

1-1 By: Bailes (Senate Sponsor - Nichols) H.B. No. 3651
 1-2 (In the Senate - Received from the House May 1, 2023;
 1-3 May 2, 2023, read first time and referred to Committee on Finance;
 1-4 May 8, 2023, reported favorably by the following vote: Yeas 16,
 1-5 Nays 0; May 8, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			
1-23			X	
1-24	X			

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to motor fuel taxes.
 1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-29 SECTION 1. Section 162.001, Tax Code, is amended by
 1-30 amending Subdivisions (1), (14), (42), (43), (56), and (61) and
 1-31 adding Subdivisions (16-a) and (17-a) to read as follows:
 1-32 (1) "Agricultural purpose" means a purpose associated
 1-33 with the following activities:
 1-34 (A) cultivating the soil;
 1-35 (B) producing crops for human food, animal feed,
 1-36 or planting seed or for the production of fibers;
 1-37 (C) floriculture, viticulture, silviculture, and
 1-38 horticulture, including the cultivation of plants in potting
 1-39 containers or nonsoil media;
 1-40 (D) raising, feeding, or keeping livestock or
 1-41 other animals for the production of food or fiber, leather, pelts,
 1-42 or other tangible products having a commercial value;
 1-43 (E) wildlife management; and
 1-44 (F) planting cover crops, including cover crops
 1-45 cultivated for transplantation, or leaving land idle for the
 1-46 purpose of participating in any governmental program or normal crop
 1-47 or livestock rotation procedure.
 1-48 (14) "Cargo tank" means an assembly that is used to
 1-49 transport, haul, or deliver liquids and that consists of a tank
 1-50 having one or more compartments [~~mounted~~] on a wagon, automobile,
 1-51 truck, trailer, or wheels. The term includes accessory piping,
 1-52 valves, and meters, but does not include a fuel supply tank
 1-53 connected to the carburetor or fuel injector of a motor vehicle.
 1-54 (16-a) "Container" means any receptacle used to store
 1-55 motor fuel.
 1-56 (17-a) "Delivery" means any transfer of motor fuel:
 1-57 (A) into a fuel supply tank, cargo tank, or
 1-58 container; or
 1-59 (B) to a location or into a receptacle, as
 1-60 specified by this chapter in connection with the term.
 1-61 (42) "Motor fuel" means gasoline, diesel fuel,

2-1 gasoline blended fuel, compressed natural gas, liquefied natural
 2-2 gas, and other products that are offered for sale, sold, used, or
 2-3 capable of use as fuel for a motor vehicle licensed for use on a
 2-4 public highway [~~gasoline-powered engine or a diesel-powered~~
 2-5 ~~engine~~].

2-6 (43) "Motor fuel transporter" means a person who
 2-7 transports gasoline, diesel fuel, gasoline blended fuel, aviation
 2-8 fuel, or any other motor fuel, except liquefied gas, compressed
 2-9 natural gas, or liquefied natural gas, outside the bulk
 2-10 transfer/terminal system by means of a transport vehicle, a
 2-11 railroad tank car, or a marine vessel. The term does not include a
 2-12 person who [+

2-13 [~~(A)~~] is licensed under this chapter as a
 2-14 supplier, permissive supplier, or distributor [+] and:

2-15 (A) [~~(B)~~] exclusively transports gasoline,
 2-16 diesel fuel, gasoline blended fuel, aviation fuel, or any other
 2-17 motor fuel to which the person retains ownership while the fuel is
 2-18 being transported by the person; or

2-19 (B) lawfully acquires motor fuel and retains
 2-20 ownership of the fuel while the fuel is being transported.

2-21 (56) "Solid waste refuse vehicle" means a motor
 2-22 vehicle equipped with a power takeoff or auxiliary power unit that
 2-23 provides power to compact the refuse, open the back of the refuse
 2-24 container before ejection, and eject the compacted refuse.

2-25 (61) "Transport vehicle" means any [a] vehicle
 2-26 [~~designed or~~] used to carry motor fuel over a public highway and
 2-27 includes a motor vehicle, straight truck, straight truck/trailer
 2-28 combination, [and] semitrailer combination rig, and motor
 2-29 vehicle/trailer combination.

2-30 SECTION 2. Section 162.101, Tax Code, is amended by
 2-31 amending Subsection (g) and adding Subsection (h) to read as
 2-32 follows:

2-33 (g) In each subsequent sale of gasoline on which the tax has
 2-34 been paid, the amount of the tax shall be added to the selling price
 2-35 so that the tax is paid by each person receiving the gasoline until
 2-36 it is paid ultimately by the person using or consuming the gasoline.

2-37 (h) Gasoline is considered to be used when it is delivered
 2-38 into a fuel supply tank.

2-39 SECTION 3. Section 162.103(a), Tax Code, is amended to read
 2-40 as follows:

2-41 (a) A backup tax is imposed at the rate prescribed by
 2-42 Section 162.102 on:

2-43 (1) a person who obtains a refund of tax on gasoline by
 2-44 claiming the gasoline was used for an off-highway purpose, but
 2-45 actually uses the gasoline to operate a motor vehicle on a public
 2-46 highway;

2-47 (2) a person who operates a motor vehicle on a public
 2-48 highway using gasoline on which tax has not been paid;

2-49 (3) a person who sells to the ultimate consumer
 2-50 gasoline on which tax has not been paid and who knew or had reason to
 2-51 know that the gasoline would be used for a taxable purpose; [~~and~~]

2-52 (4) a person, other than a person exempted under
 2-53 Section 162.104, who acquires gasoline on which tax has not been
 2-54 paid:

2-55 (A) in an original or subsequent sale; or

2-56 (B) from any source in this state; and

2-57 (5) a person who acquires gasoline by any unlawful
 2-58 means, including by purchase through the unauthorized use of a
 2-59 credit card, a debit card, or other money, regardless of whether tax
 2-60 was previously paid on the gasoline or was added to the selling
 2-61 price of the gasoline.

2-62 SECTION 4. Section 162.201, Tax Code, is amended by
 2-63 amending Subsection (g) and adding Subsection (h) to read as
 2-64 follows:

2-65 (g) In each subsequent sale of diesel fuel on which the tax
 2-66 has been paid, the amount of the tax shall be added to the selling
 2-67 price so that the tax is paid by each person receiving the diesel
 2-68 fuel until it is paid ultimately by the person using or consuming
 2-69 the diesel fuel.

3-1 (h) Diesel fuel is considered to be used when it is
3-2 delivered into a fuel supply tank.

3-3 SECTION 5. Section 162.203(a), Tax Code, is amended to read
3-4 as follows:

3-5 (a) A backup tax is imposed at the rate prescribed by
3-6 Section 162.202 on:

3-7 (1) a person who obtains a refund of tax on diesel fuel
3-8 by claiming the diesel fuel was used for an off-highway purpose, but
3-9 actually uses the diesel fuel to operate a motor vehicle on a public
3-10 highway;

3-11 (2) a person who operates a motor vehicle on a public
3-12 highway using diesel fuel on which tax has not been paid;

3-13 (3) a person who sells to the ultimate consumer diesel
3-14 fuel on which a tax has not been paid and who knew or had reason to
3-15 know that the diesel fuel would be used for a taxable purpose; ~~and~~

3-16 (4) a person, other than a person exempted under
3-17 Section 162.204, who acquires diesel fuel on which tax has not been
3-18 paid:

3-19 (A) in an original or subsequent sale; or

3-20 (B) from any source in this state; and

3-21 (5) a person who acquires diesel fuel by any unlawful
3-22 means, including by purchase through the unauthorized use of a
3-23 credit card, a debit card, or other money, regardless of whether tax
3-24 was previously paid on the diesel fuel or was added to the selling
3-25 price of the diesel fuel.

3-26 SECTION 6. The changes in law made by this Act do not affect
3-27 tax liability accruing before the effective date of this Act. That
3-28 liability continues in effect as if this Act had not been enacted,
3-29 and the former law is continued in effect for the collection of
3-30 taxes due and for civil and criminal enforcement of the liability
3-31 for those taxes.

3-32 SECTION 7. This Act takes effect September 1, 2023.

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