43. Sections 162.203(a) and (c), Tax Code, are
26 amended to read as follows:

27 (a) A backup tax is imposed at the rate prescribed by

1 Sections 162.202(a) and 162.2026 [~~Section 162.202~~] on:

2 (1) a person who obtains a refund of tax on diesel fuel
3 by claiming the diesel fuel was used for an off-highway purpose, but
4 actually uses the diesel fuel to operate a motor vehicle on a public
5 highway;

6 (2) a person who operates a motor vehicle on a public
7 highway using diesel fuel on which tax has not been paid;

8 (3) a person who sells to the ultimate consumer diesel
9 fuel on which a tax has not been paid and who knew or had reason to
10 know that the diesel fuel would be used for a taxable purpose; and

11 (4) a person, other than a person exempted under
12 Section 162.204, who acquires diesel fuel on which tax has not been
13 paid from any source in this state.

14 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also
15 imposed on the ultimate consumer.

16 SECTION 44. Subchapter C, Chapter 162, Tax Code, is amended
17 by adding Section 162.2035 to read as follows:

18 Sec. 162.2035. BACKUP MUNICIPAL DIESEL FUEL TAX; LIABILITY.

19 (a) A backup tax is imposed at the rate prescribed by Sections
20 162.202(b) and 162.2026 on:

21 (1) a person who, in a taxing municipality:

22 (A) delivers diesel fuel into the fuel supply
23 tank of a motor vehicle;

24 (B) purchases or receives diesel fuel from
25 another person; or

26 (C) sells or delivers diesel fuel to another
27 person; and

1 (2) a person who obtains a refund of the tax imposed by
2 Section 162.2011 for diesel fuel that the person delivered into the
3 fuel supply tank of a motor vehicle, purchased or acquired, or sold
4 or delivered in a taxing municipality.

5 (b) A person who sells diesel fuel subject to the tax
6 imposed by this section shall at the time of sale collect the tax
7 from the purchaser or recipient of the diesel fuel in addition to
8 the selling price and is liable to this state for the taxes
9 collected at the time and in the manner provided by this chapter.

10 (c) The following are exempt from the tax imposed by this
11 section:

12 (1) diesel fuel on which the tax imposed by Section
13 162.2011 has been paid; and

14 (2) diesel fuel exempt under Section 162.204.

15 (d) The tax imposed by this section is in addition to any
16 penalty imposed under this chapter.

17 SECTION 45. Sections 162.204(a) and (g), Tax Code, are
18 amended to read as follows:

19 (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not
20 apply to:

21 (1) diesel fuel sold to the United States for its
22 exclusive use, provided that the exemption does not apply to diesel
23 fuel sold or delivered to a person operating under a contract with
24 the United States;

25 (2) diesel fuel sold to a public school district in
26 this state for the district's exclusive use;

27 (3) diesel fuel sold to a commercial transportation

1 company or a metropolitan rapid transit authority operating under
2 Chapter 451, Transportation Code, that provides public school
3 transportation services to a school district under Section 34.008,
4 Education Code, and that uses the diesel fuel only to provide those
5 services;

6 (4) diesel fuel exported by either a licensed supplier
7 or a licensed exporter from this state to any other state, provided
8 that the bill of lading indicates the destination state and the
9 supplier collects the destination state tax;

10 (5) diesel fuel moved by truck or railcar between
11 licensed suppliers or licensed permissive suppliers and in which
12 the diesel fuel removed from the first terminal comes to rest in the
13 second terminal, provided that the removal from the second terminal
14 rack is subject to the state diesel fuel tax imposed by this
15 subchapter;

16 (6) diesel fuel delivered or sold into a storage
17 facility of a licensed aviation fuel dealer from which the diesel
18 fuel will be delivered solely into the fuel supply tanks of aircraft
19 or aircraft servicing equipment, or sold from one licensed aviation
20 fuel dealer to another licensed aviation fuel dealer who will
21 deliver the diesel fuel exclusively into the fuel supply tanks of
22 aircraft or aircraft servicing equipment;

23 (7) diesel fuel exported to a foreign country if the
24 bill of lading or shipping documents indicate the foreign
25 destination and the fuel is actually exported to the foreign
26 country;

27 (8) dyed diesel fuel sold or delivered by a supplier to

1 another supplier and dyed diesel fuel sold or delivered by a
2 supplier or distributor into the bulk storage facility of a dyed
3 diesel fuel bonded user or to a purchaser who provides a signed
4 statement as provided by Section 162.206;

5 (9) the volume of water, fuel ethanol, renewable
6 diesel, biodiesel, or mixtures thereof that are blended together
7 with taxable diesel fuel when the finished product sold or used is
8 clearly identified on the retail pump, storage tank, and sales
9 invoice as a combination of diesel fuel and water, fuel ethanol,
10 renewable diesel, biodiesel, or mixtures thereof;

11 (10) dyed diesel fuel sold by a supplier or permissive
12 supplier to a distributor, or by a distributor to another
13 distributor;

14 (11) dyed diesel fuel delivered by a license holder
15 into the fuel supply tanks of railway engines, motorboats, or
16 refrigeration units or other stationary equipment powered by a
17 separate motor from a separate fuel supply tank;

18 (12) dyed kerosene when delivered by a supplier,
19 distributor, or importer into a storage facility at a retail
20 business from which all deliveries are exclusively for heating,
21 cooking, lighting, or similar nonhighway use;

22 (13) diesel fuel used by a person, other than a
23 political subdivision, who owns, controls, operates, or manages a
24 commercial motor vehicle as defined by Section 548.001,
25 Transportation Code, if the fuel:

26 (A) is delivered exclusively into the fuel supply
27 tank of the commercial motor vehicle; and

1 (B) is used exclusively to transport passengers
2 for compensation or hire between points in this state on a fixed
3 route or schedule;

4 (14) diesel fuel sold to a volunteer fire department
5 in this state for the department's exclusive use; or

6 (15) diesel fuel sold to a nonprofit entity that is
7 organized for the sole purpose of and engages exclusively in
8 providing emergency medical services and that uses the diesel fuel
9 exclusively to provide emergency medical services, including
10 rescue and ambulance services.

11 (g) In lieu of claiming the exemption and complying with the
12 labeling requirements provided by Subsection (a)(9), a person to
13 whom Section 162.201 applies may elect to collect and remit the
14 taxes [~~tax~~] otherwise imposed by [~~under~~] this subchapter on the
15 materials described by Subsection (a)(9) as if the materials were
16 taxable diesel fuel. The labeling requirements provided by
17 Subsection (a)(9) do not apply to a dealer who sells taxable diesel
18 fuel blended with materials described by Subsection (a)(9) on which
19 a tax has been paid as provided by this subsection. Materials
20 described by Subsection (a)(9) on which a tax has been paid as
21 provided by this subsection are not exempt from taxation [~~tax~~]
22 under Subsection (a)(9) on a subsequent sale, and a license holder
23 or other purchaser is not entitled to a refund or credit under
24 Subsection (a)(9) for a purchase of taxable diesel fuel blended
25 with those materials.

26 SECTION 46. Section 162.205(a), Tax Code, is amended to
27 read as follows:

1 (a) A person shall obtain the appropriate license or
2 licenses issued by the comptroller before conducting the activities
3 of:

4 (1) a supplier, who may also act as a distributor,
5 importer, exporter, blender, motor fuel transporter, dealer, or
6 aviation fuel dealer without securing a separate license, but who
7 is subject to all other conditions, requirements, and liabilities
8 imposed on those license holders;

9 (2) a permissive supplier, who may also act as a
10 distributor, importer, exporter, blender, motor fuel transporter,
11 dealer, or aviation fuel dealer without securing a separate license
12 but who is subject to all other conditions, requirements, and
13 liabilities imposed on those license holders;

14 (3) a distributor, who may also act as an importer,
15 exporter, blender, [~~or~~] motor fuel transporter, or dealer without
16 securing a separate license, but who is subject to all other
17 conditions, requirements, and liabilities imposed on those license
18 holders;

19 (4) an importer, who may also act as an exporter,
20 blender, [~~or~~] motor fuel transporter, or dealer without securing a
21 separate license, but who is subject to all other conditions,
22 requirements, and liabilities imposed on those license holders;

23 (5) a terminal operator;

24 (6) an exporter;

25 (7) a blender;

26 (8) a motor fuel transporter;

27 (9) an aviation fuel dealer;

- 1 (10) an interstate trucker; ~~[or]~~
- 2 (11) a dyed diesel fuel bonded user; or
- 3 (12) a dealer.

4 SECTION 47. Section 162.206(d), Tax Code, is amended to
5 read as follows:

6 (d) Any gallons purchased or sold in excess of the
7 limitations prescribed by Subsection (c) constitute a ~~[taxable~~
8 ~~purchase or]~~ sale subject to the taxes imposed by this subchapter.

9 A purchaser that exceeds the limitations prescribed by Subsection
10 (c) shall be required to obtain a dyed diesel fuel bonded user
11 license.

12 SECTION 48. Sections 162.208(a) and (b), Tax Code, are
13 amended to read as follows:

14 (a) A person may elect to obtain a permissive supplier
15 license to collect the state diesel fuel tax imposed by ~~[under]~~ this
16 subchapter for diesel fuel that is removed at a terminal in another
17 state and has this state as the destination state.

18 (b) With respect to diesel fuel that is removed by the
19 licensed permissive supplier at a terminal located in another state
20 and that has this state as the destination state, a licensed
21 permissive supplier shall:

22 (1) collect the state diesel fuel tax due to this state
23 on the diesel fuel;

24 (2) waive any defense that this state lacks
25 jurisdiction to require the supplier to collect the state diesel
26 fuel tax due to this state on the diesel fuel under this subchapter;

27 (3) report and pay the state diesel fuel tax due on the

1 diesel fuel in the same manner as if the removal had occurred at a
2 terminal located in this state;

3 (4) keep records of the removal of the diesel fuel and
4 submit to audits concerning the diesel fuel as if the removal had
5 occurred at a terminal located in this state; and

6 (5) report sales by the permissive supplier to a
7 person who is not licensed in this state.

8 SECTION 49. Section 162.209, Tax Code, is amended by adding
9 Subsection (a-1) to read as follows:

10 (a-1) In addition to the information required by Subsection
11 (a), an applicant for a license as a dealer must list on the
12 application:

13 (1) the street address, municipality, county, and zip
14 code of the location for which the applicant seeks a license to sell
15 or dispense motor fuel at retail;

16 (2) the applicant's social security number, driver's
17 license number, and federal employer identification number if the
18 applicant is a natural person who is not licensed as a supplier,
19 permissive supplier, or terminal operator; and

20 (3) if the applicant is a corporation, limited
21 liability company, professional association, partnership or other
22 entity that is not licensed as a supplier, permissive supplier, or
23 terminal operator and is not wholly owned by an entity that is
24 licensed as a supplier, permissive supplier, or terminal operator,
25 the physical address, mailing address, social security number, and
26 driver's license number of:

27 (A) each natural person responsible for the

1 purchase of motor fuel for sale by the applicant; and

2 (B) each officer, director, manager, member,
3 shareholder, and partner of the applicant.

4 SECTION 50. Section 162.211(a), Tax Code, is amended to
5 read as follows:

6 (a) The license issued to a supplier, permissive supplier,
7 distributor, importer, terminal supplier, exporter, blender,
8 dealer, motor fuel transporter, or dyed diesel fuel bonded user is
9 permanent and is valid during the period the license holder has in
10 force and effect the required bond or security and furnishes timely
11 reports and supplements as required, or until the license is
12 surrendered by the holder or canceled by the comptroller. The
13 comptroller shall cancel a license under this subsection if a
14 purchase, sale, or use of diesel fuel has not been reported by the
15 license holder during the previous nine months.

16 SECTION 51. Section 162.212(a), Tax Code, is amended to
17 read as follows:

18 (a) The comptroller shall determine the amount of security
19 required of a supplier, permissive supplier, distributor,
20 exporter, importer, dealer, blender, or dyed diesel fuel bonded
21 user, taking into consideration the amount of tax that has or is
22 expected to become due from the person, any past history of the
23 person as a license holder under this chapter and its predecessor,
24 and the necessity to protect this state against the failure to pay
25 the tax as the tax becomes due.

26 SECTION 52. Section 162.213(a), Tax Code, is amended to
27 read as follows:

1 (a) The comptroller, on or before December 20 of each year,
2 shall make available to all license holders an alphabetical list of
3 licensed suppliers, permissive suppliers, distributors, aviation
4 fuel dealers, importers, exporters, blenders, dealers, terminal
5 operators, and dyed diesel fuel bonded users. A supplemental list
6 of additions and deletions shall be made available to the license
7 holders each month. A current and effective license or the list
8 furnished by the comptroller is evidence of the validity of the
9 license until the comptroller notifies license holders of a change
10 in the status of a license holder.

11 SECTION 53. Sections [162.214\(c\)](#), (d), (d-1), and (e), Tax
12 Code, are amended to read as follows:

13 (c) If the supplier or permissive supplier cannot secure
14 from the licensed distributor or licensed importer payment of taxes
15 due for state diesel fuel removed from the terminal during the
16 previous reporting period and the supplier elects to take a credit
17 against a subsequent payment of diesel fuel tax to this state for
18 the taxes not remitted to the supplier or permissive supplier by the
19 licensed distributor or licensed importer, the supplier or
20 permissive supplier shall notify the comptroller of the licensed
21 distributor's or licensed importer's failure to remit tax in
22 conjunction with the report requesting a credit.

23 (d) The supplier or permissive supplier, after requesting a
24 credit under this section, shall terminate the ability of the
25 licensed distributor or licensed importer to defer the payment of
26 state diesel fuel tax. The supplier or permissive supplier may not
27 reinstate the right of the licensed distributor or licensed

1 importer to defer the payment of state diesel fuel tax until the
2 first anniversary of the date the supplier or permissive supplier
3 requested the credit, subject to Subsection (d-1).

4 (d-1) A supplier or permissive supplier may reinstate the
5 right of a licensed distributor or licensed importer to defer the
6 payment of state diesel fuel tax before the date prescribed by
7 Subsection (d) if the comptroller determines that:

8 (1) the supplier or permissive supplier erroneously
9 requested the credit that resulted in the termination of the
10 licensed distributor's or licensed importer's right to defer
11 payment; or

12 (2) the licensed distributor or licensed importer
13 failed to pay state diesel fuel taxes due because of circumstances
14 that may have been outside the distributor's or importer's control.

15 (e) A licensed distributor or licensed importer who makes
16 timely payments of the state diesel fuel tax imposed by ~~under~~ this
17 subchapter is entitled to retain an amount equal to 1.75 percent of
18 the total state diesel fuel tax ~~taxes~~ to be paid to the supplier
19 or permissive supplier to cover administrative expenses.

20 SECTION 54. Section 162.215(a), Tax Code, is amended to
21 read as follows:

22 (a) Except as provided by Subsection (b), each person who is
23 liable for the taxes ~~tax~~ imposed by this subchapter, a terminal
24 operator, a dealer, and a licensed distributor shall file a return
25 on or before the 25th day of the month following the end of each
26 calendar month.

27 SECTION 55. Sections 162.216(b), (c), (e), (g), and (h),

1 Tax Code, are amended to read as follows:

2 (b) A distributor shall keep:

3 (1) a record showing the number of gallons of:

4 (A) all diesel fuel inventories on hand at the
5 first of each month;

6 (B) all diesel fuel blended;

7 (C) all diesel fuel purchased or received,
8 showing the name of the seller and the date of each purchase or
9 receipt;

10 (D) all diesel fuel sold, distributed, or used,
11 showing:

12 (i) the name of the purchaser;

13 (ii) if the diesel fuel was delivered to a
14 municipality in this state, the municipality to which the diesel
15 fuel was delivered;

16 (iii) the amount of municipal diesel fuel
17 tax collected from the purchaser, if any; and

18 (iv) the date of the sale, distribution, or
19 use; and

20 (E) all diesel fuel lost by fire, theft, or
21 accident;

22 (2) an itemized statement showing by load the number
23 of gallons of all diesel fuel:

24 (A) received during the preceding calendar month
25 for export and the location of the loading;

26 (B) sold, distributed, or used, showing:

27 (i) the name of the purchaser;

1 (ii) if the diesel fuel was delivered to a
2 municipality in this state, the municipality to which the diesel
3 fuel was delivered;

4 (iii) the amount of municipal diesel fuel
5 tax collected from the purchaser, if any; and

6 (iv) the date of the sale, distribution, or
7 use;

8 (C) exported from this state by destination state
9 or country; and

10 (D) [~~(C)~~] imported during the preceding calendar
11 month, by state or country of origin; [~~and~~]

12 (3) for diesel fuel exported outside this state, proof
13 of payment of tax to the destination state, in a form acceptable to
14 the comptroller; and

15 (4) all shipping documents.

16 (c) An importer shall keep:

17 (1) a record showing the number of gallons of:

18 (A) all diesel fuel inventories on hand at the
19 first of each month;

20 (B) all diesel fuel compounded or blended;

21 (C) all diesel fuel purchased or received,
22 showing the name of the seller and the date of each purchase or
23 receipt;

24 (D) all diesel fuel sold, distributed, or used,
25 showing the name of the purchaser, the municipality in this state,
26 if applicable, and the date of the sale, distribution, or use; and

27 (E) all diesel fuel lost by fire, theft, or

1 accident; and

2 (2) an itemized statement showing by load the number
3 of gallons of all diesel fuel:

4 (A) received during the preceding calendar month
5 for export and the location of the loading;

6 (B) sold, distributed, or used, showing the name
7 of the purchaser, the municipality or municipalities in this state,
8 if applicable, and the date of sale, distribution, or use;

9 (C) exported from this state, by destination
10 state or country; and

11 (D) [~~C~~] imported during the preceding calendar
12 month, by state or country of origin.

13 (e) A blender shall keep a record showing the number of
14 gallons of:

15 (1) all diesel fuel inventories on hand at the first of
16 each month;

17 (2) all diesel fuel compounded or blended;

18 (3) all diesel fuel purchased or received, showing the
19 name of the seller and the date of each purchase or receipt;

20 (4) all diesel fuel sold, distributed, or used,
21 showing the name of the purchaser, the municipality in this state,
22 if applicable, and the date of the sale, distribution, or use; and

23 (5) all diesel fuel lost by fire, theft, or accident.

24 (g) A motor fuel transporter shall keep a complete and
25 separate record of each intrastate and interstate transportation of
26 diesel fuel, showing:

27 (1) the date of transportation;

- 1 (2) the name of the consignor and consignee;
- 2 (3) the method of transportation;
- 3 (4) the quantity and kind of diesel fuel transported;
- 4 (5) full data concerning the diversion of shipments,
5 including the municipality in this state, if applicable, and the
6 number of gallons diverted from interstate to intrastate and
7 intrastate to interstate commerce; and
- 8 (6) the points of origin and destination, the
9 municipality in this state, if applicable, the number of gallons
10 shipped or transported, the date, the consignee and the consignor,
11 and the kind of diesel fuel that has been diverted.

12 (h) A dealer shall keep all shipping documents and a record
13 showing the number of gallons of:

- 14 (1) diesel fuel inventories on hand at the first of
15 each month;
- 16 (2) all diesel fuel purchased or received, showing the
17 name of the seller and the date of each purchase or receipt;
- 18 (3) all diesel fuel sold or used, showing the date of
19 the sale or use; and
- 20 (4) all diesel fuel lost by fire, theft, or accident.

21 SECTION 56. Section [162.217\(c\)](#), Tax Code, is amended to
22 read as follows:

23 (c) A supplier or permissive supplier may take a credit for
24 any state diesel fuel tax [~~taxes~~] that was [~~were~~] not remitted in a
25 previous period to the supplier or permissive supplier by a
26 licensed distributor or licensed importer as required by Section
27 [162.214](#). The supplier or permissive supplier is eligible to take

1 this credit if the comptroller is notified of the default within 15
2 days after the default occurs. If a license holder pays to a
3 supplier or permissive supplier the tax owed, but the payment
4 occurs after the supplier or permissive supplier has taken a credit
5 on its return, the supplier or permissive supplier shall remit the
6 payment to the comptroller with the next monthly return after
7 receipt of the tax, plus a penalty of 10 percent of the amount of
8 unpaid taxes and interest at the rate provided by Section 111.060
9 beginning on the date the credit is taken.

10 SECTION 57. Section 162.219, Tax Code, is amended to read as
11 follows:

12 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S
13 RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return and
14 supplements of each distributor shall contain for the period
15 covered by the return:

16 (1) the number of net gallons of diesel fuel received
17 by the distributor during the month, sorted by product code,
18 seller, point of origin, destination state, carrier, and receipt
19 date;

20 (2) the number of net gallons of diesel fuel removed at
21 a terminal rack by the distributor during the month, sorted by
22 product code, seller, terminal code, and carrier;

23 (3) the number of net gallons of diesel fuel removed by
24 the distributor during the month for export, sorted by product
25 code, terminal code, bulk plant address, destination state, and
26 carrier;

27 (4) the number of net gallons of diesel fuel removed by

1 the distributor during the month from a terminal located in another
2 state for conveyance to this state, as indicated on the shipping
3 document for the diesel fuel, sorted by product code, seller,
4 terminal code, bulk plant address, and carrier;

5 (5) the number of net gallons of diesel fuel the
6 distributor sold during the month in transactions exempt under
7 Section 162.204, dyed diesel fuel sold to a purchaser under a signed
8 statement, or dyed diesel fuel sold to a dyed diesel fuel bonded
9 user, sorted by product code and by the entity receiving the diesel
10 fuel; ~~and~~

11 (6) the number of net gallons delivered into a taxing
12 municipality sorted by taxing municipality and purchaser; and

13 (7) any other information required by the comptroller.

14 (b) A distributor or importer who makes timely payments of
15 the municipal diesel fuel tax imposed by this subchapter is
16 entitled to retain an amount equal to two percent of the total
17 municipal diesel fuel taxes remitted to the comptroller to cover
18 administrative expenses.

19 SECTION 58. Section 162.224, Tax Code, is amended to read as
20 follows:

21 Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN.
22 The monthly return and supplements of each blender shall contain
23 for the period covered by the return:

24 (1) the number of net gallons of diesel fuel received
25 by the blender during the month, sorted by product code, seller,
26 point of origin, carrier, and receipt date;

27 (2) the number of net gallons of product blended with

1 diesel fuel during the month, sorted by product code, type of
2 blending agent if no product code exists, seller, and carrier;

3 (3) the number of net gallons of blended diesel fuel
4 sold during the month and the license number or name, ~~and~~ address,
5 and, if applicable, municipality of the entity receiving the
6 blended diesel fuel; and

7 (4) any other information required by the comptroller.

8 SECTION 59. Subchapter C, Chapter 162, Tax Code, is amended
9 by adding Section 162.2245 to read as follows:

10 Sec. 162.2245. INFORMATION REQUIRED ON DEALER'S RETURN. The
11 monthly return and supplements of each dealer shall contain for the
12 period covered by the return:

13 (1) the number of gallons of diesel fuel inventories
14 on hand at the first of each month, sorted by product code;

15 (2) the number of gallons of diesel fuel received by
16 the dealer during the month, sorted by seller;

17 (3) the number of gallons of diesel fuel inventories
18 on hand at the end of each month; and

19 (4) any other information required by the comptroller.

20 SECTION 60. Sections 162.227(f-1) and (f-2), Tax Code, are
21 amended to read as follows:

22 (f-1) A volunteer fire department exempt from the taxes
23 ~~[tax]~~ imposed under this subchapter that paid a tax on the purchase
24 of diesel fuel is entitled to a refund of the tax paid, and the
25 volunteer fire department may file a refund claim with the
26 comptroller for that amount.

27 (f-2) A nonprofit entity exempted under Section

1 162.204(a)(15) from the taxes [~~tax~~] imposed under this subchapter
2 that paid a tax on the purchase of diesel fuel is entitled to a
3 refund of the tax paid, and the entity may file a refund claim with
4 the comptroller for that amount.

5 SECTION 61. Sections 162.229(a) and (d), Tax Code, are
6 amended to read as follows:

7 (a) A refund claim must be filed on a form provided by the
8 comptroller, be supported by the original invoice issued by the
9 seller, and contain:

10 (1) the stamped or preprinted name and address of the
11 seller, including, if applicable, the municipality to which the
12 diesel fuel was delivered;

13 (2) the name and address of the purchaser;

14 (3) the date of delivery of the diesel fuel;

15 (4) the date of the issuance of the invoice, if
16 different from the date of fuel delivery;

17 (5) the number of gallons of diesel fuel delivered;

18 (6) the amount of state or municipal diesel fuel taxes
19 paid [~~tax~~], either separately stated from the selling price or
20 stated with a notation that both state and municipal diesel fuel
21 taxes are included if both apply [~~the selling price includes the~~
22 ~~tax~~]; and

23 (7) the type of vehicle or equipment into which the
24 fuel is delivered.

25 (d) A distributor or person who does not hold a license who
26 files a valid refund claim with the comptroller shall be paid by a
27 warrant issued by the comptroller. For purposes of this section, a

1 distributor meets the requirement of filing a valid refund claim
2 for state and municipal diesel fuel taxes if the distributor
3 designates the gallons of diesel fuel sold or used that are the
4 subject of the refund claim on the monthly report submitted by the
5 distributor to the comptroller.

6 SECTION 62. Sections 162.401(b), (c), and (f), Tax Code,
7 are amended to read as follows:

8 (b) The comptroller may add a penalty of 75 percent of the
9 amount of taxes, penalties, and interest due if failure to file the
10 report or pay the tax when it becomes due is attributable to fraud
11 or an intent to evade the application of this chapter or a rule
12 adopted under this chapter or Chapter 111 or 401.

13 (c) The penalties provided by Subsection (b) are intended to
14 be remedial in nature and are provided for the protection of state
15 and taxing municipality revenue and to reimburse the state and
16 taxing municipalities for expenses incurred as a result of fraud,
17 including expenses incurred in conducting an investigation.

18 (f) In addition to any other penalty authorized by this
19 section, a person who fails to pay the tax imposed by Section
20 162.101(e-2), 162.1011(c), [~~or~~] 162.201(e-2), or 162.2011(d) when
21 due shall pay a penalty equal to the greater of \$2,000 or five times
22 the amount of the taxes [~~tax~~] due on the motor fuel.

23 SECTION 63. Sections 162.402(a), (c), and (d), Tax Code,
24 are amended to read as follows:

25 (a) A person forfeits to the state a civil penalty of not
26 less than \$25 and not more than \$200 if the person:

27 (1) refuses to stop and permit the inspection and

1 examination of a motor vehicle transporting or using motor fuel on
2 demand of a peace officer or the comptroller;

3 (2) operates a motor vehicle in this state without a
4 valid interstate trucker's license or a trip permit when the person
5 is required to hold one of those licenses or permits;

6 (3) transports gasoline or diesel fuel in any cargo
7 tank that has a connection by pipe, tube, valve, or otherwise with
8 the fuel injector or carburetor of, or with the fuel supply tank
9 feeding the fuel injector or carburetor of, the motor vehicle
10 transporting the product;

11 (4) sells or delivers gasoline or diesel fuel from any
12 fuel supply tank connected with the fuel injector or carburetor of a
13 motor vehicle;

14 (5) owns or operates a motor vehicle for which reports
15 or mileage records are required by this chapter without an
16 operating odometer or other device in good working condition to
17 record accurately the miles traveled;

18 (6) furnishes to a licensed supplier or distributor a
19 signed statement for purchasing diesel fuel tax-free and then uses
20 the tax-free diesel fuel to operate a diesel-powered motor vehicle
21 on a public highway;

22 (7) fails or refuses to comply with or violates a
23 provision of this chapter;

24 (8) fails or refuses to comply with or violates a
25 comptroller's rule for administering or enforcing this chapter;

26 (9) is an importer who does not obtain an import
27 verification number when required by this chapter;

1 (10) purchases motor fuel for export, on which the
2 taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and
3 subsequently diverts or causes the motor fuel to be diverted to a
4 destination in this state or any other state or country other than
5 the originally designated state or country without first obtaining
6 a diversion number;

7 (11) delivers compressed natural gas or liquefied
8 natural gas into the fuel supply tank of a motor vehicle and the
9 person does not hold a valid compressed natural gas and liquefied
10 natural gas dealer's license; [~~or~~]

11 (12) makes a tax-free delivery of compressed natural
12 gas or liquefied natural gas into the fuel supply tank of a motor
13 vehicle, unless the delivery is exempt from tax under Section
14 162.356;

15 (13) transports motor fuel to a municipality in this
16 state other than the municipality stated on the shipping document;
17 or

18 (14) transports motor fuel to a municipality in this
19 state if the shipping document does not state a municipality.

20 (c) A person receiving motor fuel who accepts a shipping
21 document that does not conform with the requirements of Section
22 162.004 or 162.016(a) is liable to this state for a civil penalty of
23 \$2,000 or five times the amount of the unpaid tax, whichever is
24 greater, for each occurrence.

25 (d) A person who issues a shipping document that does not
26 conform with the requirements of Section 162.004 or 162.016(a) is
27 liable to this state for a civil penalty of \$2,000 or five times the

1 amount of the unpaid tax, whichever is greater, for each
2 occurrence.

3 SECTION 64. Section 162.403, Tax Code, is amended to read as
4 follows:

5 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
6 Section 162.404, a person commits an offense if the person:

7 (1) refuses to stop and permit the inspection and
8 examination of a motor vehicle transporting or using motor fuel on
9 the demand of a peace officer or the comptroller;

10 (2) is required to hold a valid trip permit or
11 interstate trucker's license, but operates a motor vehicle in this
12 state without a valid trip permit or interstate trucker's license;

13 (3) transports gasoline or diesel fuel in any cargo
14 tank that has a connection by pipe, tube, valve, or otherwise with
15 the fuel injector or carburetor or with the fuel supply tank feeding
16 the fuel injector or carburetor of the motor vehicle transporting
17 the product;

18 (4) sells or delivers gasoline or diesel fuel from a
19 fuel supply tank that is connected with the fuel injector or
20 carburetor of a motor vehicle;

21 (5) owns or operates a motor vehicle for which reports
22 or mileage records are required by this chapter without an
23 operating odometer or other device in good working condition to
24 record accurately the miles traveled;

25 (6) sells or delivers dyed diesel fuel for the
26 operation of a motor vehicle on a public highway;

27 (7) uses dyed diesel fuel for the operation of a motor

1 vehicle on a public highway except as allowed under Section
2 162.235;

3 (8) refuses to permit the comptroller or the attorney
4 general to inspect, examine, or audit a book or record required to
5 be kept by a license holder, other user, or any person required to
6 hold a license under this chapter;

7 (9) refuses to permit the comptroller or the attorney
8 general to inspect or examine any plant, equipment, materials, or
9 premises where motor fuel is produced, processed, blended, stored,
10 sold, delivered, or used;

11 (10) refuses to permit the comptroller, the attorney
12 general, an employee of either of those officials, a peace officer,
13 an employee of the Texas Commission on Environmental Quality, or an
14 employee of the Texas Department of Licensing and Regulation to
15 measure or gauge the contents of or take samples from a storage tank
16 or container on premises where motor fuel is produced, processed,
17 blended, stored, sold, delivered, or used;

18 (11) is a license holder, a person required to be
19 licensed, or another user and fails or refuses to make or deliver to
20 the comptroller a report required by this chapter to be made and
21 delivered to the comptroller;

22 (12) is an importer who does not obtain an import
23 verification number when required by this chapter;

24 (13) purchases motor fuel for export, on which the
25 taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and
26 subsequently diverts or causes the motor fuel to be diverted to a
27 destination in this state or any other state or country other than

1 the originally designated state or country without first obtaining
2 a diversion number;

3 (13-a) transports motor fuel to a municipality in this
4 state other than the municipality stated on the shipping document;

5 (13-b) transports motor fuel to a municipality in this
6 state if the shipping document does not state a municipality;

7 (14) conceals motor fuel with the intent of engaging
8 in any conduct proscribed by this chapter or refuses to make sales
9 of motor fuel on the volume-corrected basis prescribed by this
10 chapter;

11 (15) refuses, while transporting motor fuel, to stop
12 the motor vehicle the person is operating when called on to do so by
13 a person authorized to stop the motor vehicle;

14 (16) refuses to surrender a motor vehicle and cargo
15 for impoundment after being ordered to do so by a person authorized
16 to impound the motor vehicle and cargo;

17 (17) mutilates, destroys, or secretes a book or record
18 required by this chapter to be kept by a license holder, other user,
19 or person required to hold a license under this chapter;

20 (18) is a license holder, other user, or other person
21 required to hold a license under this chapter, or the agent or
22 employee of one of those persons, and makes a false entry or fails
23 to make an entry in the books and records required under this
24 chapter to be made by the person or fails to retain a document as
25 required by this chapter;

26 (19) transports in any manner motor fuel under a false
27 cargo manifest or shipping document, or transports in any manner

1 motor fuel to a location without delivering at the same time a
2 shipping document relating to that shipment;

3 (20) engages in a motor fuel transaction that requires
4 that the person have a license under this chapter without then and
5 there holding the required license;

6 (21) makes and delivers to the comptroller a report
7 required under this chapter to be made and delivered to the
8 comptroller, if the report contains false information;

9 (22) forges, falsifies, or alters an invoice or
10 shipping document prescribed by law;

11 (23) makes any statement, knowing said statement to be
12 false, in a claim for a tax refund filed with the comptroller;

13 (24) furnishes to a licensed supplier or distributor a
14 signed statement for purchasing diesel fuel tax-free and then uses
15 the tax-free diesel fuel to operate a diesel-powered motor vehicle
16 on a public highway;

17 (25) holds an aviation fuel dealer's license and makes
18 a taxable sale or use of any gasoline or diesel fuel;

19 (26) fails to remit any tax funds collected or
20 required to be collected by a license holder, another user, or any
21 other person required to hold a license under this chapter;

22 (27) makes a sale of dyed diesel fuel tax-free into a
23 storage facility of a person who:

24 (A) is not licensed as a distributor, as an
25 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

26 (B) does not furnish to the licensed supplier or
27 distributor a signed statement prescribed in Section [162.206](#);

1 (28) makes a sale of gasoline tax-free to any person
2 who is not licensed as an aviation fuel dealer;

3 (29) purchases any motor fuel tax-free when not
4 authorized to make a tax-free purchase under this chapter;

5 (30) purchases motor fuel with the intent to evade any
6 tax imposed by this chapter or accepts a delivery of motor fuel by
7 any means and does not at the same time accept or receive a shipping
8 document relating to the delivery;

9 (31) transports motor fuel for which a cargo manifest
10 or shipping document is required to be carried without possessing
11 or exhibiting on demand by an officer authorized to make the demand
12 a cargo manifest or shipping document containing the information
13 required to be shown on the manifest or shipping document;

14 (32) imports, sells, uses, blends, distributes, or
15 stores motor fuel within this state on which a tax [~~the taxes~~]
16 imposed by this chapter is [~~are~~] owed but has [~~have~~] not been first
17 paid to or reported by a license holder, another user, or any other
18 person required to hold a license under this chapter;

19 (33) blends products together to produce a blended
20 fuel that is offered for sale, sold, or used and that expands the
21 volume of the original product to evade paying applicable motor
22 fuel taxes;

23 (34) evades or attempts to evade in any manner a tax
24 imposed on motor fuel by this chapter;

25 (35) delivers compressed natural gas or liquefied
26 natural gas into the fuel supply tank of a motor vehicle and the
27 person does not hold a valid compressed natural gas and liquefied

1 natural gas dealer's license; or

2 (36) makes a tax-free delivery of compressed natural
3 gas or liquefied natural gas into the fuel supply tank of a motor
4 vehicle, unless the delivery is exempt from tax under Section
5 162.356.

6 SECTION 65. Section 162.405(d), Tax Code, is amended to
7 read as follows:

8 (d) An offense under Section 162.403(6), (13-a), (13-b),
9 (17), (18), (19), (20), (21), (22), (23), or (24) is a felony of the
10 third degree.

11 SECTION 66. Section 20.002(d), Transportation Code, is
12 amended to read as follows:

13 (d) The fee imposed by this section is equal to 25 percent of
14 the diesel fuel tax rate imposed under Section 162.202(a)
15 [~~162.202~~], Tax Code.

16 SECTION 67. (a) A municipality may not impose a motor fuel
17 tax under Chapter 401, Tax Code, as added by this Act, before the
18 effective date of rules adopted by the comptroller of public
19 accounts under Section 401.151, Tax Code, as added by this Act.

20 (b) The comptroller of public accounts shall adopt rules as
21 provided by Section 401.151, Tax Code, as added by this Act, not
22 later than the 90th day after the date the voters approve the
23 imposition of a tax under Chapter 401, Tax Code, as added by this
24 Act, in the first municipality in this state in which imposition of
25 the tax is approved.

26 SECTION 68. The comptroller shall compute the initial
27 adjusted tax rates as required by Sections 162.1026(c) and

1 162.2026(c), Tax Code, as added by this Act, not later than November
2 1, 2024. The initial adjusted rates take effect January 1, 2025.

3 SECTION 69. The change in law made by this Act does not
4 affect tax liability accruing before the effective date of this
5 Act. That liability continues in effect as if this Act had not been
6 enacted, and the former law is continued in effect for the
7 collection of taxes due and for civil and criminal enforcement of
8 the liability for those taxes.

9 SECTION 70. If the constitution of this state requires that
10 one-fourth of the municipal motor fuels tax authorized by this Act
11 be allocated to the available school fund, the municipality shall
12 deposit that money into an account separate from the money
13 collected under other provisions of this Act and shall allocate the
14 money to the comptroller of public accounts for deposit in the state
15 treasury for the purpose required by the constitution.

16 SECTION 71. This Act takes effect September 1, 2023.