

1 AN ACT

2 relating to the collection of the motor fuel taxes; providing  
3 penalties.

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

5 SECTION 1. Subtitle E, Title 2, Tax Code, is amended by  
6 adding Chapter 162 to read as follows:

7 CHAPTER 162. MOTOR FUEL TAXES

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 162.001. DEFINITIONS. In this chapter:

10 (1) "Agricultural purpose" means a purpose associated  
11 with the following activities:

12 (A) cultivating the soil;

13 (B) producing crops for human food, animal feed,  
14 or planting seed or for the production of fibers;

15 (C) floriculture, viticulture, silviculture, and  
16 horticulture, including the cultivation of plants in containers or  
17 nonsoil media;

18 (D) raising, feeding, or keeping livestock or  
19 other animals for the production of food or fiber, leather, pelts,  
20 or other tangible products having a commercial value;

21 (E) wildlife management; and

22 (F) planting cover crops, including cover crops  
23 cultivated for transplantation, or leaving land idle for the  
24 purpose of participating in any governmental program or normal crop

1 or livestock rotation procedure.

2 (2) "Alcohol" means motor fuel grade ethanol or a  
3 mixture of motor fuel grade ethanol and methanol, excluding  
4 denaturant and water, that is a minimum of 98 percent ethanol or  
5 methanol by volume.

6 (3) "Aviation fuel" means aviation gasoline or  
7 aviation jet fuel.

8 (4) "Aviation fuel dealer" means a person who:

9 (A) is the operator of an aircraft servicing  
10 facility;

11 (B) delivers gasoline or diesel fuel exclusively  
12 into the fuel supply tanks of aircraft or into equipment used solely  
13 for servicing aircraft and used exclusively off-highway; and

14 (C) does not use, sell, or distribute gasoline or  
15 diesel fuel on which a fuel tax is required to be collected or paid  
16 to this state.

17 (5) "Aviation gasoline" means motor fuel designed for  
18 use in the operation of aircraft other than jet aircraft and sold or  
19 used for that purpose.

20 (6) "Aviation jet fuel" means motor fuel designed for  
21 use in the operation of jet or turboprop aircraft and sold or used  
22 for that purpose.

23 (7) "Biodiesel fuel" means any motor fuel or mixture  
24 of motor fuels that is:

25 (A) derived wholly or partly from agricultural  
26 products, vegetable oils, recycled greases, or animal fats, or the  
27 wastes of those products or fats; and

1                   (B) advertised, offered for sale, suitable for  
2 use, or used as a motor fuel in an internal combustion engine.

3                   (8) "Blender" means a person who produces blended  
4 motor fuel outside the bulk transfer/terminal system.

5                   (9) "Blending" means the mixing of one or more  
6 petroleum products with another product, regardless of the original  
7 character of the product blended, if the product obtained by the  
8 blending is capable of use in the generation of power for the  
9 propulsion of a motor vehicle. The term does not include mixing  
10 that occurs in the process of refining by the original refiner of  
11 crude petroleum or the commingling of products during  
12 transportation in a pipeline.

13                   (10) "Bulk plant" means a motor fuel storage and  
14 distribution facility that:

15                           (A) is not an IRS-approved terminal; and

16                           (B) from which motor fuel may be removed at a  
17 rack.

18                   (11) "Bulk transfer" means a transfer of motor fuel  
19 from one location to another by pipeline tender or marine delivery  
20 within a bulk transfer/terminal system, including:

21                           (A) a marine vessel movement of motor fuel from a  
22 refinery or terminal to a terminal;

23                           (B) a pipeline movement of motor fuel from a  
24 refinery or terminal to a terminal;

25                           (C) a book transfer of motor fuel within a  
26 terminal between licensed suppliers before completion of removal  
27 across the rack; and

1                   (D) a two-party exchange between licensed  
2 suppliers or between licensed suppliers and permissive suppliers.

3                   (12) "Bulk transfer/terminal system" means the motor  
4 fuel distribution system consisting of refineries, pipelines,  
5 marine vessels, and IRS-approved terminals. Motor fuel is in the  
6 bulk transfer/terminal system if the motor fuel is in a refinery, a  
7 pipeline, a terminal, or a marine vessel transporting motor fuel to  
8 a refinery or terminal. Motor fuel is not in the bulk  
9 transfer/terminal system if the motor fuel is in a motor fuel  
10 storage facility, including:

11                   (A) a bulk plant that is not part of a refinery or  
12 terminal;

13                   (B) the motor fuel supply tank of an engine or a  
14 motor vehicle;

15                   (C) a marine vessel transporting motor fuel to a  
16 motor fuel storage facility that is not in the bulk  
17 transfer/terminal system; or

18                   (D) a tank car, railcar, trailer, truck, or other  
19 equipment suitable for ground transportation.

20                   (13) "Bulk user" means a person who maintains storage  
21 facilities for motor fuel and uses all or part of the stored motor  
22 fuel to operate a motor vehicle, vessel, or aircraft and for other  
23 uses.

24                   (14) "Cargo tank" means an assembly that is used to  
25 transport, haul, or deliver liquids and that consists of a tank  
26 having one or more compartments mounted on a wagon, automobile,  
27 truck, trailer, or wheels. The term includes accessory piping,

1 valves, and meters, but does not include a fuel supply tank  
2 connected to the carburetor or fuel injector of a motor vehicle.

3 (15) "Carrier" means an operator of a pipeline or  
4 marine vessel engaged in the business of transporting motor fuel  
5 above the terminal rack.

6 (16) "Compressed natural gas" means natural gas that  
7 has been compressed and dispensed into motor fuel storage  
8 containers and is advertised, offered for sale, suitable for use,  
9 or used as an engine motor fuel.

10 (17) "Dealer" means a person who sells motor fuel at  
11 retail or dispenses motor fuel at a retail location.

12 (18) "Destination state" means the state, territory,  
13 or foreign country to which motor fuel is directed for delivery into  
14 a storage facility, a receptacle, a container, or a type of  
15 transportation equipment for resale or use.

16 (19) "Diesel fuel" means kerosene or another liquid,  
17 or a combination of liquids blended together, that is suitable for  
18 or used for the propulsion of diesel-powered motor vehicles. The  
19 term includes products commonly referred to as kerosene, light  
20 cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel  
21 fuel, aviation jet fuel, biodiesel, distillate fuel, cutter stock,  
22 or heating oil, but does not include gasoline, aviation gasoline,  
23 or liquefied gas.

24 (20) "Distributor" means a person who acquires motor  
25 fuel from a licensed supplier, permissive supplier, or another  
26 licensed distributor and who makes sales at wholesale and whose  
27 activities may also include sales at retail.

1           (21) "Diversion number" means the number assigned by  
2 the comptroller, or by a person to whom the comptroller delegates or  
3 appoints the authority to assign the number, that relates to a  
4 single cargo tank delivery of motor fuel that is diverted from the  
5 original destination state printed on the shipping document.

6           (22) "Dyed diesel fuel" means diesel fuel that:

7                   (A) meets the dyeing and marking requirements of  
8 26 U.S.C. Section 4082, regardless of how the diesel fuel was dyed;  
9 and

10                   (B) is intended for off-highway use only.

11           (23) "Export" means to obtain motor fuel in this state  
12 for sale or use in another state, territory, or foreign country.

13           (24) "Exporter" means a person that exports motor fuel  
14 from this state. The seller is the exporter of motor fuel delivered  
15 out of this state by or for the seller, and the purchaser is the  
16 exporter of motor fuel delivered out of this state by or for the  
17 purchaser.

18           (25) "Fuel grade ethanol" means the ASTM standard in  
19 effect on the effective date of this chapter as the D-4806  
20 specification for denatured motor fuel grade ethanol for blending  
21 with motor fuel.

22           (26) "Fuel supply tank" means a receptacle on a motor  
23 vehicle, nonhighway equipment, or a stationary engine from which  
24 motor fuel is supplied for the operation of its engine.

25           (27) "Gallon" means a unit of liquid measurement as  
26 customarily used in the United States and that contains 231 cubic  
27 inches by volume.

1           (28) "Gasohol" means a blended motor fuel composed of  
2 gasoline and motor fuel alcohol.

3           (29) "Gasoline" means any liquid or combination of  
4 liquids blended together, offered for sale, sold, or used as the  
5 fuel for a gasoline-powered engine. The term includes gasohol,  
6 aviation gasoline, and blending agents, but does not include racing  
7 gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

8           (30) "Gasoline blend stocks" includes any petroleum  
9 product component of gasoline, such as naphtha, reformat, or  
10 toluene, listed in Treasury Regulation Section 48.4081-1(c)(3),  
11 that can be blended for use in a motor fuel. The term does not  
12 include a substance that will be ultimately used for consumer  
13 nonmotor fuel use and is sold or removed in drum quantities of 55  
14 gallons or less at the time of the removal or sale.

15           (31) "Gasoline blended fuel" means a mixture composed  
16 of gasoline and other liquids, including gasoline blend stocks,  
17 gasohol, ethanol, methanol, fuel grade alcohol, and resulting  
18 blends, other than a de minimus amount of a product such as  
19 carburetor detergent or oxidation inhibitor, that can be used as  
20 gasoline in a motor vehicle.

21           (32) "Gross gallons" means the total measured product,  
22 exclusive of any temperature or pressure adjustments,  
23 considerations, or deductions, in U.S. gallons.

24           (33) "Import" means to bring motor fuel into this  
25 state by motor vehicle, marine vessel, pipeline, or any other  
26 means. The term does not include bringing motor fuel into this  
27 state in the motor fuel supply tank of a motor vehicle if the motor

1 fuel is used to power that motor vehicle.

2 (34) "Import verification number" means the number  
3 assigned by the comptroller, or by a person to whom the comptroller  
4 delegates or appoints the authority to assign the number, that  
5 relates to a single cargo tank delivery into this state from another  
6 state after a request for an assigned number by an importer or by  
7 the motor fuel transporter carrying taxable motor fuel into this  
8 state for the account of an importer.

9 (35) "Importer" means a person that imports motor fuel  
10 into this state. The seller is the importer for motor fuel  
11 delivered into this state from outside of this state by or for the  
12 seller, and the purchaser is the importer for motor fuel delivered  
13 into this state from outside of this state by or for the purchaser.

14 (36) "Interstate trucker" means a person who for  
15 commercial purposes operates in this state, other states, or other  
16 countries a motor vehicle that:

17 (A) has two axles and a registered gross weight  
18 in excess of 26,000 pounds;

19 (B) has three or more axles; or

20 (C) is used in combination and the registered  
21 gross weight of the combination exceeds 26,000 pounds.

22 (37) "Lessor" means a person:

23 (A) whose principal business is the leasing or  
24 renting of motor vehicles for compensation to the general public;

25 (B) who maintains established places of  
26 business; and

27 (C) whose lease or rental contracts require the



1 motor vehicles to be returned to the established places of business  
2 at the termination of the lease.

3 (38) "License holder" means a person licensed by the  
4 comptroller under Section 162.105, 162.205, 162.304, 162.305, or  
5 162.306.

6 (39) "Liquefied gas" means all combustible gases that  
7 exist in the gaseous state at 60 degrees Fahrenheit and at a  
8 pressure of 14.7 pounds per square inch absolute, but does not  
9 include gasoline or diesel fuel.

10 (40) "Liquefied gas tax decal user" means a person who  
11 owns or operates on the public highways of this state a motor  
12 vehicle capable of using liquefied gas for propulsion.

13 (41) "Motor carrier" means a person who operates a  
14 commercial vehicle used, designated, or maintained to transport  
15 persons or property.

16 (42) "Motor fuel" means gasoline, diesel fuel,  
17 liquefied gas, and other products that can be used to propel a motor  
18 vehicle.

19 (43) "Motor fuel transporter" means a person who  
20 transports gasoline, diesel fuel, or gasoline blended fuel outside  
21 the bulk transfer/terminal system by means of a transport vehicle,  
22 a railroad tank car, or a marine vessel.

23 (44) "Motor vehicle" means a self-propelled vehicle,  
24 trailer, or semitrailer that is designed or used to transport  
25 persons or property over a public highway.

26 (45) "Net gallons" means the amount of motor fuel  
27 measured in gallons when adjusted to a temperature of 60 degrees

1 Fahrenheit and a pressure of 14.7 pounds per square inch.

2 (46) "Permissive supplier" means a person who elects,  
3 but is not required, to have a supplier's license and who:

4 (A) is registered under Section 4101, Internal  
5 Revenue Code, for transactions in motor fuel in the bulk  
6 transfer/terminal system; and

7 (B) is a position holder in motor fuel located  
8 only in another state or a person who receives motor fuel only in  
9 another state under a two-party exchange.

10 (47) "Position holder" means the person who holds the  
11 inventory position in motor fuel in a terminal, as reflected on the  
12 records of the terminal operator. A person holds the inventory  
13 position in motor fuel when that person has a contract with the  
14 terminal operator for the use of storage facilities and terminaling  
15 services for motor fuel at the terminal. The term includes a  
16 terminal operator who owns motor fuel in the terminal.

17 (48) "Public highway" means every way or place of  
18 whatever nature open to the use of the public for purposes of  
19 vehicular travel in this state, including the streets and alleys in  
20 towns and cities.

21 (49) "Racing gasoline" means gasoline that contains  
22 lead, has an octane rating of 110 or higher, does not have detergent  
23 additives, and is not suitable for use as a motor fuel in a motor  
24 vehicle used on a public highway.

25 (50) "Rack" means a mechanism for delivering motor  
26 fuel from a refinery, terminal, marine vessel, or bulk plant into a  
27 transport vehicle, railroad tank car, or other means of transfer

1 that is outside the bulk transfer/terminal system.

2 (51) "Refinery" means a facility for the manufacture  
3 or reprocessing of finished or unfinished petroleum products usable  
4 as motor fuel and from which motor fuel may be removed by pipeline  
5 or marine vessel or at a rack.

6 (52) "Registered gross weight" means the total weight  
7 of the vehicle and carrying capacity shown on the registration  
8 certificate issued by the Texas Department of Transportation.

9 (53) "Removal" means a physical transfer other than by  
10 evaporation, loss, or destruction. A physical transfer to a  
11 transport vehicle or other means of conveyance outside the bulk  
12 transfer/terminal system is complete on delivery into the means of  
13 conveyance.

14 (54) "Sale" means a transfer of title, exchange, or  
15 barter of motor fuel, but does not include transfer of possession of  
16 motor fuel on consignment.

17 (55) "Shipping document" means a delivery document  
18 issued by a terminal or bulk plant operator in conjunction with the  
19 sale, transfer, or removal of motor fuel from the terminal or bulk  
20 plant. A shipping document issued by a terminal operator shall be  
21 machine printed. A shipping document issued by a bulk plant shall  
22 be typed or handwritten on a preprinted form or machine printed.

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

27 (57) "Supplier" means a person that:

1           (A) is subject to the general taxing jurisdiction  
2 of this state;

3           (B) is registered under Section 4101, Internal  
4 Revenue Code, for transactions in motor fuel in the bulk  
5 transfer/terminal distribution system, and is:

6                   (i) a position holder in motor fuel in a  
7 terminal or refinery in this state and may concurrently also be a  
8 position holder in motor fuel in another state; or

9                   (ii) a person who receives motor fuel in  
10 this state under a two-party exchange; and

11           (C) may also be a terminal operator, provided  
12 that a terminal operator is not considered to also be a "supplier"  
13 based solely on the fact that the terminal operator handles motor  
14 fuel consigned to it within a terminal.

15           (58) "Terminal" means a motor fuel storage and  
16 distribution facility to which a terminal control number has been  
17 assigned by the Internal Revenue Service, to which motor fuel is  
18 supplied by pipeline or marine vessel, and from which motor fuel may  
19 be removed at a rack.

20           (59) "Terminal operator" means a person who owns,  
21 operates, or otherwise controls a terminal.

22           (60) "Transit company" means a business that:

23                   (A) transports in a political subdivision  
24 persons in carriers designed for 12 or more passengers;

25                   (B) holds a franchise from a political  
26 subdivision; and

27                   (C) has its rates regulated by the political

1 subdivision or is owned or operated by the political subdivision.

2 (61) "Transport vehicle" means a vehicle designed or  
3 used to carry motor fuel over a public highway and includes a  
4 straight truck, straight truck/trailer combination, and  
5 semitrailer combination rig.

6 (62) "Two-party exchange" means a transaction in which  
7 motor fuel is transferred from one licensed supplier or permissive  
8 supplier to another licensed supplier or permissive supplier under  
9 an exchange agreement, including a transfer from the person who  
10 holds the inventory position in taxable motor fuel in the terminal  
11 as reflected on the records of the terminal operator, and that is:

12 (A) completed before removal of the product from  
13 the terminal by the receiving exchange partner; and

14 (B) recorded on the terminal operator's books and  
15 records with the receiving exchange partner as the supplier that  
16 removes the motor fuel across the terminal rack for purposes of  
17 reporting the transaction to this state.

18 Sec. 162.002. TAX LIABILITY ON LEASED VEHICLES. (a) A user  
19 or interstate trucker is liable for the tax on motor fuel imported  
20 into this state in fuel supply tanks of leased motor vehicles and  
21 used on the public highways of this state to the same extent and in  
22 the same manner as motor fuel imported in the user's or interstate  
23 trucker's own motor vehicles and used on the public highways of this  
24 state, unless the person who owns the leased motor vehicles is  
25 liable under Subsection (b). If the owner of the leased motor  
26 vehicles is liable, the user or interstate trucker may exclude the  
27 leased motor vehicles from the person's return.

1       (b) A person who, in the regular course of business and for  
2 consideration, leases motor vehicles and equipment to motor  
3 carriers or others for interstate operation may be considered to be  
4 the user or interstate trucker under this chapter if the person  
5 supplies or pays for the motor fuel consumed in those leased motor  
6 vehicles or equipment, and the person may be issued a license as an  
7 interstate trucker by the comptroller. An application for an  
8 interstate trucker license may be accompanied by one copy of the  
9 form-lease or service contract entered into with various lessees.  
10 On receipt of the interstate trucker license, the person may assign  
11 to each motor vehicle leased for interstate operation a photocopy  
12 of the license to be carried in the cab compartment of the motor  
13 vehicle. The photocopy of the license must have typed or printed on  
14 the back the unit or motor number of the motor vehicle to which it is  
15 assigned and the name of the lessee. The lessor is responsible for  
16 the proper use of the photocopy of the license issued to the lessor  
17 and for its return with the motor vehicle to which it is assigned.

18       Sec. 162.003. COOPERATIVE AGREEMENTS WITH OTHER STATES.

19       (a) The comptroller may enter into a cooperative agreement with  
20 another state for the collection of motor fuel taxes, the exchange  
21 of information, the auditing of users of motor fuel used in fleets  
22 of motor vehicles operated or intended for interstate operation,  
23 and the auditing of importers and exporters. An agreement or  
24 amendment of an agreement takes effect according to its terms,  
25 except that an agreement or amendment may not take effect until the  
26 proposed agreement or amendment is published in the Texas Register.

27       (b) An agreement may provide for:

- 1           (1) determining the base state for motor fuel users;
- 2           (2) user, importer, and exporter records
- 3 requirements;
- 4           (3) audit procedures;
- 5           (4) exchange of information;
- 6           (5) persons eligible for tax licensing;
- 7           (6) licensing and license revocation procedures,
- 8 permits, penalties, and fees;
- 9           (7) defining qualified motor vehicles;
- 10          (8) determining bonding procedures, types, and
- 11 amounts;
- 12          (9) specifying reporting requirements and periods;
- 13          (10) defining refund procedures and limitations,
- 14 including the payment of interest;
- 15          (11) defining uniform penalties, fees, and interest
- 16 rates;
- 17          (12) determining methods for collecting motor fuel
- 18 taxes and for collecting and forwarding motor fuel taxes, other
- 19 than penalties, due to another jurisdiction;
- 20          (13) the temporary remittal of funds equal to the
- 21 amount of the taxes and interest due to another jurisdiction but not
- 22 otherwise collected, subject to appropriation of funds for that
- 23 purpose; and
- 24          (14) other provisions to facilitate the
- 25 administration of the agreement.

26          (c) The comptroller may, as required by the terms of an

27 agreement, forward to an officer of another state any information

1 in the comptroller's possession relating to the manufacture,  
2 receipts, sale, use, transportation, or shipment of motor fuel by  
3 any person. The comptroller may disclose to an officer of another  
4 state the location of officers, motor vehicles, and other real and  
5 personal property of users, importers, and exporters of motor fuel.

6 (d) An agreement may provide for each state to audit the  
7 records of a person based in this state to determine if the motor  
8 fuel taxes due each state that is a party to the agreement are  
9 properly reported and paid. An agreement may provide for each state  
10 to forward the findings of an audit performed on a person based in  
11 this state to each other state in which the person has taxable use  
12 of motor fuel, from which the person imports motor fuel into this  
13 state, or to which the person exports motor fuel from this state.  
14 For a person who is not based in this state and who has taxable use  
15 of motor fuel in this state or an import into or export out of this  
16 state, the comptroller may use an audit performed by another state  
17 that is a party to an agreement with this state to make an  
18 assessment of motor fuel taxes against the person.

19 (e) An agreement entered into under this section does not  
20 affect the authority of the comptroller to audit any person under  
21 any other law.

22 (f) An agreement entered into under this section prevails  
23 over an inconsistent rule of the comptroller. Except as otherwise  
24 provided by this section, a statute of this state prevails over an  
25 inconsistent provision of an agreement entered into under this  
26 section.

27 (g) The comptroller may segregate in a separate fund or



1 account the amount of motor fuel taxes, other than penalties,  
2 estimated to be due to other jurisdictions, motor fuel taxes  
3 subject to refund during the fiscal year, licensing fees, and other  
4 costs collected under the agreement. On a determination of an  
5 amount held that is due to be remitted to another jurisdiction, the  
6 comptroller may issue a warrant or make an electronic transfer of  
7 the amount as necessary to carry out the purposes of the agreement.  
8 An auditing cost, membership fee, and other cost associated with  
9 the agreement may be paid from interest earned on funds segregated  
10 under this subsection. Any interest earnings in excess of the costs  
11 associated with the agreement shall be credited to general revenue.

12 (h) The legislature finds that it is in the public interest  
13 to enter into motor fuel tax agreements with other jurisdictions  
14 that may provide for the temporary remittal of amounts due other  
15 jurisdictions that exceed the amounts collected and for cooperation  
16 with other jurisdictions for the collection of taxes imposed by  
17 this state and other jurisdictions on motor fuel that is imported  
18 into or exported out of this state. The comptroller shall ensure  
19 that reasonable measures are developed to recover motor fuel taxes  
20 and other amounts due this state during each biennium.

21 (i) The comptroller shall attempt to enter into a  
22 cooperative agreement with each state that borders this state to  
23 provide for the collection of taxes imposed by this state and the  
24 bordering state on motor fuel that is imported into this state from  
25 or exported from this state to the bordering state. The comptroller  
26 is encouraged to attempt to enter into similar cooperative  
27 agreements with states that do not border this state.

1           Sec. 162.004. MOTOR FUEL TRANSPORTATION: REQUIRED  
2 DOCUMENTS. (a) A person may not transport in this state any motor  
3 fuel by barge, vessel, railroad tank car, or transport vehicle  
4 unless the person has a shipping document for the motor fuel that  
5 complies with this section. A terminal operator or operator of a  
6 bulk plant shall give a shipping document to the person who operates  
7 the barge, vessel, railroad tank car, or transport vehicle into  
8 which motor fuel is loaded at the terminal rack or bulk plant rack.

9           (b) The shipping document issued by the terminal operator or  
10 operator of a bulk plant shall contain the following information  
11 and any other information required by the comptroller:

12                   (1) the terminal control number of the terminal or  
13 physical address of the bulk plant from which the motor fuel was  
14 received;

15                   (2) the name and license number of the purchaser;

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

17                   (4) the net gallons loaded, or the gross gallons  
18 loaded if the fuel was purchased from a bulk plant;

19                   (5) the destination state of the motor fuel, as  
20 represented by the purchaser of the motor fuel or the purchaser's  
21 agent; and

22                   (6) a description of the product being transported.

23           (c) In the event of an extraordinary circumstance,  
24 including an act of God, that temporarily interferes with the  
25 ability to issue an automated machine-generated shipping document,  
26 a manually prepared shipping document that contains all of the  
27 information required by Subsection (b) shall be substituted for the

1 machine-generated shipping document.

2 (d) A terminal operator or bulk plant operator may rely on  
3 the representation made by the purchaser of motor fuel or the  
4 purchaser's agent concerning the destination state of the motor  
5 fuel. A purchaser is liable for any tax due as a result of the  
6 purchaser's diversion of motor fuel from the represented  
7 destination state.

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

9 (1) carry the shipping document in the barge, vessel,  
10 railroad tank car, or other transport vehicle for which the  
11 document was issued when transporting the motor fuel described in  
12 the document;

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

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

18 (A) notifies the comptroller and the destination  
19 state, if a diversion program is in place, before transporting the  
20 motor fuel into a state other than the printed destination state,  
21 that the person has received instructions after the shipping  
22 document was issued to deliver the motor fuel to a different  
23 destination state;

24 (B) receives from the comptroller and  
25 destination state, if a diversion program is in place, a diversion  
26 number authorizing the diversion; and

27 (C) writes on the shipping document the change in

1 destination state and the diversion number; and

2 (4) give a copy of the shipping document to the person  
3 to whom the motor fuel is delivered.

4 (f) The purchaser is responsible for paying the applicable  
5 destination state taxes along with filing a refund with the origin  
6 state. The supplier may not refund any taxes due to the diversion  
7 of a product.

8 (g) The person to whom motor fuel is delivered by barge,  
9 vessel, railroad tank car, or transport vehicle may not accept  
10 delivery of the motor fuel if the destination state shown on the  
11 shipping document for the motor fuel is a state other than this  
12 state, except that the person may accept that delivery if the  
13 document contains a diversion number authorized by the comptroller  
14 and destination state, if applicable. The person to whom the motor  
15 fuel is delivered shall examine the shipping document to determine  
16 that the destination state is this state, and shall retain a copy of  
17 the shipping document at the delivery location or another place  
18 until the fourth anniversary of the date of delivery.

19 Sec. 162.005. CANCELLATION OR REFUSAL OF LICENSE. (a) The  
20 comptroller may cancel or refuse to issue or reissue a motor fuel  
21 license to any person who has violated or has failed to comply with  
22 a provision of this chapter or a rule of the comptroller.

23 (b) Before a license may be canceled, or the issuance or  
24 reissuance refused, the comptroller shall give the license holder  
25 or license applicant not less than 10 days' notice of a hearing at  
26 the office of the comptroller in Austin or at a specified  
27 comptroller's field office, granting the license holder or

1 applicant an opportunity to show cause before the comptroller why  
2 the proposed action should not be taken. If a license is in effect,  
3 the license remains in force pending the determination of the  
4 show-cause hearing. Notice must be in writing and may be mailed by  
5 United States registered mail or certified mail to the license  
6 holder or applicant at the person's last known address, or may be  
7 delivered by the comptroller to the license holder or applicant,  
8 and no other notice is necessary. In case of service by mail of a  
9 notice required by this chapter, the service is complete at the time  
10 of deposit in the United States Post Office.

11 (c) The comptroller may prescribe rules of procedure and  
12 evidence for the hearings in accordance with Chapter 2001,  
13 Government Code.

14 (d) If, after the hearing or the opportunity to be heard,  
15 the license is canceled or the issuance or reissuance refused by the  
16 comptroller, all taxes that have been collected or that have  
17 accrued, although the taxes are not then due and payable to the  
18 state, except by the provisions of this chapter, shall become due  
19 and payable concurrently with the notice of cancellation of the  
20 license. The license holder shall within five days make a report  
21 covering the period not covered by preceding reports filed by the  
22 license holder and ending with the date of cancellation, and shall  
23 remit and pay to the comptroller all taxes that have been collected  
24 and that have accrued from the sale, use, or distribution of motor  
25 fuel in this state.

26 (e) The comptroller may revoke a license if the license  
27 holder purchases for export motor fuel on which the tax was not paid

1 under this chapter and subsequently diverts or causes the motor  
2 fuel to be diverted to a destination in this state or to any  
3 destination other than the originally designated state or country  
4 without first obtaining a diversion number.

5 Sec. 162.006. SUMMARY SUSPENSION OF LICENSE. (a) The  
6 comptroller may suspend a person's license without notice or a  
7 hearing for the person's failure to comply with this chapter or a  
8 rule adopted under this chapter if the person's continued operation  
9 constitutes an immediate and substantial threat to the collection  
10 of taxes imposed by this chapter and attributable to the person's  
11 operation.

12 (b) If the comptroller summarily suspends a person's  
13 license, proceedings for a preliminary hearing before the  
14 comptroller or the comptroller's representative must be initiated  
15 simultaneously with the summary suspension. The preliminary  
16 hearing shall be set for a date that is not later than the 10th day  
17 after the date of the summary suspension, unless the parties agree  
18 to a later date.

19 (c) At the preliminary hearing, the license holder must show  
20 cause why the license should not remain suspended pending a final  
21 hearing on suspension or revocation.

22 (d) Chapter 2001, Government Code, does not apply to a  
23 summary suspension under this section.

24 (e) To initiate a proceeding to suspend summarily a person's  
25 license, the comptroller shall serve notice on the license holder  
26 informing the license holder of the right to a preliminary hearing  
27 before the comptroller or the comptroller's representative and of

1 the time and place of the preliminary hearing. The notice must be  
2 personally served on the license holder or an officer, employee, or  
3 agent of the license holder, or sent by certified or registered  
4 mail, return receipt requested, to the license holder's mailing  
5 address as it appears on the comptroller's records. The notice must  
6 state the alleged violations that constitute the grounds for  
7 summary suspension. The suspension is effective at the time the  
8 notice is served. If the notice is served in person, the license  
9 holder shall immediately surrender the license to the comptroller  
10 or to the comptroller's representative. If notice is served by  
11 mail, the license holder shall immediately return the license to  
12 the comptroller.

13 (f) Section 162.005, governing hearings for license  
14 cancellation or refusal to issue a license under this chapter,  
15 governs a final administrative hearing under this section.

16 Sec. 162.007. ENFORCEMENT OF LICENSE CANCELLATION,  
17 SUSPENSION, OR REFUSAL. (a) The comptroller may examine any books  
18 and records incident to the conduct of the business of a person  
19 whose license has been canceled or suspended on the person's  
20 failure to file the reports required by this chapter or to remit all  
21 taxes due. If necessary, the comptroller shall issue an audit  
22 deficiency determination for any tax amount due. If the amount is  
23 not paid on or before the 15th day after the deficiency  
24 determination becomes final, the bond or other security required  
25 under this chapter shall be forfeited. The demand for payment shall  
26 be addressed to both the surety or sureties and the person who owes  
27 the delinquency.

1        (b) If the forfeiture of the bond or other security does not  
2 satisfy the delinquency, the comptroller shall certify the taxes,  
3 penalty, and interest delinquent to the attorney general, who may  
4 file suit against the person or the person's surety, or both, to  
5 collect the amount due. After being given notice of an order of  
6 cancellation or summary suspension, it shall be unlawful for any  
7 person to continue to operate the person's business under a  
8 canceled or suspended license. The attorney general may file suit  
9 to enjoin the person from operating under the canceled or suspended  
10 license until the comptroller reissues a license.

11        (c) An appeal from an order of the comptroller canceling or  
12 suspending or refusing the issuance or reissuance of a license may  
13 be taken to a district court of Travis County by the aggrieved  
14 license holder or applicant. The trial shall be de novo under the  
15 same rules as ordinary civil suits, except that:

16                (1) an appeal must be perfected and filed within 30  
17 days after the effective date of the order, decision, or ruling of  
18 the comptroller;

19                (2) the trial of the case shall begin within 10 days  
20 after its filing; and

21                (3) the order, decision, or ruling of the comptroller  
22 may be suspended or modified by the court pending a trial on the  
23 merits.

24        Sec. 162.008. INSPECTION OF PREMISES AND RECORDS. For the  
25 purpose of determining the amount of tax collected and payable to  
26 this state, the amount of tax accruing and due, and whether a tax  
27 liability has been incurred under this chapter, the comptroller



1 may:

2 (1) inspect any premises where motor fuel, crude  
3 petroleum, natural gas, derivatives or condensates of crude  
4 petroleum, natural gas, or their products, methyl alcohol, ethyl  
5 alcohol, or other blending agents are produced, made, prepared,  
6 stored, transported, sold, or offered for sale or exchange;

7 (2) examine the books and records required to be kept  
8 and records incident to the business of any license holder or person  
9 required to be licensed, or any person receiving, possessing,  
10 delivering, or selling motor fuel, crude oil, derivatives or  
11 condensates of crude petroleum, natural gas, or their products, or  
12 any blending agents;

13 (3) examine and either gauge or measure the contents  
14 of all storage tanks, containers, and other property or equipment;  
15 and

16 (4) take samples of any and all of these products  
17 stored on the premises.

18 Sec. 162.009. AUTHORITY TO STOP AND EXAMINE. To enforce  
19 this chapter, the comptroller or a peace officer may stop a motor  
20 vehicle that appears to be operating with or transporting motor  
21 fuel to examine the shipping document, cargo manifest, or invoices  
22 required to be carried, examine a license or copy of a license that  
23 may be required to be carried, take samples from the fuel supply or  
24 cargo tanks, and make any other investigation that could reasonably  
25 be made to determine whether the taxes have been paid or accounted  
26 for by a license holder or a person required to be licensed. The  
27 comptroller, a peace officer, an employee of the attorney general's

1 office, an employee of the Texas Commission on Environmental  
2 Quality, or an employee of the Department of Agriculture may take  
3 samples of motor fuel from a storage tank or container to:

4 (1) determine if the fuel contains hazardous waste or  
5 is adulterated; or

6 (2) allow the comptroller to determine whether taxes  
7 on the fuel have been paid or accounted for to this state.

8 Sec. 162.010. IMPOUNDMENT AND SEIZURE. (a) If after  
9 examination or other investigation, the comptroller believes that  
10 the owner or operator of a motor vehicle or cargo tank, or a person  
11 receiving, possessing, delivering, or selling gasoline or diesel  
12 fuel, has not paid all motor fuel taxes due, or does not have a valid  
13 license entitling that person to possess or transport tax-free  
14 motor fuel, the comptroller or peace officer may impound the fuel,  
15 the motor vehicle, cargo tank, storage tank, equipment,  
16 paraphernalia, or other tangible personal property used for or  
17 incident to the storage, sale, or transportation of that motor  
18 fuel. Unless proof is produced within three working days after the  
19 beginning of impoundment that the owner, operator, or other person  
20 has paid the taxes established by the comptroller to be due on the  
21 gasoline or diesel fuel stored, sold, used, or transported and any  
22 other taxes due to this state, or that the owner, operator, or other  
23 person holds a valid license to possess or transport tax-free motor  
24 fuel, the comptroller may demand payment of all taxes, penalties,  
25 and interest due to this state, and all costs of impoundment.

26 (b) If the owner or operator does not produce the required  
27 documentation or required license or pay the taxes, penalties,

1 interest, and costs due within three working days after the  
2 beginning of the impoundment, the comptroller may seize the  
3 impounded property to satisfy the tax liability.

4 (c) The comptroller may seize:

5 (1) all motor fuel on which taxes are imposed by this  
6 chapter that is found in the possession, custody, or control of any  
7 person for the purpose of being sold, transported, removed, or used  
8 by the person in violation of this chapter;

9 (2) all motor fuel that is removed or is deposited,  
10 stored, or concealed in any place with intent to avoid payment of  
11 taxes;

12 (3) any automobile, truck, tank truck, boat, trailer  
13 conveyance, or other vehicle used in the removal or transportation  
14 of the motor fuel to avoid payment of taxes; and

15 (4) all equipment, paraphernalia, storage tanks, or  
16 tangible personal property incident to and used for avoiding the  
17 payment of taxes and found in the place, building, or vehicle where  
18 the motor fuel is found.

19 Sec. 162.011. SALE OF SEIZED PROPERTY. (a) The comptroller  
20 may sell property seized under Section 162.010.

21 (b) Notice of the time and place of a sale shall be given to  
22 the delinquent person in writing by certified mail at least 20 days  
23 before the date set for the sale. The notice shall be enclosed in an  
24 envelope addressed to the person at the person's last known address  
25 or place of business. It shall be deposited in the United States  
26 mail, postage prepaid. The notice shall also be published once a  
27 week for two consecutive weeks before the date of the sale in a

1 newspaper of general circulation published in the county in which  
2 the property seized is to be sold. If there is no newspaper of  
3 general circulation in the county, notice shall be posted in three  
4 public places in the county 14 days before the date set for the  
5 sale. The notice must contain a description of the property to be  
6 sold, a statement of the amount due, including interest, penalties,  
7 and costs, the name of the delinquent, and the further statement  
8 that unless the amount due, interest, penalties, and costs are paid  
9 on or before the time fixed in the notice for the sale, the  
10 property, or as much of it as may be necessary, will be sold at  
11 public auction in accordance with the law and the notice.

12 (c) At the sale, the comptroller shall sell the property and  
13 shall deliver to the purchaser a bill of sale for personal property  
14 and a deed for real property sold. The bill of sale or deed vests the  
15 interest or title of the person liable for the amount in the  
16 purchaser. The unsold portion of any property seized may be left at  
17 the place of sale at the risk of the person liable for the amount.

18 (d) The proceeds of a sale shall be allocated according to  
19 the following priorities:

20 (1) the payment of expenses of seizure, appraisal,  
21 custody, advertising, auction, and any other expenses incident to  
22 the seizure and sale;

23 (2) the payment of the tax, penalty, and interest; and

24 (3) the repayment of the remaining balance to the  
25 person liable for the amount unless a claim is presented before the  
26 sale by any other person who has an ownership interest evidenced by  
27 a financing statement or lien, in which case the comptroller shall

1 withhold the remaining balance pending a determination of the  
2 rights of the respective parties.

3 Sec. 162.012. PRESUMPTIONS. (a) A person licensed under  
4 this chapter or required to be licensed under this chapter, or other  
5 user, who fails to keep a record, issue an invoice, or file a return  
6 or report required by this chapter is presumed to have sold or used  
7 for taxable purposes all motor fuel shown by an audit by the  
8 comptroller to have been sold to the license holder or other user.  
9 Motor fuel unaccounted for is presumed to have been sold or used for  
10 taxable purposes. If an exporter claims an exemption under Section  
11 162.104(a)(4)(B) or 162.204(a)(4)(B) and fails to produce proof of  
12 payment of tax to the destination state or proof that the  
13 transaction was exempt in the destination state, the exporter is  
14 presumed to have not paid the destination state's tax or this  
15 state's tax on the exported motor fuel and the comptroller shall  
16 assess the tax imposed by this chapter on the exported motor fuel  
17 against the exporter. The comptroller may fix or establish the  
18 amount of taxes, penalties, and interest due this state from the  
19 records of deliveries or from any records or information available.  
20 If a tax claim, as developed from this procedure, is not paid, after  
21 the opportunity to request a redetermination, the claim and any  
22 audit made by the comptroller or any report filed by the license  
23 holder or other user is evidence in any suit or judicial proceedings  
24 filed by the attorney general and is prima facie evidence of the  
25 correctness of the claim or audit. A prima facie presumption of the  
26 correctness of the claim may be overcome at the trial by evidence  
27 adduced by the license holder or other user.

1       (b) In the absence of records showing the number of miles  
2 actually operated per gallon of motor fuel consumed, it is presumed  
3 that not less than one gallon of motor fuel was consumed for every  
4 four miles traveled. An interstate trucker may produce evidence of  
5 motor fuel consumption to establish another mileage factor. If an  
6 examination or audit made by the comptroller from the records of an  
7 interstate trucker shows that a greater amount of motor fuel was  
8 consumed than was reported by the interstate trucker for tax  
9 purposes, the interstate trucker is liable for the tax, penalties,  
10 and interest on the additional amount shown or the trucker is  
11 entitled to a credit or refund on overpayments of tax established by  
12 the audit.

13       Sec. 162.013. VENUE OF TAX COLLECTION SUITS. The venue of a  
14 suit, injunction, or other proceeding at law available for the  
15 establishment or collection of a claim for delinquent taxes,  
16 penalties, or interest accruing under this chapter and the  
17 enforcement of the terms and provisions of this chapter is in Travis  
18 County or in any other county having venue under existing venue  
19 statutes.

20       Sec. 162.014. OTHER MOTOR FUEL TAXES PROHIBITED. The taxes  
21 imposed by this chapter are in lieu of any other excise or  
22 occupation tax imposed by a political subdivision of this state on  
23 the sale, use, or distribution of gasoline, diesel fuel, or  
24 liquefied gas.

25       Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a)  
26 On the effective date of an increase in the rates of the taxes  
27 imposed by this chapter, a distributor or dealer that possesses for

1 the purpose of sale 2,000 or more gallons of gasoline or diesel fuel  
2 at each business location on which the taxes imposed by this chapter  
3 at a previous rate have been paid shall report to the comptroller  
4 the volume of that gasoline and diesel fuel, and at the time of the  
5 report shall pay a tax on that gasoline and diesel fuel at a rate  
6 equal to the rate of the tax increase.

7 (b) On the effective date of a reduction of the rates of  
8 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 the taxes imposed  
11 by this chapter at the previous rate have been paid becomes entitled  
12 to a refund in an amount equal to the difference in the amount of  
13 taxes paid on that gasoline or diesel fuel at the previous rate and  
14 at the rate in effect on the effective date of the reduction in the  
15 tax rates. The rules of the comptroller shall provide for the method  
16 of claiming a refund under this chapter and may require that the  
17 refund for the dealer be paid through the distributor or supplier  
18 from whom the dealer received the fuel.

19 Sec. 162.016. IMPORTATION AND EXPORTATION OF MOTOR FUEL.

20 (a) A person may not import motor fuel to a destination in this  
21 state or export motor fuel to a destination outside this state by  
22 any means unless the person possesses a shipping document for that  
23 fuel created by the terminal or bulk plant at which the fuel was  
24 received. The shipping document must include:

25 (1) the name and physical address of the terminal or  
26 bulk plant from which the motor fuel was received for import or  
27 export;

1           (2) the name and federal employer identification  
2 number, or the social security number if the employer  
3 identification number is not available, of the carrier transporting  
4 the motor fuel;

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

6           (4) the type of motor fuel;

7           (5) the number of gallons:

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

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

12           (6) the destination of the motor fuel as represented  
13 by the purchaser of the motor fuel and the number of gallons of the  
14 fuel to be delivered, if delivery is to only one state;

15           (7) the name, federal employer identification number,  
16 license number, and physical address of the purchaser of the motor  
17 fuel;

18           (8) the name of the person responsible for paying the  
19 tax imposed by this chapter, as given to the terminal by the  
20 purchaser if different from the licensed supplier or distributor;  
21 and

22           (9) any other information that, in the opinion of the  
23 comptroller, is necessary for the proper administration of this  
24 chapter.

25           (b) The terminal or bulk plant shall provide the shipping  
26 documents to the importer or exporter.

27           (c) If motor fuel is to be delivered to more than one state,



1 the terminal shall document the split loads by issuing shipping  
2 documents that list the destination state of each portion of the  
3 motor fuel.

4 (d) A terminal, a bulk plant, the carrier, the licensed  
5 distributor or supplier, and the person that received the motor  
6 fuel shall:

7 (1) retain a copy of the shipping document until at  
8 least the fourth anniversary of the date the fuel is received; and

9 (2) provide a copy of the document to the comptroller  
10 or any law enforcement officer not later than the 10th working day  
11 after the date a request for the copy is received.

12 (e) An importer or exporter shall keep in the person's  
13 possession the shipping document issued by the terminal or bulk  
14 plant when transporting motor fuel imported into this state or for  
15 export from this state. The importer or exporter shall show the  
16 document to the comptroller or a peace officer on request. The  
17 comptroller may delegate authority to inspect the document to other  
18 governmental agencies. The importer or exporter shall provide a  
19 copy of the shipping document to the person that receives the fuel  
20 when it is delivered.

21 (f) The importer or exporter may deliver motor fuel only to  
22 the destination state or states indicated on the shipping document.

23 (g) An importer or exporter who wants to divert the delivery  
24 of a single cargo tank of motor fuel from the destination state  
25 printed on the shipping document must obtain a diversion number  
26 from the comptroller before diverting the delivery. The importer,  
27 exporter, or motor fuel transporter must write the diversion number

1 on the shipping document issued for the fuel. A diversion number is  
2 required for each diverted delivery. The comptroller may appoint a  
3 person to assign diversion numbers or may delegate that authority  
4 to another person.

5 (h) An importer that acquires motor fuel for import by cargo  
6 tank must obtain an import verification number from the comptroller  
7 before importing the motor fuel. The importer must write the import  
8 verification number on the shipping document issued for the fuel.  
9 The importer must obtain a separate import confirmation number for  
10 each cargo tank delivery of motor fuel into this state. The  
11 comptroller may appoint a person to assign import verification  
12 numbers or may delegate that authority to another person.

13 (i) Each terminal or bulk plant shall post a notice in a  
14 conspicuous location proximate to the point of receipt of shipping  
15 papers that describes the duties of importers and exporters under  
16 this section. The comptroller may prescribe the language, type,  
17 style, and format of the notice.

18 [Sections 162.017-162.100 reserved for expansion]

19 SUBCHAPTER B. GASOLINE TAX

20 Sec. 162.101. POINT OF IMPOSITION OF GASOLINE TAX. (a) A  
21 tax is imposed on the removal of gasoline from the terminal using  
22 the terminal rack, other than by bulk transfer. The supplier or  
23 permissive supplier shall collect the tax imposed by this  
24 subchapter from the person who orders the withdrawal at the  
25 terminal rack.

26 (b) A tax is imposed at the time gasoline is imported into  
27 this state, other than by a bulk transfer, for delivery to a

1 destination in this state. The permissive supplier shall collect  
2 the tax imposed by this subchapter from the person who imports the  
3 gasoline into this state. If the seller is not a permissive  
4 supplier, then the person who imports the gasoline into this state  
5 shall pay the tax.

6 (c) A tax is imposed on the sale or transfer of gasoline in  
7 the bulk transfer/terminal system in this state by a supplier to a  
8 person who does not hold a supplier's license. The supplier shall  
9 collect the tax imposed by this subchapter from the person who  
10 orders the sale or transfer in the bulk transfer terminal system.

11 (d) A tax is imposed on gasoline brought into this state in a  
12 motor fuel supply tank or tanks of a motor vehicle operated by a  
13 person required to be licensed as an interstate trucker.

14 (e) A tax is imposed on the blending of gasoline at the point  
15 gasoline blended fuel is made in this state outside the bulk  
16 transfer/terminal system. The blender shall pay the tax. The  
17 number of gallons of gasoline blended fuel on which the tax is  
18 imposed is equal to the difference between the number of gallons of  
19 blended fuel made and the number of gallons of previously taxed  
20 gasoline used to make the blended fuel.

21 (f) A terminal operator in this state is considered a  
22 supplier for the purpose of the tax imposed under this subchapter  
23 unless at the time of removal:

24 (1) the terminal operator has a terminal operator's  
25 license issued for the facility from which the gasoline is  
26 withdrawn;

27 (2) the terminal operator verifies that the person who

1 removes the gasoline has a supplier's license; and

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

4 (g) In each subsequent sale of gasoline on which the tax has  
5 been paid, the amount of the tax shall be added to the selling price  
6 so that the tax is paid ultimately by the person using or consuming  
7 the gasoline. Gasoline is considered to be used when it is delivered  
8 into a fuel supply tank.

9 Sec. 162.102. TAX RATE. The gasoline tax rate is 20 cents  
10 for each net gallon or fractional part on which the tax is imposed  
11 under Section 162.101.

12 Sec. 162.103. BACKUP TAX; LIABILITY. (a) A backup tax is  
13 imposed at the rate prescribed by Section 162.102 on:

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

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

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

23 (b) If the motor vehicle described by Subsection (a)(2) is  
24 owned or leased by a person other than the operator, the tax shall  
25 be paid by either the operator or the motor vehicle's owner or  
26 lessee.

27 (c) The tax imposed under Subsection (a)(3) is also imposed

1 on the ultimate consumer.

2 (d) A person who sells gasoline in this state on which tax  
3 has not been paid for any purpose other than a purpose exempt under  
4 Section 162.104 shall at the time of sale collect the tax from the  
5 purchaser or recipient of gasoline in addition to the selling price  
6 and is liable to this state for the taxes collected at the time and  
7 in the manner provided by this chapter.

8 (e) The tax liability imposed by this section is in addition  
9 to any penalty imposed under this chapter.

10 Sec. 162.104. EXEMPTIONS. (a) The tax imposed by this  
11 subchapter does not apply to gasoline:

12 (1) sold to the United States for its exclusive use,  
13 provided that the exemption does not apply with respect to fuel sold  
14 or delivered to a person operating under a contract with the United  
15 States;

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

18 (3) sold to a commercial transportation company that  
19 provides public school transportation services to a school district  
20 under Section 34.008, Education Code, and that uses the gasoline  
21 only to provide those services;

22 (4) exported by either a licensed supplier or a  
23 licensed exporter from this state to any other state, provided  
24 that:

25 (A) for gasoline in a situation described by  
26 Subsection (d), the bill of lading indicates the destination state  
27 and the supplier collects the destination state tax; or

1           (B) for gasoline in a situation described by  
2 Subsection (e), the bill of lading indicates the destination state,  
3 the gasoline is subsequently exported, and the exporter is licensed  
4 in the destination state to pay that state's tax and has an  
5 exporter's license issued under this subchapter;

6           (5) moved by truck or railcar between licensed  
7 suppliers or licensed permissive suppliers and in which the  
8 gasoline removed from the first terminal comes to rest in the second  
9 terminal, provided that the removal from the second terminal rack  
10 is subject to the tax imposed by this subchapter;

11           (6) delivered or sold into a storage facility of a  
12 licensed aviation fuel dealer from which gasoline will be delivered  
13 solely into the fuel supply tanks of aircraft or aircraft servicing  
14 equipment, or sold from one licensed aviation fuel dealer to  
15 another licensed aviation fuel dealer who will deliver the aviation  
16 fuel exclusively into the fuel supply tanks of aircraft or aircraft  
17 servicing equipment; or

18           (7) exported to a foreign country if the bill of lading  
19 indicates the foreign destination and the fuel is actually exported  
20 to the foreign country.

21           (b) The exemption provided by Subsection (a)(4) does not  
22 apply to gasoline that is transported and delivered outside this  
23 state in the motor fuel supply tank of a motor vehicle other than an  
24 interstate trucker.

25           (c) If an exporter described by Subsection (a)(4)(B) does  
26 not have an exporter's license issued under this subchapter, the  
27 supplier must collect the tax imposed under this subchapter.

1       (d) Subsection (a)(4)(A) applies only if the destination  
2 state recognizes, by agreement with this state or by statute or  
3 rule, a supplier in this state as a valid taxpayer for the motor  
4 fuel being exported to that state from this state. The comptroller  
5 shall publish a list that specifies for each state, other than this  
6 state, whether that state does or does not qualify under this  
7 subsection.

8       (e) Subsection (a)(4)(B) applies only until the date the  
9 destination state recognizes, by agreement with this state or by  
10 statute, the out-of-state supplier as a valid taxpayer for the  
11 motor fuel being exported to that state from this state, or until  
12 January 1, 2006, whichever date is earlier.

13       (f) The exemption provided by Subsection (a)(4)(A) does not  
14 apply to a sale by a distributor.

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

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

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

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

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

9           (5) a terminal operator;

10          (6) an exporter;

11          (7) a blender;

12          (8) a motor fuel transporter;

13          (9) an aviation fuel dealer; or

14          (10) an interstate trucker.

15          Sec. 162.106. TRIP PERMITS. (a) Instead of an annual  
16 interstate trucker's license, a person bringing a motor vehicle  
17 described by Section 162.001(36) into this state for commercial  
18 purposes may obtain a trip permit. The trip permit must be obtained  
19 before or at the time of entry into this state.

20          (b) Not more than five trip permits for each person may be  
21 issued during a calendar year.

22          (c) A fee for each trip permit shall be collected from the  
23 applicant and shall be in the amount of \$50 for each vehicle for  
24 each trip.

25          (d) A report is not required with respect to the vehicle.

26          (e) Operating a motor vehicle without a valid interstate  
27 trucker's license or trip permit may subject the operator to a



1 penalty under Section 162.402.

2 Sec. 162.107. PERMISSIVE SUPPLIER REQUIREMENTS ON  
3 OUT-OF-STATE REMOVALS. (a) A person may elect to obtain a  
4 permissive supplier license to collect the tax imposed under this  
5 subchapter for gasoline that is removed at a terminal in another  
6 state and has this state as the destination state.

7 (b) With respect to gasoline that is removed by the licensed  
8 permissive supplier at a terminal located in another state and that  
9 has this state as the destination state, a licensed permissive  
10 supplier shall:

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

12 (2) waive any defense that this state lacks  
13 jurisdiction to require the supplier to collect the tax due to this  
14 state on the gasoline under this subchapter;

15 (3) report and pay the tax due on the gasoline in the  
16 same manner as if the removal had occurred at a terminal located in  
17 this state;

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

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

23 (c) A permissive supplier must acknowledge in the person's  
24 license application that this state imposes the requirements listed  
25 in Subsection (b) under this state's general police power and that  
26 the permissive supplier submits to the jurisdiction of this state  
27 only for purposes related to the administration of this chapter.

1       Sec. 162.108. LICENSE APPLICATION PROCEDURE. (a) To  
2 obtain a license under this subchapter, an applicant shall file an  
3 application using a form adopted by the comptroller. The  
4 application must contain:

5           (1) the name under which the applicant transacts or  
6 intends to transact business;

7           (2) the applicant's principal office, residence, or  
8 place of business in this state, or other location of the applicant;

9           (3) if the applicant is not an individual, the names of  
10 the principal officers of an applicant corporation, or the names of  
11 the members of an applicant partnership, and the office, street, or  
12 post office addresses of each; and

13           (4) other information required by the comptroller.

14       (b) An applicant for a license as a supplier, permissive  
15 supplier, or terminal operator must have a federal certificate of  
16 registry issued under 26 U.S.C. Section 4101 that authorizes the  
17 applicant to enter into federal tax-free transactions of gasoline  
18 in the bulk terminal/transfer system. An applicant that is  
19 required to have a federal certificate of registry must include the  
20 registration number of the certificate on the application for a  
21 license. An applicant for a license as an importer, an exporter, or  
22 a distributor who has a federal certificate of registry issued  
23 under 26 U.S.C. Section 4101 must include the registration number  
24 of the certificate on the application for a license.

25       (c) An applicant for a license as an importer or distributor  
26 must list on the application each state from which the applicant  
27 intends to import gasoline and, if required by a listed state, must

1 be licensed or registered for gasoline tax purposes in that state.  
2 If a listed state requires the applicant to be licensed or  
3 registered, the applicant must provide the applicant's license or  
4 registration number from that state.

5 (d) An applicant for a license as an exporter must designate  
6 an agent located in this state for service of process and provide  
7 the agent's name and address. An applicant for a license as an  
8 exporter or distributor must list on the application each state to  
9 which the applicant intends to export gasoline received in this  
10 state by means of a transfer that is outside the bulk  
11 transfer/terminal system and must be licensed or registered for  
12 gasoline tax purposes in that state. The applicant must provide the  
13 applicant's license or registration number from that state.

14 (e) An applicant for a license as a motor fuel transporter  
15 must list on the application each state from which and to which the  
16 applicant intends to transport motor fuel and, if required by a  
17 listed state, must be licensed or registered for gasoline tax  
18 purposes in that state. If a listed state requires the applicant to  
19 be licensed or registered, the applicant must provide the  
20 applicant's license or registration number from that state.

21 Sec. 162.109. ISSUANCE AND DISPLAY OF LICENSE. (a) If the  
22 comptroller approves a license application, the comptroller shall  
23 issue a license to the applicant. A license must be posted in a  
24 conspicuous place or kept available for inspection at the principal  
25 place of business of the license holder. A copy of the license must  
26 be kept at each place of business or other place of storage from  
27 which gasoline is sold, distributed, or used and in each motor

1 vehicle used by the license holder to transport gasoline purchased  
2 by the license holder for resale, distribution, or use.

3 (b) A person holding an interstate trucker's license shall  
4 reproduce the license and carry a photocopy with each motor vehicle  
5 being operated into or from this state.

6 Sec. 162.110. LICENSES AND TRIP PERMITS; PERIODS OF  
7 VALIDITY. (a) The license issued to a supplier, permissive  
8 supplier, distributor, importer, exporter, terminal operator,  
9 blender, or motor fuel transporter is permanent and is valid during  
10 the period the license holder has in force and effect the required  
11 bond or security and furnishes timely reports and supplements as  
12 required, or until the license is surrendered by the holder or  
13 canceled by the comptroller. The comptroller shall cancel a  
14 license under this subsection if a purchase, sale, or use of  
15 gasoline has not been reported by the license holder during the  
16 previous nine months.

17 (b) The license issued to an aviation fuel dealer is  
18 permanent and is valid until the license is surrendered by the  
19 holder or canceled by the comptroller.

20 (c) The license issued to an interstate trucker is valid  
21 from the date of its issuance through December 31 of each calendar  
22 year or until the license is surrendered by the holder or canceled  
23 by the comptroller. The comptroller may renew the license for each  
24 ensuing calendar year if the license holder furnishes timely  
25 reports as required.

26 (d) A trip permit is valid for the period stated on the  
27 permit as determined by the comptroller.

1       (e) A license issued under this subchapter is not  
2 transferable.

3       Sec. 162.111. BOND AND OTHER SECURITY FOR TAXES. (a) The  
4 comptroller shall determine the amount of security required of a  
5 supplier, permissive supplier, distributor, exporter, importer, or  
6 blender, taking into consideration the amount of tax that has or is  
7 expected to become due from the person, any past history of the  
8 person as a license holder under this chapter or its predecessor,  
9 and the necessity to protect this state against the failure to pay  
10 the tax as the tax becomes due.

11       (b) If it is determined that the posting of security is  
12 necessary to protect this state, the comptroller may require a  
13 license holder to post a bond. A license holder shall post a bond  
14 equal to two times the maximum amount of tax that could accrue on  
15 tax-free gasoline purchased or acquired during a reporting period.  
16 The minimum bond is \$30,000. The maximum bond is \$600,000 unless  
17 the comptroller believes there is undue risk of loss of tax  
18 revenues, in which event the comptroller may require one or more  
19 bonds or securities in a total amount exceeding \$600,000.

20       (c) A license holder who has filed a bond or other security  
21 under this subchapter is entitled, on request, to have the  
22 comptroller return, refund, or release the bond or security if in  
23 the judgment of the comptroller the person has for four consecutive  
24 years continuously complied with the conditions of the bond or  
25 other security filed under this subchapter. However, if the  
26 comptroller determines that the revenues of this state would be  
27 jeopardized by the return, refund, or release of the bond or

1 security, the comptroller may elect not to return, refund, or  
2 release the bond or security and may reimpose a requirement of a  
3 bond or other security as the comptroller determines necessary to  
4 protect the revenues of this state.

5 (d) A bond must be a continuing instrument, must constitute  
6 a new and separate obligation in the penal sum named in the bond for  
7 each calendar year or portion of a year while the bond is in force,  
8 and must remain in effect until the surety on the bond is released  
9 and discharged.

10 (e) Instead of filing a surety bond, an applicant for a  
11 license may substitute the following security:

12 (1) cash in the form of United States currency in an  
13 amount equal to the required bond to be deposited in the suspense  
14 account of the state treasury;

15 (2) an assignment to the comptroller of a certificate  
16 of deposit in any bank or savings and loan association in this state  
17 that is a member of the Federal Deposit Insurance Corporation in an  
18 amount at least equal to the bond amount required; or

19 (3) an irrevocable letter of credit to the comptroller  
20 from any bank or savings and loan association in this state that is  
21 a member of the Federal Deposit Insurance Corporation in an amount  
22 of credit at least equal to the bond amount required.

23 (f) If the amount of an existing bond becomes insufficient  
24 or a security becomes unsatisfactory or unacceptable, the  
25 comptroller may require the filing of a new or of an additional bond  
26 or security.

27 (g) A surety bond or other form of security may not be

1 released until it is determined by examination or audit that a tax,  
2 penalty, or interest liability does not exist. The cash or  
3 securities shall be released within 60 days after the comptroller  
4 determines that liability does not exist.

5 (h) The comptroller may use the cash or certificate of  
6 deposit security to satisfy a final determination of delinquent  
7 liability or a judgment secured in any action by this state to  
8 recover gasoline taxes, costs, penalties, and interest found to be  
9 due to this state by a person in whose behalf the cash or  
10 certificate security was deposited.

11 (i) A surety on a bond furnished by a license holder shall be  
12 released and discharged from liability to this state accruing on  
13 the bond on the 31st day after the date on which the surety files  
14 with the comptroller a written request to be released and  
15 discharged. The request does not relieve, release, or discharge  
16 the surety from a liability that already accrued or that accrues  
17 before the expiration of the 30-day period. The comptroller,  
18 promptly on receipt of the request, shall notify the license holder  
19 who furnished the bond, and unless the license holder, before the  
20 expiration date of the existing security, files with the  
21 comptroller a new bond with a surety company duly authorized to do  
22 business under the laws of this state, or other authorized  
23 security, in the amount required by this section, the comptroller  
24 shall cancel the license in the manner provided by this chapter.

25 (j) The comptroller shall notify immediately the issuer of a  
26 letter of credit of a final determination of the license holder's  
27 delinquent liability or a judgment secured in any action by this

1 state to recover gasoline taxes, costs, penalties, and interest  
2 found to be due this state by a license holder in whose behalf the  
3 letter of credit was issued. The letter of credit allowed as  
4 security for the remittance of taxes under this subchapter shall  
5 contain a statement that the issuer agrees to respond to the  
6 comptroller's notice of liability with amounts to satisfy the  
7 comptroller's delinquency claim against the license holder.

8 (k) A license holder may request an examination or audit to  
9 obtain release of the security when the license holder relinquishes  
10 the license or when the license holder wants to substitute one form  
11 of security for an existing one.

12 Sec. 162.112. LICENSE HOLDER STATUS LIST. (a) The  
13 comptroller, on or before December 20 of each year, shall make  
14 available to all license holders an alphabetical list of licensed  
15 suppliers, permissive suppliers, distributors, aviation fuel  
16 dealers, importers, exporters, blenders, and terminal operators. A  
17 supplemental list of additions and deletions shall be made  
18 available to the license holders each month. A current and  
19 effective license or the list furnished by the comptroller is  
20 evidence of the validity of the license until the comptroller  
21 notifies license holders of a change in the status of a license  
22 holder.

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



1       (c) The comptroller shall notify all license holders under  
2 this chapter when a canceled or revoked license is subsequently  
3 reinstated and include in the notice the effective date of the  
4 reinstatement. Sales to the supplier or permissive supplier after  
5 the effective date of the reinstatement may be made tax-free.

6       Sec. 162.113. REMITTANCE OF TAX TO SUPPLIER OR PERMISSIVE  
7 SUPPLIER; ALLOWANCES. (a) Each licensed distributor and licensed  
8 importer shall remit to the supplier or permissive supplier, as  
9 applicable, the tax imposed by Section 162.101 for gasoline removed  
10 at a terminal rack. A licensed distributor or licensed importer may  
11 elect to defer payment of the tax to the supplier or permissive  
12 supplier until two days before the date the supplier or permissive  
13 supplier is required to remit the tax to this state. The  
14 distributor or importer shall pay the taxes by electronic funds  
15 transfer.

16       (b) A supplier, a permissive supplier, or its  
17 representative that conducts electronic transactions to draft an  
18 account of a licensed distributor or licensed importer for the  
19 payment of taxes due under this section shall provide at least two  
20 days' notice using an electronic means of the amount to be drafted  
21 from the account of the licensed distributor or licensed importer  
22 and the number of the account to be drafted from.

23       (c) If the supplier or permissive supplier cannot secure  
24 from the licensed distributor or licensed importer payment of taxes  
25 due for gasoline removed from the terminal during the previous  
26 reporting period and the supplier elects to take a credit against a  
27 subsequent payment of gasoline tax to this state for the taxes not

1 remitted to the supplier or permissive supplier by the licensed  
2 distributor or licensed importer, the supplier or permissive  
3 supplier shall notify the comptroller of the licensed distributor's  
4 or licensed importer's failure to remit tax in conjunction with the  
5 report requesting a credit.

6 (d) The supplier or permissive supplier has the right, after  
7 notifying the comptroller of the licensed distributor's or licensed  
8 importer's failure to remit taxes under this section, to terminate  
9 the ability of the licensed distributor or licensed importer to  
10 defer the payment of gasoline tax. The supplier or permissive  
11 supplier shall reinstate without delay the right of the licensed  
12 distributor or licensed importer to defer the payment of gasoline  
13 tax after the comptroller provides to the supplier or permissive  
14 supplier notice that the licensed distributor or licensed importer  
15 is in good standing with the comptroller for the purposes of the  
16 gasoline tax imposed under this subchapter.

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

22 (f) The license of a distributor, exporter, or importer who  
23 fails to pay the full amount of tax required by this subchapter is  
24 subject to cancellation as provided by Section 162.005.

25 Sec. 162.114. RETURNS AND PAYMENTS. (a) Except as provided  
26 by Subsection (b), each person who is liable for the tax imposed by  
27 this subchapter, a terminal operator, and a licensed distributor

1 shall file a return on or before the 25th day of the month following  
2 the end of each calendar month.

3 (b) A motor fuel transporter and an interstate trucker shall  
4 file a return on or before the 25th day of the month following the  
5 end of the calendar quarter.

6 (c) The return required by this section shall be accompanied  
7 by a payment for the amount of tax reported due.

8 (d) An aviation fuel dealer is not required to file a  
9 return.

10 Sec. 162.115. RECORDS. (a) A supplier and permissive  
11 supplier shall keep:

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

13 (A) all gasoline inventories on hand at the first  
14 of each month;

15 (B) all gasoline refined, compounded, or  
16 blended;

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

19 (D) all gasoline sold, distributed, or used,  
20 showing the name of the purchaser and the date of the sale,  
21 distribution, or use; and

22 (E) all gasoline lost by fire, theft, or  
23 accident; and

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

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

1                   (B) exported from this state by destination state  
2 or country; and

3                   (C) imported during the preceding calendar month  
4 by state or country of origin.

5           (b) A distributor shall keep:

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

7                   (A) all gasoline inventories on hand at the first  
8 of each month;

9                   (B) all gasoline blended;

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

12                   (D) all gasoline sold, distributed, or used,  
13 showing the name of the purchaser and the date of the sale,  
14 distribution, or use; and

15                   (E) all gasoline lost by fire, theft, or  
16 accident;

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

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

21                   (B) exported from this state by destination state  
22 or country; and

23                   (C) imported during the preceding calendar month  
24 by state or country of origin; and

25                   (3) for gasoline exported from this state, proof of  
26 payment of tax to the destination state in a form acceptable to the  
27 comptroller.

1           (c) An importer shall keep:

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

3                         (A) all gasoline inventories on hand at the first  
4 of each month;

5                         (B) all gasoline compounded or blended;

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

8                         (D) all gasoline sold, distributed, or used,  
9 showing the name of the purchaser and the date of the sale,  
10 distribution, or use; and

11                        (E) all gasoline lost by fire, theft, or  
12 accident; and

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

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

17                        (B) exported from this state by destination state  
18 or country; and

19                        (C) imported during the preceding calendar month  
20 by state or country of origin.

21           (d) An exporter shall keep:

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

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

25                         (B) all gasoline compounded or blended;

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

1                   (D) all gasoline sold, distributed, or used,  
2 showing the name of the purchaser and the date of the sale or use;  
3 and

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

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

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

10                   (B) exported from this state by destination state  
11 or country;

12                   (3) proof of payment of tax to the destination state in  
13 a form acceptable to the comptroller; and

14                   (4) if an exemption under Section 162.104(a)(4)(B) is  
15 claimed, proof of payment of tax to the destination state or proof  
16 that the transaction was exempt in the destination state, in a form  
17 acceptable to the comptroller.

18                   (e) A blender shall keep a record showing the number of  
19 gallons of:

20                   (1) all gasoline inventories on hand at the first of  
21 each month;

22                   (2) all gasoline compounded or blended;

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

25                   (4) all gasoline sold, distributed, or used, showing  
26 the name of the purchaser and the date of the sale or use; and

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

1           (f) A terminal operator shall keep:

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

3                           (A) all gasoline inventories on hand at the first  
4 of each month, including the name and license number of each owner  
5 and the amount of gasoline held for each owner;

6                           (B) all gasoline received, showing the name of  
7 the seller and the date of each purchase or receipt;

8                           (C) all gasoline sold, distributed, or used,  
9 showing the name of the purchaser and the date of the sale,  
10 distribution, or use; and

11                           (D) all gasoline lost by fire, theft, or  
12 accident; and

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

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

17                           (B) exported from this state by destination state  
18 or country; and

19                           (C) imported during the preceding calendar month  
20 by state or country of origin.

21           (g) A motor fuel transporter shall keep a complete and  
22 separate record of each intrastate and interstate transportation of  
23 gasoline, showing:

24                   (1) the date of transportation;

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

26                   (3) the means of transportation;

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

1           (5) full data concerning the diversion of shipments,  
2 including the number of gallons diverted from interstate to  
3 intrastate and intrastate to interstate commerce; and

4           (6) the points of origin and destination, the number  
5 of gallons shipped or transported, the date, the consignee and the  
6 consignor, and the kind of gasoline that has been diverted.

7           (h) A dealer shall keep a record showing the number of  
8 gallons of:

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

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

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

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

16           (i) An interstate trucker shall keep a record of:

17           (1) the total miles traveled in all states by all  
18 vehicles traveling to or from this state and the total quantity of  
19 gasoline consumed in those vehicles; and

20           (2) the total miles traveled in this state and the  
21 total quantity of gasoline purchased and delivered into the fuel  
22 supply tanks of motor vehicles in this state.

23           (j) An aviation fuel dealer shall keep a record showing the  
24 number of gallons of:

25           (1) all gasoline inventories on hand at the first of  
26 each month;

27           (2) all gasoline purchased or received, showing the



1 name of the seller and the date of each purchase or receipt;

2 (3) all gasoline sold or used in aircraft or aircraft  
3 servicing equipment; and

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

5 (k) The records of an aviation fuel dealer made under  
6 Subsection (j)(3) must show:

7 (1) the name of the purchaser or user of gasoline;

8 (2) the date of the sale or use of gasoline; and

9 (3) the registration or "N" number of the airplane or a  
10 description or number of the aircraft or a description or number of  
11 the aircraft servicing equipment in which gasoline is used.

12 (l) The comptroller may require selective schedules from a  
13 supplier, permissive supplier, distributor, importer, exporter,  
14 blender, terminal operator, motor fuel transporter, dealer,  
15 aviation fuel dealer, and interstate trucker for any purchase,  
16 sale, or delivery of gasoline if the schedules are not inconsistent  
17 with the requirements of this chapter.

18 (m) The records required by this section must be kept until  
19 the fourth anniversary of the date they are created and are open to  
20 inspection at all times by the comptroller and the attorney  
21 general.

22 Sec. 162.116. INFORMATION REQUIRED ON SUPPLIER'S AND  
23 PERMISSIVE SUPPLIER'S RETURN; CREDITS AND ALLOWANCES. (a) The  
24 monthly return and supplements of each supplier and permissive  
25 supplier shall contain for the period covered by the return:

26 (1) the number of net gallons of gasoline received by  
27 the supplier or permissive supplier during the month, sorted by

1 product code, seller, point of origin, destination state, carrier,  
2 and receipt date;

3 (2) the number of net gallons of gasoline removed at a  
4 terminal rack during the month from the account of the supplier,  
5 sorted by product code, person receiving the gasoline, terminal  
6 code, and carrier;

7 (3) the number of net gallons of gasoline removed  
8 during the month for export, sorted by product code, person  
9 receiving the gasoline, terminal code, destination state, and  
10 carrier;

11 (4) the number of net gallons of gasoline removed  
12 during the month from a terminal located in another state for  
13 conveyance to this state, as indicated on the shipping document for  
14 the gasoline, sorted by product code, person receiving the  
15 gasoline, terminal code, and carrier;

16 (5) the number of net gallons of gasoline the supplier  
17 or permissive supplier sold during the month in transactions  
18 exempt under Section 162.104, sorted by product code, carrier,  
19 purchaser, and terminal code;

20 (6) the number of net gallons of gasoline sold in the  
21 bulk transfer/terminal system in this state to any person not  
22 holding a supplier's or permissive supplier's license; and

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

24 (b) A supplier or permissive supplier that timely pays the  
25 tax to this state may deduct from the amount of tax due a collection  
26 allowance equal to two percent of the amount of tax payable to this  
27 state.

1       (c) A supplier or permissive supplier may take a credit for  
2 any taxes that were not remitted in a previous period to the  
3 supplier or permissive supplier by a licensed distributor or  
4 licensed importer as required by Section 162.113. The supplier or  
5 permissive supplier is eligible to take the credit if the  
6 comptroller is notified of the default within 60 days after the  
7 default occurs. If a license holder pays to a supplier or  
8 permissive supplier the tax owed, but the payment occurs after the  
9 supplier or permissive supplier has taken a credit on its return,  
10 the supplier or permissive supplier shall remit the payment to the  
11 comptroller with the next monthly return after receipt of the tax,  
12 plus a penalty of 10 percent of the amount of unpaid taxes and  
13 interest at the rate provided by Section 111.060 beginning on the  
14 date the credit was taken.

15       (d) For purposes of Subsection (c), all payments or credits  
16 in reduction of a customer's account must be applied ratably  
17 between motor fuels and other goods sold to the customer, and the  
18 credit allowed will be the tax on the number of gallons represented  
19 by the motor fuel portion of the credit.

20       Sec. 162.117. DUTIES OF SUPPLIER OR PERMISSIVE SUPPLIER.

21       (a) A supplier or permissive supplier who receives or collects tax  
22 holds the amount received or collected in trust for the benefit of  
23 this state and has a fiduciary duty to remit to the comptroller the  
24 amount of tax received or collected.

25       (b) A supplier or permissive supplier shall furnish the  
26 purchaser with an invoice, bill of lading, or other documentation  
27 as evidence of the number of gallons received by the purchaser.

1       (c) A supplier or permissive supplier who receives a payment  
2 of tax may not apply the payment of tax to a debt that the person  
3 making the payment owes for gasoline purchased from the supplier or  
4 permissive supplier.

5       Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S  
6 RETURN. The monthly return and supplements of each distributor  
7 shall contain for the period covered by the return:

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

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

14           (3) the number of net gallons of gasoline removed by  
15 the distributor during the month for export, sorted by product  
16 code, terminal code, bulk plant address, destination state, and  
17 carrier;

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

23           (5) the number of net gallons of gasoline the  
24 distributor sold during the month in transactions exempt under  
25 Section 162.104, sorted by product code and purchaser; and

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

27       Sec. 162.119. INFORMATION REQUIRED ON IMPORTER'S RETURN;

1 ALLOWANCES. (a) The monthly return and supplements of an importer  
2 shall contain for the period covered by the return:

3 (1) the number of net gallons of imported gasoline  
4 acquired from a supplier or permissive supplier who collected the  
5 tax due to this state on the gasoline;

6 (2) the number of net gallons of imported gasoline  
7 acquired from a person who did not collect the tax due to this state  
8 on the gasoline, listed by source state, person, and terminal;

9 (3) the number of net gallons of imported gasoline  
10 acquired from a bulk plant outside this state, listed by bulk plant  
11 name, address, and product code; and

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

13 (b) An importer of gasoline that timely files a return and  
14 payment may deduct from the amount of tax payable with the return a  
15 collection allowance equal to two percent of the amount of tax  
16 payable to this state.

17 Sec. 162.120. INFORMATION REQUIRED ON TERMINAL OPERATOR'S  
18 RETURN. (a) A terminal operator shall file with the comptroller a  
19 monthly information return and supplement showing the amount of  
20 gasoline received and removed from the terminal during the month.  
21 The return shall also contain the following summary information:

22 (1) the beginning and ending inventory that relates to  
23 the applicable reporting month;

24 (2) the number of net gallons of gasoline received in  
25 inventory at the terminal during the month;

26 (3) the number of net gallons of gasoline removed from  
27 inventory at the terminal during the month; and

1           (4) any other summary information required by the  
2 comptroller.

3           (b) The comptroller may accept the Federal ExSTARS terminal  
4 operator report provided to the Internal Revenue Service instead of  
5 the required state terminal operator report.

6           Sec. 162.121. INFORMATION REQUIRED ON MOTOR FUEL  
7 TRANSPORTER'S RETURN. The quarterly return and supplements of a  
8 motor fuel transporter shall contain for the period covered by the  
9 return:

10           (1) the name, license number, and terminal control  
11 number of each person or terminal from whom the transporter  
12 received gasoline outside this state for delivery in this state,  
13 the gross gallons of gasoline received, the date the gasoline was  
14 received, the product code, and the name and license number of the  
15 purchaser of the gasoline;

16           (2) the name, license number, and terminal control  
17 number of each person or terminal from whom the transporter  
18 received gasoline in this state for delivery outside this state,  
19 the gross gallons of gasoline delivered, the date the gasoline was  
20 delivered, the product code, and the destination state of the  
21 gasoline; and

22           (3) any other information required by the comptroller.

23           Sec. 162.122. INFORMATION REQUIRED ON EXPORTER'S RETURN AND  
24 PAYMENT OF TAX ON EXPORTS. The monthly return and supplements of an  
25 exporter shall contain for the period covered by the return:

26           (1) the number of net gallons of gasoline acquired  
27 from a supplier and exported during the month, including supplier

1 name, terminal control number, and product code;

2 (2) the number of net gallons of gasoline acquired  
3 from a bulk plant and exported during the month, including bulk  
4 plant name and product code;

5 (3) the destination state of the gasoline exported  
6 during the month; and

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

8 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.

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

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

14 (2) the number of net gallons of product blended with  
15 gasoline during the month, sorted by product code, type of blending  
16 agent if no product code exists, seller, and carrier;

17 (3) the number of net gallons of blended gasoline sold  
18 during the month and the license number or name and address of the  
19 entity receiving the blended gasoline; and

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

21 Sec. 162.124. INFORMATION REQUIRED ON INTERSTATE TRUCKER'S

22 RETURN. The quarterly return and supplements of each interstate  
23 trucker shall contain for the period covered by the return:

24 (1) the total miles traveled in all states by all  
25 vehicles traveling to or from this state and the total quantity of  
26 gasoline consumed in those vehicles;

27 (2) the total miles traveled in this state and the

1 total quantity of gasoline purchased and delivered into the fuel  
2 supply tanks of motor vehicles in this state; and

3 (3) any other information required by the comptroller.

4 Sec. 162.125. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a)

5 A license holder may take a credit on a return for the period in  
6 which the sale occurred if the license holder paid tax on the  
7 purchase of gasoline and subsequently resells the gasoline without  
8 collecting the tax to:

9 (1) the United States government for its exclusive  
10 use, provided that a credit is not allowed for gasoline used by a  
11 person operating under contract with the United States;

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

14 (3) an exporter licensed under this subchapter if the  
15 seller is a licensed supplier or distributor and the exporter  
16 subsequently exports the gasoline to another state;

17 (4) a licensed aviation fuel dealer if the seller is a  
18 licensed distributor; or

19 (5) a commercial transportation company that provides  
20 public school transportation services to a school district under  
21 Section 34.008, Education Code, and that uses the gasoline  
22 exclusively to provide those services.

23 (b) For truck or railcar movements between licensed  
24 suppliers or licensed permissive suppliers in which the gasoline  
25 removed from the first terminal comes to rest in the second terminal  
26 and tax was paid on the first removal, the license holder who  
27 receives the gasoline in the second terminal may take the credit.



1       (c) A license holder may take a credit on a return for the  
2 period in which the purchase occurred, and a person who does not  
3 hold a license under this subchapter, other than a license as an  
4 aviation fuel dealer, may file a refund claim with the comptroller  
5 if the license holder or person paid tax on gasoline and the license  
6 holder or person:

7           (1) is the United States government and the gasoline  
8 is for its exclusive use, provided that a credit or refund is not  
9 allowed for gasoline used by a license holder or person operating  
10 under a contract with the United States;

11           (2) is a public school district in this state and the  
12 gasoline is for the district's exclusive use;

13           (3) is a commercial transportation company that  
14 provides public school transportation services to a school district  
15 under Section 34.008, Education Code, and the gasoline is used  
16 exclusively to provide those services;

17           (4) uses the gasoline in off-highway equipment, in  
18 stationary engines, or for other nonhighway purposes and not in a  
19 motor vehicle operated or intended to be operated on the public  
20 highways;

21           (5) uses the gasoline in a motor vehicle that is  
22 operated exclusively off the public highways, except for incidental  
23 travel on the public highways as determined by the comptroller,  
24 provided that a credit or refund may not be allowed for the portion  
25 used in the incidental highway travel; or

26           (6) is a licensed aviation fuel dealer who delivers  
27 the gasoline into the fuel supply tanks of aircraft or aircraft

1 servicing equipment.

2 (d) A license holder may take a credit on a return for the  
3 period in which the purchase occurred if the license holder paid tax  
4 on gasoline and the license holder is a licensed interstate trucker  
5 who uses the gasoline outside this state in commercial vehicles  
6 operated under an interstate trucker license, provided that a  
7 credit or refund claimed under this subsection must be taken or  
8 filed within the limitation period provided by Section 162.128.

9 (e) A license holder may take credit on a return for the  
10 period in which the purchase occurred, and a person who does not  
11 hold a license may file a refund claim with the comptroller, if the  
12 license holder or person paid tax on gasoline and the gasoline is  
13 used in this state by auxiliary power units or power take-off  
14 equipment on any motor vehicle, if that use can be accurately  
15 measured while the motor vehicle is stationary by any metering or  
16 other measuring device or method designed to measure the fuel  
17 separately from fuel used to propel or idle the motor vehicle. The  
18 comptroller may approve and adopt the use of any device as a basis  
19 for determining the quantity of gasoline consumed in those  
20 operations for tax credit or tax refund. The climate-control air  
21 conditioning or heating system of a motor vehicle that has a primary  
22 purpose of providing for the convenience or comfort of the operator  
23 or passengers is not a power take-off system, and a credit or refund  
24 may not be allowed for the gasoline tax paid on any portion of the  
25 gasoline that is used for that purpose. A credit or refund may not  
26 be allowed for the gasoline tax paid on that portion of the gasoline  
27 used for idling.

1       (f) A person who paid tax on the purchase of gasoline may  
2 claim a credit or seek a refund with the comptroller if 100 or more  
3 gallons of gasoline is subsequently exported or lost by fire,  
4 theft, or accident. A credit or refund claimed under this  
5 subsection must be taken or filed within the limitation period  
6 provided by Section 162.128.

7       (g) A transit company that paid tax on the purchase of  
8 gasoline may seek a refund with the comptroller in an amount equal  
9 to one cent per gallon for gasoline used in transit vehicles.

10       (h) The right to receive a refund or take a credit under this  
11 section is not assignable.

12       (i) The comptroller may adopt rules specifying procedures  
13 and requirements that must be followed to claim a credit or refund  
14 under this section.

15       Sec. 162.126. REFUND FOR BAD DEBTS; CREDIT FOR NONPAYMENT.

16       (a) A licensed distributor may file a refund claim with the  
17 comptroller if:

18               (1) the distributor has paid the taxes imposed by this  
19 subchapter on gasoline sold on account;

20               (2) the distributor determines that the account is  
21 uncollectible and worthless; and

22               (3) the account is written off as a bad debt on the  
23 accounting books of the distributor.

24       (b) A licensed supplier or permissive supplier may take a  
25 credit on the monthly report to be filed with the comptroller if:

26               (1) on a previous report, the supplier or permissive  
27 supplier paid the taxes imposed by this subchapter on gasoline sold

1 on account;

2 (2) the person to whom the supplier or permissive  
3 supplier sold the gasoline has not remitted the tax to the supplier  
4 or permissive supplier; and

5 (3) at the time of the transaction, the person to whom  
6 the supplier or permissive supplier sold the gasoline held a  
7 license issued by the comptroller.

8 (c) The return on which the refund is claimed or the credit  
9 is taken must state, if applicable, the license number of the person  
10 whose account has been written off as a bad debt, or who failed to  
11 remit the tax, and any other information required by the  
12 comptroller. The amount of the refund or credit that may be claimed  
13 under Subsection (a) or (b) may equal but may not exceed the amount  
14 of taxes paid on the gasoline to which the written-off account or  
15 unpaid taxes apply.

16 (d) If, after a refund is received under Subsection (a) or a  
17 credit is taken under Subsection (b), the account on which the  
18 refund or credit was based is paid, or if the comptroller otherwise  
19 determines that the refund or credit was not authorized by  
20 Subsection (a) or (b), the unpaid taxes shall be paid by the  
21 distributor receiving the refund or the supplier or permissive  
22 supplier taking the credit, plus a penalty of 10 percent of the  
23 amount of the unpaid taxes and interest at the rate provided by  
24 Section 111.060 beginning on the day the refund was issued.

25 (e) This section does not apply to a sale of gasoline that is  
26 delivered into the fuel supply tank of a motor vehicle or motorboat  
27 and for which payment is made through the use and acceptance of a

1 credit card.

2 (f) A refund under this section must be claimed at the time  
3 the account is written off as a bad debt, but may only be claimed  
4 before the expiration of the applicable limitation period as  
5 provided by Chapter 111.

6 (g) The comptroller may take action against a person in  
7 relation to whom a distributor, supplier, or permissive supplier  
8 has made a refund claim or taken a credit for collection of the tax  
9 owed and for penalty and interest as provided by Chapter 111.

10 Sec. 162.127. CLAIMS FOR REFUNDS. (a) A refund claim must  
11 be filed on a form provided by the comptroller, be supported by the  
12 original invoice issued by the seller, and contain:

13 (1) the stamped or preprinted name and address of the  
14 seller;

15 (2) the name of the purchaser;

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

17 (4) the date of the issuance of the invoice, if  
18 different from the date of fuel delivery;

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

20 (6) the amount of tax, either separately stated from  
21 the selling price or stated with a notation that the selling price  
22 includes the tax; and

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

27 (b) The purchaser must obtain the original invoice from the

1 seller of the gasoline not later than the 30th day after the date  
2 the gasoline is delivered to the purchaser. If the delivery of  
3 gasoline is made through an automated method in which the purchase  
4 is automatically applied to the purchaser's account, one invoice  
5 may be issued at the time of billing that covers multiple purchases  
6 made during a 30-day billing cycle.

7 (c) A distribution log filed with the comptroller to support  
8 the number of gallons of gasoline removed from a bulk user's own  
9 bulk storage must contain the name and address of the bulk user  
10 making the delivery stamped or preprinted on it and for each  
11 individual delivery from the bulk storage:

12 (1) the date of delivery;

13 (2) the number of gallons of gasoline delivered;

14 (3) the signature of the bulk user; and

15 (4) the type or description of off-highway equipment  
16 into which the gasoline was delivered, or the type of licensed motor  
17 vehicle into which the gasoline was delivered, including the state  
18 highway license plate number or vehicle identification number and  
19 odometer or hubmeter reading.

20 (d) A distributor or person who does not hold a license who  
21 files a valid refund claim with the comptroller shall be paid by a  
22 warrant issued by the comptroller. For purposes of this section, a  
23 distributor meets the requirement of filing a valid refund claim if  
24 the distributor designates the gallons of gasoline sold or used  
25 that are the subject of the refund claim on the monthly report  
26 submitted by the distributor to the comptroller.

27 (e) A person who files a claim for a tax refund on gasoline

1 used for a purpose for which a tax refund is not authorized or who  
2 files an invoice supporting a refund claim on which the date,  
3 figures, or any material information has been falsified or altered  
4 forfeits the person's right to the entire amount of the refund claim  
5 filed unless the claimant provides proof satisfactory to the  
6 comptroller that the incorrect refund claim filed was due to a  
7 clerical or mathematical calculation error.

8 (f) After examination of the refund claim, the comptroller,  
9 before issuing a refund warrant, shall deduct from the amount of the  
10 refund the two percent deducted originally by the license holder on  
11 the first sale or distribution of the gasoline.

12 Sec. 162.128. WHEN GASOLINE TAX REFUND OR CREDIT MAY BE  
13 FILED. (a) Except as otherwise provided by this section, a claim  
14 for a refund must be filed with the comptroller before the first  
15 anniversary of the first day of the calendar month following the  
16 purchase, use, delivery, or export, or loss by fire, theft, or  
17 accident of gasoline, whichever period expires latest.

18 (b) If the amount of credit that an interstate trucker is  
19 entitled to take under Section 162.125 exceeds the amount of tax due  
20 on that reporting period, the excess credit amount may be claimed on  
21 any of three successive quarterly returns following the period in  
22 which the credit was established, or the interstate trucker may  
23 seek a refund from the comptroller on or before the due date of the  
24 third successive quarterly return following the period in which the  
25 credit was established. A credit that is not claimed within the  
26 period prescribed by this subsection expires.

27 (c) If the comptroller assesses a supplier or permissive

1 supplier for a tax-free sale that is taxable, and the supplier or  
2 permissive supplier subsequently collects the tax from the  
3 purchaser, the purchaser may file a refund claim before the first  
4 anniversary of the date the supplier's or permissive supplier's  
5 deficiency assessment becomes final if the purchaser used the  
6 gasoline in an exempt manner.

7 (d) A supplier or permissive supplier that determines taxes  
8 were erroneously reported and remitted or that paid more taxes than  
9 were due this state because of a mistake of fact or law may take a  
10 credit on the monthly tax report on which the error has occurred and  
11 tax payment made to the comptroller. The credit must be taken  
12 before the expiration of the applicable period of limitation as  
13 provided by Chapter 111.

14 [Sections 162.129-162.200 reserved for expansion]

15 SUBCHAPTER C. DIESEL FUEL TAX

16 Sec. 162.201. POINT OF IMPOSITION OF DIESEL FUEL TAX. (a)  
17 A tax is imposed on the removal of diesel fuel from the terminal  
18 using the terminal rack other than by bulk transfer. The supplier  
19 or permissive supplier shall collect the tax imposed by this  
20 subchapter from the person who orders the withdrawal at the  
21 terminal rack.

22 (b) A tax is imposed at the time diesel fuel is imported into  
23 this state, other than by a bulk transfer, for delivery to a  
24 destination in this state. The permissive supplier shall collect  
25 the tax imposed by this subchapter from the person who imports the  
26 diesel fuel into this state. If the seller is not a permissive  
27 supplier, the person who imports the diesel fuel into this state



1 shall pay the tax.

2 (c) A tax is imposed on the sale or transfer of diesel fuel  
3 in the bulk transfer/terminal system in this state by a supplier to  
4 a person who does not hold a supplier's license. The supplier shall  
5 collect the tax imposed by this subchapter from the person who  
6 orders the sale or transfer in the bulk transfer/terminal system.

7 (d) A tax is imposed on diesel fuel brought into this state  
8 in the motor fuel supply tank or tanks of a motor vehicle operated  
9 by a person required to be licensed as an interstate trucker.

10 (e) A tax is imposed on the blending of diesel fuel at the  
11 point blended diesel fuel is made in this state outside the bulk  
12 transfer/terminal system. The blender shall pay the tax. The  
13 number of gallons of blended diesel fuel on which the tax is imposed  
14 is equal to the difference between the number of gallons of blended  
15 fuel made and the number of gallons of previously taxed diesel fuel  
16 used to make the blended fuel.

17 (f) The terminal operator in this state is considered a  
18 supplier for the purpose of the tax imposed under this subchapter  
19 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 diesel fuel is  
22 withdrawn;

23 (2) the terminal operator verifies that the person who  
24 removes the diesel fuel 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 (g) In each subsequent sale of diesel fuel on which the tax

1 has been paid, the amount of the tax shall be added to the selling  
2 price so that the tax is paid ultimately by the person using or  
3 consuming the diesel fuel. Diesel fuel is considered to be used  
4 when it is delivered into a fuel supply tank.

5 Sec. 162.202. TAX RATE. The diesel fuel tax rate is 20  
6 cents for each net gallon or fractional part on which the tax is  
7 imposed under Section 162.201.

8 Sec. 162.203. BACKUP TAX; LIABILITY. (a) A backup tax is  
9 imposed at the rate prescribed by Section 162.202 on:

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

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

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

19 (b) If the motor vehicle described by Subsection (a)(2) is  
20 owned or leased by a person other than the operator, the tax shall  
21 be paid by either the operator or the motor vehicle's owner or  
22 lessee.

23 (c) The tax imposed under Subsection (a)(3) is also imposed  
24 on the ultimate consumer.

25 (d) A person who sells diesel fuel in this state on which tax  
26 has not been paid for any purpose other than a purpose exempt under  
27 Section 162.204 shall at the time of sale collect the tax from the

1 purchaser or recipient of diesel fuel in addition to the selling  
2 price and is liable to this state for the taxes collected at the  
3 time and in the manner provided by this chapter.

4 (e) The tax liability imposed by this section is in addition  
5 to any penalty imposed under this chapter.

6 Sec. 162.204. EXEMPTIONS. (a) The tax imposed by this  
7 subchapter does not apply to:

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

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

14 (3) diesel fuel sold to a commercial transportation  
15 company that provides public school transportation services to a  
16 school district under Section 34.008, Education Code, and that uses  
17 the diesel fuel only to provide those services;

18 (4) diesel fuel exported by either a licensed supplier  
19 or a licensed exporter from this state to any other state, provided  
20 that:

21 (A) for diesel fuel in a situation described by  
22 Subsection (d), the bill of lading indicates the destination state  
23 and the supplier collects the destination state tax; or

24 (B) for diesel fuel in a situation described by  
25 Subsection (e), the bill of lading indicates the destination state,  
26 the diesel fuel is subsequently exported, and the exporter is  
27 licensed in the destination state to pay that state's tax and has an

1 exporter's license issued under this subchapter;

2 (5) diesel fuel moved by truck or railcar between  
3 licensed suppliers or licensed permissive suppliers and in which  
4 the diesel fuel removed from the first terminal comes to rest in the  
5 second terminal, provided that the removal from the second terminal  
6 rack is subject to the tax imposed by this subchapter;

7 (6) diesel fuel delivered or sold into a storage  
8 facility of a licensed aviation fuel dealer from which the diesel  
9 fuel will be delivered solely into the fuel supply tanks of aircraft  
10 or aircraft servicing equipment, or sold from one licensed aviation  
11 fuel dealer to another licensed aviation fuel dealer who will  
12 deliver the diesel fuel exclusively into the fuel supply tanks of  
13 aircraft or aircraft servicing equipment;

14 (7) diesel fuel exported to a foreign country if the  
15 bill of lading indicates the foreign destination and the fuel is  
16 actually exported to the foreign country;

17 (8) dyed diesel fuel sold or delivered by a supplier to  
18 another supplier and dyed diesel fuel sold or delivered by a  
19 supplier or distributor into the bulk storage facility of a dyed  
20 diesel fuel bonded user or to a purchaser who provides a signed  
21 statement as provided by Section 162.206;

22 (9) the volume of water, fuel ethanol, biodiesel, or  
23 mixtures thereof that are blended together with taxable diesel fuel  
24 when the finished product sold or used is clearly identified on the  
25 retail pump, storage tank, and sales invoice as a combination of  
26 diesel fuel and water, fuel ethanol, biodiesel, or mixtures  
27 thereof;

1           (10) dyed diesel fuel sold by a supplier or permissive  
2 supplier to a distributor, or by a distributor to another  
3 distributor;

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

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

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

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

18                   (B) is used exclusively to transport passengers  
19 for compensation or hire between points in this state on a fixed  
20 route or schedule.

21           (b) The exemption provided by Subsection (a)(4) does not  
22 apply to diesel fuel that is transported and delivered outside this  
23 state in the motor fuel supply tank of a motor vehicle other than an  
24 interstate trucker.

25           (c) If an exporter described by Subsection (a)(4)(B) does  
26 not have an exporter's license issued under this subchapter, the  
27 supplier must collect the tax imposed under this subchapter.

1       (d) Subsection (a)(4)(A) applies only if the destination  
2 state recognizes, by agreement with this state or by statute or  
3 rule, a supplier in this state as a valid taxpayer for the motor  
4 fuel being exported to that state from this state. The comptroller  
5 shall publish a list that specifies for each state, other than this  
6 state, whether that state does or does not qualify under this  
7 subsection.

8       (e) Subsection (a)(4)(B) applies only until the date the  
9 destination state recognizes, by agreement with this state or by  
10 statute, the out-of-state supplier as a valid taxpayer for the  
11 motor fuel being exported to that state from this state, or until  
12 January 1, 2006, whichever date is earlier.

13       (f) The exemption provided by Subsection (a)(4)(A) does not  
14 apply to a sale by a distributor.

15       Sec. 162.205. PERSONS REQUIRED TO BE LICENSED. (a) A  
16 person shall obtain the appropriate license or licenses issued by  
17 the comptroller before conducting the activities of:

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

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

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

9           (5) a terminal operator;

10          (6) an exporter;

11          (7) a blender;

12          (8) a motor fuel transporter;

13          (9) an aviation fuel dealer;

14          (10) an interstate trucker; or

15          (11) a dyed diesel fuel bonded user.

16          (b) A person must obtain a license as a dyed diesel fuel  
17 bonded user to purchase dyed diesel fuel in amounts that exceed the  
18 limitations prescribed by Section 162.206(c). This subsection does  
19 not affect the right of a purchaser to purchase not more than 10,000  
20 gallons of dyed diesel fuel each month for the purchaser's own use  
21 using a signed statement under Section 162.206.

22          Sec. 162.206. STATEMENT FOR PURCHASE OF DYED DIESEL FUEL.

23          (a) The first removal of diesel fuel from a terminal in this state  
24 is taxable, except the sale of dyed diesel fuel may be made without  
25 collecting the tax if the purchaser furnishes to a licensed  
26 supplier or distributor a signed statement that includes an end  
27 user number issued by the comptroller. A person who wants to use a

1 signed statement to purchase dyed diesel fuel must apply to the  
2 comptroller for an end user number to be used in conjunction with a  
3 signed statement. A licensed supplier or distributor may not make a  
4 tax-free sale of any diesel fuel to a purchaser using a signed  
5 statement unless the purchaser has an end user number issued by the  
6 comptroller under this section. A taxable sale or removal of dyed  
7 diesel fuel may not be made under this chapter, except as prescribed  
8 by Subsection (d).

9 (b) A sale of dyed diesel fuel may be made without  
10 collecting the tax if the purchaser furnishes to a licensed  
11 supplier or distributor a signed statement, including an end user  
12 number issued by the comptroller, that stipulates that:

13 (1) all of the dyed diesel fuel purchased on the signed  
14 statement will be consumed by the purchaser and will not be resold;  
15 and

16 (2) none of the dyed diesel fuel purchased on the  
17 signed statement will be delivered or permitted to be delivered  
18 into the fuel supply tank of a motor vehicle operated on the public  
19 highways of this state.

20 (c) A person may not make a tax-free purchase and a licensed  
21 supplier or distributor may not make a tax-free sale to a purchaser  
22 of any dyed diesel fuel under this section using a signed statement:

23 (1) for the purchase or the sale of more than 7,400  
24 gallons of dyed diesel fuel in a single delivery; or

25 (2) in a calendar month in which the person has  
26 previously purchased from all sources or in which the licensed  
27 supplier has previously sold to that purchaser more than:



1           (A) 10,000 gallons of dyed diesel fuel;

2           (B) 25,000 gallons of dyed diesel fuel if the  
3 purchaser stipulates in the signed statement that all of the fuel  
4 will be consumed by the purchaser in the original production of, or  
5 to increase the production of, oil or gas and furnishes the supplier  
6 with a letter of exception issued by the comptroller; or

7           (C) 25,000 gallons of dyed diesel fuel if the  
8 purchaser stipulates in the signed statement that all of the fuel  
9 will be consumed by the purchaser in agricultural off-highway  
10 equipment.

11           (d) Any gallons purchased or sold in excess of the  
12 limitations prescribed by Subsection (c) constitute a taxable  
13 purchase or sale. The purchaser paying the tax on dyed diesel fuel  
14 in excess of the limitations prescribed by Subsection (c) may claim  
15 a refund of the tax paid on any dyed diesel fuel used for nonhighway  
16 purposes under Section 162.227. A purchaser that exceeds the  
17 limitations prescribed by Subsection (c) shall be required to  
18 obtain a dyed diesel fuel bonded user license.

19           (e) The signed statement and end user number from the  
20 purchaser relieves the licensed supplier or distributor from the  
21 burden of proof that the sale of dyed diesel fuel for a nonhighway  
22 purpose was not taxable to the purchaser and remains in effect  
23 unless:

24           (1) the statement is revoked in writing by the  
25 purchaser or licensed supplier or distributor;

26           (2) the comptroller notifies the licensed supplier or  
27 distributor in writing that the purchaser may no longer make

1 tax-free purchases; or

2 (3) the licensed supplier or distributor is put on  
3 notice by making taxable sales of dyed diesel fuel to a purchaser  
4 who has previously furnished a signed statement to the licensed  
5 supplier or distributor.

6 (f) For purposes of Subsection (e)(3), a licensed supplier  
7 or distributor is not put on notice when taxable sales of dyed  
8 diesel fuel are made in accordance with Subsection (d).

9 (g) The statement must be signed by the purchaser or the  
10 purchaser's representative.

11 (h) The comptroller by rule may allow separate operating  
12 divisions of a corporation to give separate signed statements as if  
13 the divisions were different legal entities.

14 (i) The comptroller may adopt necessary forms and rules to  
15 administer and enforce this section.

16 (j) A taxable use of any part of the dyed diesel fuel  
17 purchased under a signed statement shall, in addition to  
18 application of any criminal penalty, forfeit the right of the  
19 person to purchase dyed diesel fuel tax-free for a period of one  
20 year from the date of the offense. Any tax, interest, and penalty  
21 found to be due through false or erroneous execution or continuance  
22 of a promissory statement by the purchaser, if assessed to the  
23 licensed supplier or distributor, is a debt of the purchaser to the  
24 licensed supplier or distributor until paid and is recoverable at  
25 law in the same manner as the purchase price of the fuel. The person  
26 may, however, claim a refund of the tax paid on any dyed diesel fuel  
27 used for nonhighway purposes under Section 162.227.

1       Sec. 162.207. TRIP PERMITS. (a) Instead of an annual  
2 interstate trucker's license, a person bringing a motor vehicle  
3 described by Section 162.001(36) into this state for commercial  
4 purposes may obtain a trip permit. The trip permit must be obtained  
5 before or at the time of entry into this state.

6       (b) Not more than five trip permits for each person may be  
7 issued during a calendar year.

8       (c) A fee for each trip permit shall be collected from the  
9 applicant and shall be in the amount of \$50 for each vehicle for  
10 each trip.

11       (d) A report is not required with respect to the vehicle.

12       (e) Operating a motor vehicle without a valid interstate  
13 trucker's license or trip permit may subject the operator to a  
14 penalty under Section 162.402.

15       Sec. 162.208. PERMISSIVE SUPPLIER REQUIREMENTS ON  
16 OUT-OF-STATE REMOVALS. (a) A person may elect to obtain a  
17 permissive supplier license to collect the tax imposed under this  
18 subchapter for diesel fuel that is removed at a terminal in another  
19 state and has this state as the destination state.

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

24           (1) collect the tax due to this state on the diesel  
25 fuel;

26           (2) waive any defense that this state lacks  
27 jurisdiction to require the supplier to collect the tax due to this

1 state on the diesel fuel under this subchapter;

2 (3) report and pay the tax due on the diesel fuel in  
3 the same manner as if the removal had occurred at a terminal located  
4 in this state;

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

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

10 (c) A permissive supplier must acknowledge in the  
11 supplier's license application that this state imposes the  
12 requirements listed in Subsection (b) under this state's general  
13 police power and that the permissive supplier submits to the  
14 jurisdiction of this state only for purposes related to the  
15 administration of this chapter.

16 Sec. 162.209. LICENSE APPLICATION PROCEDURE. (a) To  
17 obtain a license under this subchapter, an applicant shall file an  
18 application using a form adopted by the comptroller. The  
19 application must contain:

20 (1) the name under which the applicant transacts or  
21 intends to transact business;

22 (2) the applicant's principal office, residence, place  
23 of business in this state, or other location of the applicant;

24 (3) if the applicant is not an individual, the names of  
25 the principal officers of an applicant corporation, or the names of  
26 the members of an applicant partnership, and the office, street, or  
27 post office addresses of each; and

1           (4) other information required by the comptroller.

2           (b) An applicant for a license as a supplier, permissive  
3 supplier, or terminal operator must have a federal certificate of  
4 registry issued under 26 U.S.C. Section 4101 that authorizes the  
5 applicant to enter into federal tax-free transactions of diesel  
6 fuel in the bulk terminal/transfer system. An applicant that is  
7 required to have a federal certificate of registry must include the  
8 registration number of the certificate on the application for a  
9 license. An applicant for a license as an importer, exporter, or  
10 distributor who has a federal certificate of registry issued under  
11 26 U.S.C. Section 4101 must include the registration number of the  
12 certificate on the application for a license.

13           (c) An applicant for a license as an importer or distributor  
14 must list on the application each state from which the applicant  
15 intends to import diesel fuel and, if required by a listed state,  
16 must be licensed or registered for diesel fuel tax purposes in that  
17 state. If a listed state requires the applicant to be licensed or  
18 registered, the applicant must provide the applicant's license or  
19 registration number from that state.

20           (d) An applicant for a license as an exporter must designate  
21 an agent located in this state for service of process and provide  
22 the agent's name and address. An applicant for a license as an  
23 exporter or distributor must list on the application each state to  
24 which the applicant intends to export diesel fuel received in this  
25 state by means of a transfer that is outside the bulk  
26 terminal/transfer system and must be licensed or registered for  
27 diesel fuel tax purposes in that state. The applicant must provide

1 the applicant's license or registration number from that state.

2 (e) An applicant for a license as a motor fuel transporter  
3 must list on the application each state from which and to which the  
4 applicant intends to transport motor fuel and, if required by a  
5 listed state, must be licensed or registered for diesel fuel tax  
6 purposes in that state. If a listed state requires the applicant to  
7 be licensed or registered, the applicant must provide the  
8 applicant's license or registration number from that state.

9 Sec. 162.210. ISSUANCE AND DISPLAY OF LICENSE. (a) If the  
10 comptroller approves a license application, the comptroller shall  
11 issue a license to the applicant. A license must be posted in a  
12 conspicuous place or kept available for inspection at the principal  
13 place of business of the license holder. A copy of the license must  
14 be kept at each place of business or other place of storage from  
15 which diesel fuel is sold, distributed, or used, and in each motor  
16 vehicle used by the license holder to transport diesel fuel  
17 purchased by the license holder for resale, distribution, or use.

18 (b) A person holding an interstate trucker's license shall  
19 reproduce the license and carry a photocopy with each motor vehicle  
20 being operated into or from this state.

21 Sec. 162.211. LICENSES AND TRIP PERMITS; PERIODS OF  
22 VALIDITY. (a) The license issued to a supplier, permissive  
23 supplier, distributor, importer, terminal supplier, exporter,  
24 blender, motor fuel transporter, or dyed diesel fuel bonded user is  
25 permanent and is valid during the period the license holder has in  
26 force and effect the required bond or security and furnishes timely  
27 reports and supplements as required, or until the license is

1 surrendered by the holder or canceled by the comptroller. The  
2 comptroller shall cancel a license under this subsection if a  
3 purchase, sale, or use of diesel fuel has not been reported by the  
4 license holder during the previous nine months.

5 (b) The license issued to an aviation fuel dealer is  
6 permanent and is valid until the license is surrendered by the  
7 holder or canceled by the comptroller.

8 (c) The license issued to an interstate trucker is valid  
9 from the date of its issuance through December 31 of each calendar  
10 year or until the license is surrendered by the holder or canceled  
11 by the comptroller. The comptroller may renew the license for each  
12 ensuing calendar year if the license holder furnishes timely  
13 reports as required.

14 (d) A trip permit is valid for the period stated on the  
15 permit as determined by the comptroller.

16 (e) A license issued under this subchapter is not  
17 transferable.

18 Sec. 162.212. BOND AND OTHER SECURITY FOR TAXES. (a) The  
19 comptroller shall determine the amount of security required of a  
20 supplier, permissive supplier, distributor, exporter, importer,  
21 blender, or dyed diesel fuel bonded user, taking into consideration  
22 the amount of tax that has or is expected to become due from the  
23 person, any past history of the person as a license holder under  
24 this chapter and its predecessor, and the necessity to protect this  
25 state against the failure to pay the tax as the tax becomes due.

26 (b) If it is determined that the posting of security is  
27 necessary to protect this state, the comptroller may require a

1 license holder to post a bond. A license holder shall post a bond  
2 equal to two times the maximum amount of tax that could accrue on  
3 tax-free diesel fuel purchased or acquired during a reporting  
4 period. The minimum bond is \$30,000, except that for a dyed diesel  
5 fuel bonded user the minimum bond is \$10,000. The maximum bond is  
6 \$600,000 unless the comptroller believes there is undue risk of  
7 loss of tax revenues, in which event the comptroller may require one  
8 or more bonds or securities in a total amount exceeding \$600,000.

9 (c) A license holder who has filed a bond or other security  
10 under this subchapter is entitled, on request, to have the  
11 comptroller return, refund, or release the bond or security if in  
12 the judgment of the comptroller the person has for four consecutive  
13 years continuously complied with the conditions of the bond or  
14 other security filed under this subchapter. However, if the  
15 comptroller determines that the revenues of this state would be  
16 jeopardized by the return, refund, or release of the bond or  
17 security, the comptroller may elect not to return, refund, or  
18 release the bond or security and may reimpose a requirement of a  
19 bond or other security as the comptroller determines necessary to  
20 protect the revenues of this state.

21 (d) A bond must be a continuing instrument, must constitute  
22 a new and separate obligation in the penal sum named in the bond for  
23 each calendar year or portion of a year while the bond is in force,  
24 and must remain in effect until the surety on the bond is released  
25 and discharged.

26 (e) Instead of filing a surety bond, an applicant for a  
27 license may substitute the following security:



1           (1) cash in the form of United States currency in an  
2 amount equal to the required bond to be deposited in the suspense  
3 account of the state treasury;

4           (2) an assignment to the comptroller of a certificate  
5 of deposit in any bank or savings and loan association in this state  
6 that is a member of the Federal Deposit Insurance Corporation in an  
7 amount at least equal to the bond amount required; or

8           (3) an irrevocable letter of credit to the comptroller  
9 from any bank or savings and loan association in this state that is  
10 a member of the Federal Deposit Insurance Corporation in an amount  
11 of credit at least equal to the bond amount required.

12           (f) If the amount of an existing bond becomes insufficient  
13 or a security becomes unsatisfactory or unacceptable, the  
14 comptroller may require the filing of a new or additional bond or  
15 security.

16           (g) A surety bond or other form of security may not be  
17 released until it is determined by examination or audit that a tax,  
18 penalty, or interest liability does not exist. The cash or  
19 securities shall be released within 60 days after the comptroller  
20 determines that liability does not exist.

21           (h) The comptroller may use the cash or certificate of  
22 deposit security to satisfy a final determination of delinquent  
23 liability or a judgment secured in any action by this state to  
24 recover diesel fuel taxes, costs, penalties, and interest found to  
25 be due to this state by a person in whose behalf the cash or  
26 certificate security was deposited.

27           (i) A surety on a bond furnished by a license holder shall be

1 released and discharged from liability to this state accruing on  
2 the bond on the 31st day after the date the surety files with the  
3 comptroller a written request to be released and discharged. The  
4 request does not relieve, release, or discharge the surety from a  
5 liability already accrued, or that accrues before the expiration of  
6 the 30-day period. The comptroller, promptly on receipt of the  
7 request, shall notify the license holder who furnished the bond,  
8 and unless the license holder, before the expiration date of the  
9 existing security, files with the comptroller a new bond with a  
10 surety company duly authorized to do business under the laws of this  
11 state, or other authorized security, in the amount required in this  
12 section, the comptroller shall cancel the license in the manner  
13 provided by this chapter.

14 (j) The comptroller shall notify immediately the issuer of a  
15 letter of credit of a final determination of the license holder's  
16 delinquent liability or a judgment secured in any action by this  
17 state to recover diesel fuel taxes, costs, penalties, and interest  
18 found to be due this state by a license holder in whose behalf the  
19 letter of credit was issued. The letter of credit allowed as  
20 security for the remittance of taxes under this subchapter shall  
21 contain a statement that the issuer agrees to respond to the  
22 comptroller's notice of liability with amounts to satisfy the  
23 comptroller's delinquency claim against the license holder.

24 (k) A license holder may request an examination or audit to  
25 obtain release of the security when the license holder relinquishes  
26 the license or when the license holder wants to substitute one form  
27 of security for an existing one.

1       Sec. 162.213. LICENSE HOLDER STATUS LIST. (a) The  
2 comptroller, on or before December 20 of each year, shall make  
3 available to all license holders an alphabetical list of licensed  
4 suppliers, permissive suppliers, distributors, aviation fuel  
5 dealers, importers, exporters, blenders, terminal operators, and  
6 dyed diesel fuel bonded users. A supplemental list of additions and  
7 deletions shall be made available to the license holders each  
8 month. A current and effective license or the list furnished by the  
9 comptroller is evidence of the validity of the license until the  
10 comptroller notifies license holders of a change in the status of a  
11 license holder.

12       (b) A licensed supplier or permissive supplier who sells  
13 diesel fuel tax-free to a supplier or permissive supplier whose  
14 license has been canceled or revoked under this chapter, or who  
15 sells dyed diesel fuel to a dyed diesel fuel bonded user whose  
16 license has been canceled or revoked under this chapter, is liable  
17 for any tax due on diesel fuel sold after receiving notice of the  
18 cancellation or revocation.

19       (c) The comptroller shall notify all license holders under  
20 this chapter when a canceled or revoked license is subsequently  
21 reinstated and include in the notice the effective date of the  
22 reinstatement. Sales to a supplier, permissive supplier,  
23 distributor, or dyed diesel fuel bonded user after the effective  
24 date of the reinstatement may be made tax-free.

25       Sec. 162.214. REMITTANCE OF TAX TO SUPPLIER OR PERMISSIVE  
26 SUPPLIER; ALLOWANCES. (a) Each licensed distributor and licensed  
27 importer shall remit to the supplier or permissive supplier, as

1 applicable, the tax imposed by Section 162.201 for diesel fuel  
2 removed at a terminal rack. A licensed distributor or licensed  
3 importer may elect to defer payment of the tax to the supplier or  
4 permissive supplier until two days before the date the supplier or  
5 permissive supplier is required to remit the tax to this state.  
6 The distributor or importer shall pay the taxes by electronic funds  
7 transfer.

8 (b) A supplier, a permissive supplier, or its  
9 representative that conducts electronic transactions to draft an  
10 account of a licensed distributor or licensed importer for the  
11 payment of taxes due under this section shall provide at least two  
12 days' notice using an electronic means of the amount to be drafted  
13 from the account of the licensed distributor or licensed importer  
14 and the number of the account to be drafted from.

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

25 (d) The supplier or permissive supplier has the right, after  
26 notifying the comptroller of the licensed distributor's or licensed  
27 importer's failure to remit taxes under this section, to terminate

1 the ability of the licensed distributor or licensed importer to  
2 defer the payment of diesel fuel tax. The supplier or permissive  
3 supplier shall reinstate without delay the right of the licensed  
4 distributor or licensed importer to defer the payment of diesel  
5 fuel tax after the comptroller provides to the supplier or  
6 permissive supplier notice that the licensed distributor or  
7 licensed importer is in good standing with the comptroller for the  
8 purposes of diesel fuel tax imposed under this subchapter.

9 (e) A licensed distributor or licensed importer who makes  
10 timely payments of the diesel fuel tax imposed under this  
11 subchapter is entitled to retain an amount equal to 1.75 percent of  
12 the total taxes to be paid to the supplier or permissive supplier to  
13 cover administrative expenses.

14 (f) The license of a distributor, exporter, or importer who  
15 fails to pay the full amount of tax required by this subchapter is  
16 subject to cancellation as provided by Section 162.005.

17 Sec. 162.215. RETURNS AND PAYMENTS. (a) Except as provided  
18 by Subsection (b), each person who is liable for the tax imposed by  
19 this subchapter, a terminal operator, and a licensed distributor  
20 shall file a return on or before the 25th day of the month following  
21 the end of each calendar month.

22 (b) A motor fuel transporter, interstate trucker, and dyed  
23 diesel fuel bonded user shall file a return on or before the 25th  
24 day of the month following the end of the calendar quarter.

25 (c) The return required by this section shall be accompanied  
26 by a payment for the amount of tax reported due.

27 (d) An aviation fuel dealer is not required to file a

1 return.

2 Sec. 162.216. RECORDS. (a) A supplier and permissive  
3 supplier shall keep:

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

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

7 (B) all diesel fuel refined, compounded, or  
8 blended;

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

12 (D) all diesel fuel sold, distributed, or used,  
13 showing the name of the purchaser and the date of the sale,  
14 distribution, or use; and

15 (E) all diesel fuel lost by fire, theft, or  
16 accident; and

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

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

21 (B) exported from this state by destination state  
22 or country; and

23 (C) imported during the preceding calendar  
24 month, by state or country of origin.

25 (b) A distributor shall keep:

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

27 (A) all diesel fuel inventories on hand at the

1 first of each month;

2 (B) all diesel fuel blended;

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

6 (D) all diesel fuel sold, distributed, or used,  
7 showing the name of the purchaser and the date of the sale,  
8 distribution, or use; and

9 (E) all diesel fuel lost by fire, theft, or  
10 accident;

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

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

15 (B) exported from this state by destination state  
16 or country; and

17 (C) imported during the preceding calendar  
18 month, by state or country of origin; and

19 (3) for diesel fuel exported outside this state, proof  
20 of payment of tax to the destination state, in a form acceptable to  
21 the comptroller.

22 (c) An importer shall keep:

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

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

26 (B) all diesel fuel compounded or blended;

27 (C) all diesel fuel purchased or received,

1 showing the name of the seller and the date of each purchase or  
2 receipt;

3 (D) all diesel fuel sold, distributed, or used,  
4 showing the name of the purchaser and the date of the sale,  
5 distribution, or use; and

6 (E) all diesel fuel lost by fire, theft, or  
7 accident; and

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

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

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

14 (C) imported during the preceding calendar  
15 month, by state or country of origin.

16 (d) An exporter 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 and the date of the sale or use;  
26 and

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



1 accident;

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; and

6 (B) exported from this state, by destination  
7 state or country;

8 (3) proof of payment of tax to the destination state in  
9 a form acceptable to the comptroller; and

10 (4) if an exemption under Section 162.204(a)(4)(B) is  
11 claimed, proof of payment of tax to the destination state or proof  
12 that the transaction was exempt in the destination state, in a form  
13 acceptable to the comptroller.

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

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

18 (2) all diesel fuel compounded or blended;

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

21 (4) all diesel fuel sold, distributed, or used,  
22 showing the name of the purchaser and the date of the sale,  
23 distribution, or use; and

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

25 (f) A terminal operator shall keep:

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

27 (A) all diesel fuel inventories on hand at the

1 first of each month, including the name and license number of each  
2 owner and the amount of diesel fuel held for each owner;

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

5 (C) all diesel fuel sold, distributed, or used,  
6 showing the name of the purchaser and the date of the sale,  
7 distribution, or use; and

8 (D) all diesel fuel lost by fire, theft, or  
9 accident; and

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

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

14 (B) exported from this state, by destination  
15 state or country; and

16 (C) imported during the preceding calendar  
17 month, by state or country of origin.

18 (g) A motor fuel transporter shall keep a complete and  
19 separate record of each intrastate and interstate transportation of  
20 diesel fuel, showing:

21 (1) the date of transportation;

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

23 (3) the method of transportation;

24 (4) the quantity and kind of diesel fuel transported;

25 (5) full data concerning the diversion of shipments,  
26 including the number of gallons diverted from interstate to  
27 intrastate and intrastate to interstate commerce; and

1           (6) the points of origin and destination, the number  
2 of gallons shipped or transported, the date, the consignee and the  
3 consignor, and the kind of diesel fuel that has been diverted.

4           (h) A dealer shall keep a record showing the number of  
5 gallons of:

6           (1) diesel fuel inventories on hand at the first of  
7 each month;

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

10           (3) all diesel fuel sold or used, showing the date of  
11 the sale or use; and

12           (4) all diesel fuel lost by fire, theft, or accident.

13           (i) An interstate trucker shall keep a record of:

14           (1) the total miles traveled in all states by all  
15 vehicles traveling into or from this state and the total quantity of  
16 diesel fuel consumed in those vehicles; and

17           (2) the total miles traveled in this state and the  
18 total quantity of diesel fuel purchased and delivered into the fuel  
19 supply tanks of motor vehicles in this state.

20           (j) An aviation fuel dealer shall keep a record showing the  
21 number of gallons of:

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

24           (2) all diesel fuel purchased or received, showing the  
25 name of the seller and the date of each purchase or receipt;

26           (3) all diesel fuel sold or used in aircraft or  
27 aircraft servicing equipment; and

1           (4) all diesel fuel lost by fire, theft, or accident.

2           (k) The records of an aviation fuel dealer made under  
3 Subsection (j)(3) must show:

4           (1) the name of the purchaser or user of diesel fuel;

5           (2) the date of the sale or use of diesel fuel; and

6           (3) the registration or "N" number of the airplane or a  
7 description or number of the aircraft or a description or number of  
8 the aircraft servicing equipment in which diesel fuel is used.

9           (1) A dyed diesel fuel bonded user shall keep a record  
10 showing the number of gallons of:

11           (1) dyed and undyed diesel fuel inventories on hand at  
12 the first of each month;

13           (2) dyed and undyed diesel fuel purchased or received,  
14 showing the name of the seller and the date of each purchase or  
15 receipt;

16           (3) dyed and undyed diesel fuel delivered into the  
17 fuel supply tanks of motor vehicles;

18           (4) dyed and undyed diesel fuel used in off-highway  
19 equipment or for other nonhighway purposes; and

20           (5) dyed and undyed diesel fuel lost by fire, theft, or  
21 accident.

22           (m) The comptroller may require selective schedules from a  
23 supplier, permissive supplier, distributor, importer, exporter,  
24 blender, terminal operator, motor fuel transporter, dealer,  
25 aviation fuel dealer, dyed diesel fuel bonded user, and interstate  
26 trucker for any purchase, sale, or delivery of diesel fuel if the  
27 schedules are not inconsistent with the requirements of this

1 chapter.

2 (n) The records required by this section must be kept until  
3 the fourth anniversary of the date they are created and are open to  
4 inspection at all times by the comptroller and the attorney  
5 general.

6 Sec. 162.217. INFORMATION REQUIRED ON SUPPLIER'S AND  
7 PERMISSIVE SUPPLIER'S RETURN; CREDITS AND ALLOWANCES. (a) The  
8 monthly return and supplements of each supplier and permissive  
9 supplier shall contain for the period covered by the return:

10 (1) the number of net gallons of diesel fuel received  
11 by the supplier or permissive supplier during the month, sorted by  
12 product code, seller, point of origin, destination state, carrier,  
13 and receipt date;

14 (2) the number of net gallons of diesel fuel removed at  
15 a terminal rack during the month from the account of the supplier,  
16 sorted by product code, person receiving the diesel fuel, terminal  
17 code, and carrier;

18 (3) the number of net gallons of diesel fuel removed  
19 during the month for export, sorted by product code, person  
20 receiving the diesel fuel, terminal code, destination state, and  
21 carrier;

22 (4) the number of net gallons of diesel fuel removed  
23 during the month from a terminal located in another state for  
24 conveyance to this state, as indicated on the shipping document for  
25 the diesel fuel, sorted by product code, person receiving the  
26 diesel fuel, terminal code, and carrier;

27 (5) the number of net gallons of diesel fuel the

1 supplier or permissive supplier sold during the month in  
2 transactions exempt under Section 162.204, sorted by product code,  
3 carrier, purchaser, and terminal code;

4 (6) the number of net gallons of diesel fuel sold in  
5 the bulk transfer/terminal system in this state to any person not  
6 holding a supplier's or permissive supplier's license; and

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

8 (b) A supplier or permissive supplier that timely pays the  
9 tax to this state may deduct from the amount of tax due a collection  
10 allowance equal to two percent of the amount of tax payable to this  
11 state.

12 (c) A supplier or permissive supplier may take a credit for  
13 any taxes that were not remitted in a previous period to the  
14 supplier or permissive supplier by a licensed distributor or  
15 licensed importer as required by Section 162.214. The supplier or  
16 permissive supplier is eligible to take this credit if the  
17 comptroller is notified of the default within 60 days after the  
18 default occurs. If a license holder pays to a supplier or  
19 permissive supplier the tax owed, but the payment occurs after the  
20 supplier or permissive supplier has taken a credit on its return,  
21 the supplier or permissive supplier shall remit the payment to the  
22 comptroller with the next monthly return after receipt of the tax,  
23 plus a penalty of 10 percent of the amount of unpaid taxes and  
24 interest at the rate provided by Section 111.060 beginning on the  
25 date the credit is taken.

26 (d) For the purpose of Subsection (c), all payments or  
27 credits in reduction of a customer's account must be applied

1 ratably between motor fuels and other goods sold to the customer,  
2 and the credit allowed will be the tax on the number of gallons  
3 represented by the motor fuel portion of the credit.

4 Sec. 162.218. DUTIES OF SUPPLIER OR PERMISSIVE SUPPLIER.

5 (a) A supplier or permissive supplier who receives or collects tax  
6 holds the amount received or collected in trust for the benefit of  
7 this state and has a fiduciary duty to remit to the comptroller the  
8 amount of tax received or collected.

9 (b) A supplier or permissive supplier shall furnish the  
10 purchaser with an invoice, bill of lading, or other documentation  
11 as evidence of the number of gallons received by the purchaser.

12 (c) A supplier or permissive supplier who receives a payment  
13 of tax may not apply the payment of tax to a debt that the person  
14 making the payment owes for diesel fuel purchased from the supplier  
15 or permissive supplier.

16 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S  
17 RETURN. The monthly return and supplements of each distributor  
18 shall contain for the period covered by the return:

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

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

26 (3) the number of net gallons of diesel fuel removed by  
27 the distributor during the month for export, sorted by product

1 code, terminal code, bulk plant address, destination state, and  
2 carrier;

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

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

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

15 Sec. 162.220. INFORMATION REQUIRED ON IMPORTER'S RETURN;  
16 ALLOWANCES. (a) The monthly return and supplements of an importer  
17 shall contain for the period covered by the return:

18 (1) the number of net gallons of imported diesel fuel  
19 acquired from a supplier or permissive supplier who collected the  
20 tax due this state on the diesel fuel;

21 (2) the number of net gallons of imported diesel fuel  
22 acquired from a person who did not collect the tax due to this state  
23 on the diesel fuel, listed by product code, source state, person,  
24 and terminal;

25 (3) the number of net gallons of imported diesel fuel  
26 acquired from a bulk plant outside this state, listed by bulk plant  
27 name, address, and product code; and



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

2           (b) An importer of diesel fuel that timely files a return  
3 and payment may deduct from the amount of tax payable with the  
4 return a collection allowance equal to two percent of the amount of  
5 tax payable to this state.

6           Sec. 162.221. INFORMATION REQUIRED ON TERMINAL OPERATOR'S  
7 RETURN. (a) A terminal operator shall file with the comptroller a  
8 monthly information return and supplement showing the amount of  
9 diesel fuel received and removed from the terminal during the  
10 month. The return also shall contain the following summary  
11 information:

12           (1) the beginning and ending inventory that relates to  
13 the applicable reporting month;

14           (2) the number of net gallons of diesel fuel received  
15 in inventory at the terminal during the month;

16           (3) the number of net gallons of diesel fuel removed  
17 from inventory at the terminal during the month; and

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

20           (b) The comptroller may accept the Federal ExSTARS terminal  
21 operator report provided to the Internal Revenue Service instead of  
22 the required state terminal operator report.

23           Sec. 162.222. INFORMATION REQUIRED ON MOTOR FUEL  
24 TRANSPORTER'S RETURN. The quarterly return and supplements of a  
25 motor fuel transporter shall contain for the period covered by the  
26 return:

27           (1) the name, license number, and terminal control

1 number of each person or terminal from whom the transporter  
2 received diesel fuel outside this state for delivery in this state,  
3 the gross gallons of diesel fuel received, the date the diesel fuel  
4 was received, the product code, and the name and license number of  
5 the purchaser of the diesel fuel;

6 (2) the name, license number, and terminal control  
7 number of each person or terminal from whom the transporter  
8 received diesel fuel in this state for delivery outside this state,  
9 the gross gallons of diesel fuel delivered, the date the diesel fuel  
10 was delivered, the product code, and the destination state of the  
11 diesel fuel; and

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

13 Sec. 162.223. INFORMATION REQUIRED ON EXPORTER'S RETURN AND  
14 PAYMENT OF TAX ON IMPORTS. The monthly return and supplements of an  
15 exporter shall contain for the period covered by the return:

16 (1) the number of net gallons of diesel fuel acquired  
17 from a supplier and exported during the month, including supplier  
18 name, terminal control number, and product code;

19 (2) the number of net gallons of diesel fuel acquired  
20 from a bulk plant and exported during the month, including bulk  
21 plant name and product code;

22 (3) the destination state of the diesel fuel exported  
23 during the month; and

24 (4) any other information the comptroller requires.

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

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

4           (2) the number of net gallons of product blended with  
5 diesel fuel during the month, sorted by product code, type of  
6 blending agent if no product code exists, seller, and carrier;

7           (3) the number of net gallons of blended diesel fuel  
8 sold during the month and the license number or name and address of  
9 the entity receiving the blended diesel fuel; and

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

11           Sec. 162.225. INFORMATION REQUIRED ON INTERSTATE TRUCKER'S  
12 RETURN. The quarterly return and supplements of each interstate  
13 trucker shall contain for the period covered by the return:

14           (1) the total miles traveled in all states by all  
15 vehicles traveling into or from this state and the total quantity of  
16 diesel fuel consumed in those vehicles;

17           (2) the total miles traveled in this state and the  
18 total quantity of diesel fuel purchased and delivered into the fuel  
19 supply tanks of motor vehicles in this state; and

20           (3) any other information required by the comptroller.

21           Sec. 162.226. INFORMATION REQUIRED ON DYED DIESEL FUEL  
22 BONDED USER'S RETURN. The quarterly return and supplements of each  
23 dyed diesel fuel bonded user shall contain for the period covered by  
24 the return:

25           (1) the number of net gallons of tax-free dyed diesel  
26 fuel received by the dyed diesel fuel bonded user during the  
27 quarter, sorted by product code and receipt date;

1           (2) the number of net gallons of dyed diesel fuel used  
2 by the dyed diesel fuel bonded user during the quarter, sorted by  
3 product code; and

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

5           Sec. 162.227. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a)  
6 A license holder may take a credit on a return for the period in  
7 which the sale occurred if the license holder paid tax on the  
8 purchase of diesel fuel and subsequently resells the diesel fuel  
9 without collecting the tax to:

10           (1) the United States government for its exclusive  
11 use, provided that a credit is not allowed for gasoline used by a  
12 person operating under a contract with the United States;

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

15           (3) an exporter licensed under this subchapter if the  
16 seller is a licensed supplier or distributor and the exporter  
17 subsequently exports the diesel fuel to another state;

18           (4) a licensed aviation fuel dealer if the seller is a  
19 licensed distributor; or

20           (5) a commercial transportation company that provides  
21 public school transportation services to a school district under  
22 Section 34.008, Education Code, and that uses the diesel fuel  
23 exclusively to provide those services.

24           (b) For truck or railcar movements between licensed  
25 suppliers or licensed permissive suppliers in which the diesel fuel  
26 removed from the first terminal comes to rest in the second terminal  
27 and tax was paid on the first removal, the license holder who

1 receives the diesel fuel in the second terminal may take the credit.

2 (c) A license holder may take a credit on a return for the  
3 period in which the purchase occurred, and a person who does not  
4 hold a license under this subchapter, other than a license as an  
5 aviation fuel dealer, may file a refund claim with the comptroller  
6 if the license holder or person paid tax on diesel fuel and the  
7 license holder or person:

8 (1) is the United States government and the diesel  
9 fuel is for its exclusive use, provided that a credit or refund is  
10 not allowed for diesel fuel used by a license holder or person  
11 operating under a contract with the United States;

12 (2) is a public school district in this state and the  
13 diesel fuel is for the district's exclusive use;

14 (3) is a commercial transportation company that  
15 provides public school transportation services to a school district  
16 under Section 34.008, Education Code, and the diesel fuel is used  
17 exclusively to provide those services; or

18 (4) is a licensed aviation fuel dealer who delivers  
19 the diesel fuel into the fuel supply tanks of aircraft or aircraft  
20 servicing equipment.

21 (d) A license holder may take a credit on a return for the  
22 period in which the purchase occurred if the license holder paid tax  
23 on the diesel fuel and the license holder is a licensed interstate  
24 trucker who uses the diesel fuel outside this state in commercial  
25 vehicles operated under an interstate trucker license, provided  
26 that a credit or refund claimed under this subdivision must be taken  
27 or filed within the limitations period as provided by Section

1 162.230.

2 (e) A person who paid tax on the purchase of diesel fuel may  
3 claim a credit or seek a refund with the comptroller if 100 or more  
4 gallons of diesel fuel is subsequently exported or lost by fire,  
5 theft, or accident. A credit or refund claimed under this  
6 subsection must be taken or filed within the limitations period  
7 provided by Section 162.230.

8 (f) A transit company who paid tax on the purchase of diesel  
9 fuel may seek a refund with the comptroller of one-half of one cent  
10 per gallon for diesel fuel used in transit vehicles.

11 (g) The right to receive a refund or take a credit under this  
12 section is not assignable.

13 (h) The comptroller may adopt rules specifying procedures  
14 and requirements that must be followed to claim a credit or refund  
15 under this section.

16 (i) A license holder may take a credit on a return for the  
17 period in which the purchase occurred, and a person who does not  
18 hold a license under this subchapter may file a refund claim with  
19 the comptroller, if the license holder or person paid tax on diesel  
20 fuel and the license holder or person uses the diesel fuel in  
21 off-highway equipment, in stationary engines, or for other  
22 nonhighway purposes and not in a motor vehicle operated or intended  
23 to be operated on the public highways or uses the diesel fuel in a  
24 motor vehicle that is operated exclusively off the public highways,  
25 except for incidental travel on the public highways as determined  
26 by the comptroller, provided that a credit or refund may not be  
27 allowed for the portion used in the incidental highway travel. This

1 subsection expires January 1, 2005.

2 Sec. 162.228. REFUND FOR BAD DEBTS; CREDIT FOR NONPAYMENT.

3 (a) A licensed distributor may file a refund claim with the  
4 comptroller if:

5 (1) the distributor has paid the taxes imposed by this  
6 subchapter on diesel fuel sold on account;

7 (2) the distributor determines that the account is  
8 uncollectible and worthless; and

9 (3) the account is written off as a bad debt on the  
10 accounting books of the distributor.

11 (b) A licensed supplier or permissive supplier may take a  
12 credit on the monthly report to be filed with the comptroller if:

13 (1) on a previous report, the supplier or permissive  
14 supplier paid the taxes imposed by this subchapter on diesel fuel  
15 sold on account;

16 (2) the person to whom the supplier or permissive  
17 supplier sold the diesel fuel has not remitted the tax to the  
18 supplier or permissive supplier; and

19 (3) at the time of the transaction, the person to whom  
20 the supplier or permissive supplier sold the diesel fuel held a  
21 license issued by the comptroller.

22 (c) The return on which the refund is claimed or the credit  
23 is taken must state, if applicable, the license number of the person  
24 whose account has been written off as a bad debt, or who failed to  
25 remit the tax, and any other information required by the  
26 comptroller. The amount of the refund or credit that may be claimed  
27 under Subsection (a) or (b) may equal but may not exceed the amount

1 of taxes paid on the diesel fuel to which the written-off account or  
2 unpaid taxes apply.

3 (d) If, after a refund is received under Subsection (a) or a  
4 credit is taken under Subsection (b), the account on which the  
5 refund or credit was based is paid, or if the comptroller otherwise  
6 determines that the refund or credit was not authorized by  
7 Subsection (a) or (b), the unpaid taxes shall be paid by the  
8 distributor receiving the refund or the supplier or permissive  
9 supplier taking the credit, plus a penalty of 10 percent of the  
10 amount of the unpaid taxes and interest at the rate provided by  
11 Section 111.060 beginning on the day the refund was issued.

12 (e) This section does not apply to a sale of diesel fuel that  
13 is delivered into the fuel supply tank of a motor vehicle or  
14 motorboat and for which payment is made through the use and  
15 acceptance of a credit card.

16 (f) A refund under this section must be claimed at the time  
17 the account is written off as a bad debt, but may only be claimed  
18 before the expiration of the applicable limitation period as  
19 provided by Chapter 111.

20 (g) The comptroller may take action against a person in  
21 relation to whom a distributor, supplier, or permissive supplier  
22 has made a refund claim or taken a credit for collection of the tax  
23 owed and for penalty and interest as provided by Chapter 111.

24 Sec. 162.229. CLAIMS FOR REFUNDS. (a) A refund claim must  
25 be filed on a form provided by the comptroller, be supported by the  
26 original invoice issued by the seller, and contain:

27 (1) the stamped or preprinted name and address of the



1 seller;

2 (2) the name of the purchaser;

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

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

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

7 (6) the amount of tax, either separately stated from  
8 the selling price or stated with a notation that the selling price  
9 includes the tax; and

10 (7) the type of vehicle or equipment into which the  
11 fuel is delivered.

12 (b) The purchaser must obtain the original invoice from the  
13 seller of diesel fuel not later than the 30th day after the date the  
14 diesel fuel is delivered to the purchaser. If the delivery of  
15 diesel fuel is made through an automated method in which the  
16 purchase is automatically applied to the purchaser's account, one  
17 invoice may be issued at the time of billing that covers multiple  
18 purchases made during a 30-day billing cycle.

19 (c) A distribution log filed with the comptroller to support  
20 the number of gallons of diesel fuel removed from a bulk user's own  
21 bulk storage must contain the name and address of the bulk user  
22 making the delivery stamped or preprinted on the log and, for each  
23 individual delivery from the bulk storage:

24 (1) the date of delivery;

25 (2) the number of gallons of diesel fuel delivered;

26 (3) the signature of the bulk user; and

27 (4) the type or description of off-highway equipment

1 into which the diesel fuel was delivered, or the type of licensed  
2 motor vehicle into which the diesel fuel was delivered, including  
3 the state highway license plate number or vehicle identification  
4 number and odometer or hubmeter reading.

5 (d) A distributor or person who does not hold a license who  
6 files a valid refund claim with the comptroller shall be paid by a  
7 warrant issued by the comptroller. For purposes of this section, a  
8 distributor meets the requirement of filing a valid refund claim if  
9 the distributor designates the gallons of diesel fuel sold or used  
10 that are the subject of the refund claim on the monthly report  
11 submitted by the distributor to the comptroller.

12 (e) A person who files a claim for a tax refund on diesel  
13 fuel used for a purpose for which a tax refund is not authorized or  
14 who files an invoice supporting a refund claim on which the date,  
15 figures, or any material information has been falsified or altered  
16 forfeits the person's right to the entire amount of the refund claim  
17 filed unless the claimant provides proof satisfactory to the  
18 comptroller that the incorrect refund claim filed was due to a  
19 clerical or mathematical calculation error.

20 (f) After examination of the refund claim, the comptroller,  
21 before issuing a refund warrant, shall deduct from the amount of the  
22 refund the two percent deducted originally by the license holder on  
23 the first sale or distribution of the diesel fuel.

24 Sec. 162.230. WHEN DIESEL FUEL TAX REFUND OR CREDIT MAY BE  
25 FILED. (a) Except as otherwise provided by this section, a claim  
26 for a refund must be filed with the comptroller before the first  
27 anniversary of the first day of the calendar month following the

1 purchase, use, delivery, or export, or loss by fire, theft, or  
2 accident of diesel fuel, whichever period expires latest.

3 (b) If the amount of credit that an interstate trucker is  
4 entitled to take under Section 162.227 exceeds the amount of tax due  
5 on that reporting period, the excess credit amount may be claimed on  
6 any of the three successive quarterly returns following the period  
7 in which the credit was established or the interstate trucker may  
8 file a refund claim with the comptroller on or before the due date  
9 of the third successive quarterly return following the period in  
10 which the credit was established. A credit that is not claimed  
11 within the period prescribed by this subsection expires.

12 (c) If the comptroller assesses a supplier or permissive  
13 supplier for a tax-free sale that is taxable, and the supplier or  
14 permissive supplier subsequently collects the tax from the  
15 purchaser, the purchaser may file a refund claim before the first  
16 anniversary of the date the supplier's or permissive supplier's  
17 deficiency assessment becomes final if the purchaser used the  
18 diesel fuel in an exempt manner.

19 (d) A supplier or permissive supplier that determines taxes  
20 were erroneously reported and remitted or that paid more taxes than  
21 were due to this state because of a mistake of fact or law may take a  
22 credit on the monthly tax report on which the error has occurred and  
23 tax payment made to the comptroller. The credit must be taken  
24 before the expiration of the applicable period of limitation as  
25 provided by Chapter 111.

26 Sec. 162.231. NOTICE REGARDING DYED DIESEL FUEL. A notice  
27 stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE

1 USE" must be:

2 (1) provided by a licensed supplier, permissive  
3 supplier, or distributor to a person who receives dyed diesel fuel;

4 (2) provided by a seller of dyed diesel fuel to the  
5 person's buyers; and

6 (3) posted by a seller on a retail pump or bulk plant  
7 at which the person sells dyed diesel fuel for use by the person's  
8 buyers.

9 Sec. 162.232. DYED DIESEL FUEL NOTICE REQUIRED ON SHIPPING  
10 DOCUMENTS, BILLS OF LADING, AND INVOICES. The form of notice  
11 required by Sections 162.231(1) and (2) must be provided when the  
12 dyed diesel fuel is removed or sold and must appear on each shipping  
13 document, bill of lading, cargo manifest, and invoice accompanying  
14 the sale or removal of the dyed diesel fuel.

15 Sec. 162.233. UNAUTHORIZED SALE OR USE OF DYED DIESEL FUEL.  
16 (a) A person may not sell or hold for sale dyed diesel fuel for any  
17 use that the person knows or has reason to know is a taxable use of  
18 the diesel fuel.

19 (b) A person may not use or hold for use dyed diesel fuel for  
20 a use other than a nontaxable use if the person knows or has reason  
21 to know that the diesel fuel is dyed diesel fuel.

22 Sec. 162.234. ALTERATION OF DYE OR MARKER IN DYED DIESEL  
23 FUEL PROHIBITED. A person, with the intent to evade payment of tax,  
24 may not alter or attempt to alter the strength or composition of a  
25 dye or marker in dyed diesel fuel.

26 Sec. 162.235. USE OF DYED FUEL PROHIBITED. (a) A person  
27 may not operate a motor vehicle on a public highway in this state

1 with taxable motor fuel that contains dye in the fuel supply tank of  
2 the motor vehicle.

3 (b) This section does not apply to a use of dyed fuel that is  
4 lawful under the Internal Revenue Code and implementing  
5 regulations, including use in state and local government vehicles  
6 or buses, unless otherwise prohibited by this chapter.

7 [Sections 162.236-162.300 reserved for expansion]

8 SUBCHAPTER D. LIQUEFIED GAS TAX

9 Sec. 162.301. TAX IMPOSED; RATE. (a) A tax is imposed on  
10 the use of liquefied gas for the propulsion of motor vehicles on the  
11 public highways of this state.

12 (b) The liquefied gas tax rate is 15 cents a gallon.

13 Sec. 162.302. PAYMENT OF TAX. (a) A person using a  
14 liquefied gas-propelled motor vehicle, including a motor vehicle  
15 equipped to use liquefied gas interchangeably with another motor  
16 fuel, that is required to be licensed in this state for use on the  
17 public highways of this state shall prepay the liquefied gas tax to  
18 the comptroller on an annual basis. A person holding a motor vehicle  
19 dealer's liquefied gas tax decal or an interstate trucker whose  
20 vehicle is registered in this state but may operate in other states  
21 under a multistate tax agreement shall pay the tax to a licensed  
22 dealer at the time the fuel is delivered into the fuel supply tank  
23 of a motor vehicle.

24 (b) An interstate trucker operating a motor vehicle  
25 licensed in a base state other than this state and any other  
26 out-of-state user shall pay the excise tax on delivery of the  
27 liquefied gas into the fuel supply tanks of a motor vehicle.

1       Sec. 162.3021. SCHOOL DISTRICT TRANSPORTATION AND COUNTY  
2 EXEMPTION. (a) The tax imposed by this subchapter does not apply  
3 to the sale of liquefied petroleum gas to a public school district  
4 or county in this state or to the use of liquefied petroleum gas by a  
5 public school district or county in this state. A motor vehicle  
6 that uses liquefied petroleum gas and that is operated by a public  
7 school district or county in this state is not required to have a  
8 liquefied gas tax decal or a special use liquefied gas tax decal.

9       (b) The tax imposed by this subchapter does not apply to the  
10 sale of liquefied petroleum gas to a commercial transportation  
11 company that uses the gas exclusively to provide public school  
12 transportation services to a school district under Section 34.008,  
13 Education Code, or to the use of liquefied petroleum gas by that  
14 company for that purpose. A motor vehicle that uses liquefied  
15 petroleum gas and that is owned by a commercial transportation  
16 company and used exclusively to provide public school  
17 transportation services to a school district under Section 34.008,  
18 Education Code, is not required to have a liquefied gas tax decal or  
19 a special use liquefied gas tax decal.

20       Sec. 162.303. LICENSE; APPLICATION; DISPLAY. (a) A dealer  
21 who sells taxable liquefied gas, an interstate trucker, a liquefied  
22 gas tax decal user, or a motor vehicle dealer's liquefied gas tax  
23 decal license holder shall file an application with the comptroller  
24 for the kind and class of a nonassignable license required by this  
25 subchapter.

26       (b) An application for a license must be filed on a form  
27 provided by the comptroller showing the kind and class of license

1 desired, the odometer reading of a Class A through F motor vehicle,  
2 and other information required by the comptroller.

3 (c) A license shall be posted in a conspicuous place or kept  
4 available for inspection at the principal place of business of the  
5 owner. A license holder shall reproduce the license and keep a copy  
6 on display at each additional place of business from which  
7 liquefied gas is sold, delivered, or used in motor vehicles. A  
8 person holding an interstate trucker's license shall reproduce the  
9 license and carry a copy with each motor vehicle being operated into  
10 or from this state. The liquefied gas tax decal user shall affix  
11 the decal in the lower right corner of the front windshield of the  
12 passenger side of the vehicle.

13 Sec. 162.304. DEALER'S LICENSE. A dealer's license  
14 authorizes a dealer to collect and remit taxes on liquefied gas  
15 delivered into the fuel supply tanks of motor vehicles displaying  
16 an out-of-state license plate, the motor vehicle of an interstate  
17 trucker licensed under an agreement entered into under Section  
18 162.003, or a motor vehicle displaying a motor vehicle dealer's  
19 liquefied gas tax decal.

20 Sec. 162.305. LIQUEFIED GAS TAX DECAL LICENSE. (a) A user  
21 of liquefied gas for the propulsion of a motor vehicle on the public  
22 highways of this state shall pay in advance annually on each motor  
23 vehicle owned, operated, and licensed in this state by that person a  
24 tax based on the registered gross weight and mileage driven the  
25 previous year in the following schedule:

26	<u>Less</u>	<u>5,000</u>	<u>10,000</u>	<u>15,000</u>
27	<u>than</u>	<u>to</u>	<u>to</u>	<u>miles</u>

1		<u>5,000</u>	<u>9,999</u>	<u>14,999</u>	<u>and</u>
2		<u>miles</u>	<u>miles</u>	<u>miles</u>	<u>over</u>
3	<u>Class A: Less than 4,000 pounds</u>	<u>\$ 30</u>	<u>\$ 60</u>	<u>\$ 90</u>	<u>\$120</u>
4	<u>Class B: 4,001 to 10,000 pounds</u>	<u>42</u>	<u>84</u>	<u>126</u>	<u>168</u>
5	<u>Class C: 10,001 to 15,000</u>	<u>48</u>	<u>96</u>	<u>144</u>	<u>192</u>
6	<u>pounds</u>				
7	<u>Class D: 15,001 to 27,500</u>	<u>84</u>	<u>168</u>	<u>252</u>	<u>336</u>
8	<u>pounds</u>				
9	<u>Class E: 27,501 to 43,500</u>	<u>126</u>	<u>252</u>	<u>378</u>	<u>504</u>
10	<u>pounds</u>				
11	<u>Class F: 43,501 pounds and over</u>	<u>186</u>	<u>372</u>	<u>558</u>	<u>744</u>

12 (b) The first issuance of a liquefied gas tax decal for a  
 13 Class A through F motor vehicle shall be issued on a basis of  
 14 estimated miles that will be driven during the one-year period  
 15 following the date of issuance of the decal.

16 (c) The following special-use liquefied gas tax decal and  
 17 tax shall be required for the types of vehicles described below:

18 Class T: Transit carrier vehicles operated  
 19 by a transit company - \$444

20 (d) An entity holding a registration under Chapter 503,  
 21 Transportation Code, may obtain a decal for each liquefied  
 22 gas-powered motor vehicle held for sale or resale and pay the tax  
 23 per gallon to a licensed dealer on each delivery of liquefied gas  
 24 into the fuel supply tank of the motor vehicle.

25 (e) An interstate trucker is not required to prepay the tax  
 26 under Subsection (a) for a motor vehicle operated for commercial  
 27 purposes and described by Section 162.001(36).



1       Sec. 162.306. INTERSTATE TRUCKER'S LICENSE. An interstate  
2 trucker's license authorizes a person who imports liquefied gas  
3 into this state in the fuel supply tanks of a motor vehicle owned or  
4 operated for commercial purposes and described by Section  
5 162.001(36) to report and pay the tax due and to make sales or  
6 distributions in this state from the vehicle's cargo tanks, but a  
7 delivery may not be made in this state into the fuel supply tanks of  
8 motor vehicles that do not bear a current liquefied gas tax decal  
9 without first obtaining the required dealer's license to make  
10 taxable sales.

11       Sec. 162.307. LICENSES: PERIODS OF VALIDITY. (a) A  
12 dealer's license is permanent and valid during the period the  
13 license holder furnishes timely reports as required or until the  
14 license is surrendered by the holder or canceled by the  
15 comptroller.

16       (b) An interstate trucker's license is valid from the date  
17 of its issuance through December 31 of each calendar year or until  
18 the license is surrendered by the holder or canceled by the  
19 comptroller. The comptroller may renew the license for each  
20 ensuing calendar year if the license holder furnishes timely  
21 reports as required.

22       (c) A liquefied gas tax decal license is valid from the date  
23 of its initial issuance through the last day of the same month of  
24 the year following the year it was issued unless the motor vehicle  
25 for which the tax is prepaid is sold or is no longer used on a public  
26 highway. After its initial issuance, a liquefied gas tax decal  
27 license shall be issued annually and is valid for one year from the

1 date of its issuance unless the motor vehicle for which the tax is  
2 prepaid is sold or is no longer used on the public highway. A  
3 liquefied gas tax decal license holder must apply for a new license  
4 each year. The ending odometer reading must be provided on the  
5 renewal application. In the absence of an ending odometer reading,  
6 the previous year's mileage of the motor vehicle shall be presumed  
7 to be at least 15,000 miles.

8 (d) A motor vehicle dealer's liquefied gas tax decal license  
9 shall be issued annually and is valid from the date of its issuance  
10 through December 31 of each calendar year unless the motor vehicle  
11 is sold, at which time the decal shall be removed by the dealer from  
12 the motor vehicle. A motor vehicle dealer's liquefied gas tax decal  
13 license holder must apply for a new license each year.

14 Sec. 162.308. COMPUTATION OF TAXES; ALLOWANCES. (a) A  
15 licensed dealer who makes a sale or delivery of liquefied gas into a  
16 fuel supply tank of a motor vehicle on which the tax is required to  
17 be collected is liable to this state for the tax imposed and shall  
18 report and pay the tax in the manner required by this subchapter.

19 (b) A licensed interstate trucker shall report and pay to  
20 this state the tax at the rate imposed on each gallon of liquefied  
21 gas delivered by the trucker into the fuel supply tank of a motor  
22 vehicle, unless the tax has been paid to a licensed dealer, and  
23 shall report and pay the tax on each gallon of liquefied gas  
24 imported into this state in the fuel supply tanks of motor vehicles  
25 owned or operated by the trucker and consumed in the operation of  
26 the motor vehicles on the public highways of this state.

27 (c) The tax on one percent of the taxable gallons of

1 liquefied gas sold in this state shall be allocated to the licensed  
2 dealer making the sale for the expense of collecting, accounting  
3 for, reporting, and timely remitting the taxes collected and for  
4 keeping the records. The allocation allowance shall be deducted by  
5 the licensed dealer when paying the tax to this state.

6 (d) The tax of one-half of one percent of the taxable  
7 gallons of liquefied gas used in this state by persons licensed as  
8 interstate truckers shall be allocated to the interstate trucker  
9 making the use of the liquefied gas for the expense of accounting  
10 for, reporting, and timely remitting the taxes due.

11 Sec. 162.309. RECORDS. (a) A dealer shall keep for four  
12 years, open to inspection at all times by the comptroller and the  
13 attorney general, a complete record of all liquefied gas sold or  
14 delivered for taxable purposes.

15 (b) An interstate trucker shall keep for four years, open to  
16 inspection by the comptroller and the attorney general, a record  
17 of:

18 (1) the total miles traveled in all states by all the  
19 interstate trucker's motor vehicles traveling into or from this  
20 state and the total quantity of liquefied gas used in the motor  
21 vehicles; and

22 (2) the total miles traveled in this state and the  
23 total quantity of liquefied gas purchased in this state, showing  
24 both tax-paid fuel delivered into the fuel supply tanks of motor  
25 vehicles and tax-free fuel delivered into storage facilities in  
26 this state.

27 (c) Each taxable sale or delivery of liquefied gas into the

1 fuel supply tanks of a motor vehicle, including deliveries by  
2 interstate truckers from bulk storage, shall be covered by an  
3 invoice. The invoice must be printed and contain:

4 (1) the preprinted or stamped name and address of the  
5 licensed dealer or interstate trucker;

6 (2) the date of the sale or delivery;

7 (3) the number of gallons sold or delivered;

8 (4) the mileage recorded on the odometer;

9 (5) the state and state highway license number;

10 (6) the signature of the driver of the motor vehicle;

11 and

12 (7) the amount of tax paid or accounted for stated  
13 separately from the selling price.

14 (d) The invoice must be carried with the vehicle and will  
15 serve as a trip permit.

16 (e) A liquefied gas tax decal license holder required to  
17 report beginning and ending odometer readings may deduct the miles  
18 traveled outside this state from the total miles traveled. A record  
19 of miles traveled by the vehicle in states other than this state  
20 must be maintained and submitted with the renewal each year. A  
21 decal may not be renewed for an amount that is less than the rate for  
22 4,999 miles annually.

23 Sec. 162.310. REPORTS AND PAYMENTS. (a) A licensed dealer,  
24 on or before the 25th day of the month following the end of each  
25 calendar quarter, shall file a report and remit the amount of tax  
26 due. A licensed dealer who has not made taxable sales during the  
27 reporting period shall file with the comptroller a report that

1 includes those facts or that information.

2 (b) Every licensed interstate trucker, on or before the 25th  
3 day of the month following the end of each calendar quarter, shall  
4 file a report and remit the amount of tax due. A report shall be  
5 filed with the comptroller on forms provided for that purpose and  
6 must contain the number of miles traveled in this state, the number  
7 of miles traveled outside this state, and other information  
8 required by the comptroller. An interstate trucker who is required  
9 to file a report under this section and who has not made interstate  
10 trips or used liquefied gas in motor vehicles in this state during  
11 the reporting period shall file with the comptroller a report that  
12 includes those facts or that information.

13 Sec. 162.311. REFUNDS; TRANSFER OF DECALS. (a) If a motor  
14 vehicle bearing a liquefied gas tax decal is sold or transferred,  
15 the seller and purchaser shall promptly notify the comptroller of  
16 the sale or transfer and a new decal shall be issued in the new  
17 purchaser's name.

18 (b) If a motor vehicle bearing a liquefied gas tax decal is  
19 destroyed or the liquefied gas carburetor system is removed, the  
20 owner is entitled to a refund of the unused portion of the advance  
21 taxes paid for that year. The owner or operator shall submit to the  
22 comptroller an affidavit identifying the vehicle, the license  
23 number of the vehicle, the decal number assigned to the vehicle, the  
24 circumstances entitling the owner to a refund, and all other  
25 information required by the comptroller. On receipt of the  
26 affidavit and when satisfied as to the circumstances, the  
27 comptroller shall refund that portion of the tax payment that

1 corresponds to the number of complete months remaining in the year  
2 for which the tax has been paid, beginning with the month following  
3 the date on which the vehicle or the liquefied gas carburetor was no  
4 longer used. A refund may not be made if the use of the vehicle  
5 ceased during the last month of the year.

6 (c) A licensed interstate trucker is entitled to a refund of  
7 the amount of the liquefied gas tax paid under this subchapter on  
8 each gallon of liquefied gas subsequently used outside this state.  
9 On verification by the comptroller that the interstate trucker's  
10 report was timely filed with all information required, the  
11 comptroller shall issue a warrant to the interstate trucker for the  
12 amount of the refund less the one percent deducted originally by the  
13 licensed dealer making the sale. An interstate trucker who fails to  
14 file an interstate trucker report by the 25th day of the month  
15 following the end of a calendar quarter forfeits the right to a  
16 refund.

17 [Sections 162.312-162.400 reserved for expansion]

18 SUBCHAPTER E. PENALTIES AND OFFENSES

19 Sec. 162.401. FAILURE TO PAY TAX OR FILE REPORT. (a) If a  
20 person having a license, or a person required to have a license,  
21 fails to file a report as required by this chapter or fails to pay a  
22 tax imposed by this chapter when due, the person forfeits five  
23 percent of the amount due as a penalty, and if the person fails to  
24 file the report or pay the tax within 30 days after the day on which  
25 the tax or report is due, the person forfeits an additional five  
26 percent.

27 (b) The comptroller may add a penalty of 75 percent of the

1 amount of taxes, penalties, and interest due if failure to file the  
2 report or pay the tax when it becomes due is attributable to fraud  
3 or an intent to evade the application of this chapter or a rule  
4 adopted under this chapter or Chapter 111.

5 Sec. 162.402. PROHIBITED ACTS; CIVIL PENALTIES. (a) A  
6 person forfeits to the state a civil penalty of not less than \$25  
7 and not more than \$200 if the person:

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

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

14 (3) operates a liquefied gas-propelled motor vehicle  
15 that is required to be licensed in this state, including motor  
16 vehicles equipped with dual carburetion, and does not display a  
17 current liquefied gas tax decal or multistate fuels tax agreement  
18 decal;

19 (4) makes a tax-free sale or delivery of liquefied gas  
20 into the fuel supply tank of a motor vehicle that does not display a  
21 current Texas liquefied gas tax decal;

22 (5) makes a taxable sale or delivery of liquefied gas  
23 without holding a valid dealer's license;

24 (6) makes a tax-free sale or delivery of liquefied gas  
25 into the fuel supply tank of a motor vehicle bearing out-of-state  
26 license plates;

27 (7) makes a delivery of liquefied gas into the fuel

1 supply tank of a motor vehicle bearing Texas license plates and no  
2 Texas liquefied gas tax decal, unless licensed under a multistate  
3 fuels tax agreement;

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

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

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

16 (11) furnishes to a supplier a signed statement for  
17 purchasing diesel fuel tax-free and then uses the tax-free diesel  
18 fuel to operate a diesel-powered motor vehicle on a public highway;

19 (12) fails or refuses to comply with or violates a  
20 provision of this chapter;

21 (13) fails or refuses to comply with or violates a  
22 comptroller's rule for administering or enforcing this chapter;

23 (14) is an importer who does not obtain an import  
24 verification number when required by this chapter; or

25 (15) purchases motor fuel for export, on which the tax  
26 imposed by this chapter has not been paid, and subsequently diverts  
27 or causes the motor fuel to be diverted to a destination in this



1 state or any other state or country other than the originally  
2 designated state or country without first obtaining a diversion  
3 number.

4 (b) An importer or exporter that violates a requirement of  
5 Section 162.016 is liable to this state for a civil penalty of  
6 \$2,000 or five times the amount of the unpaid tax, whichever is  
7 greater, for each violation.

8 (c) A person receiving motor fuel who accepts a shipping  
9 document that does not conform with the requirements of Section  
10 162.016(a) is liable to this state for a civil penalty of \$2,000 or  
11 five times the amount of the unpaid tax, whichever is greater, for  
12 each occurrence.

13 (d) A person operating a bulk plant or terminal who issues a  
14 shipping document that does not conform with the requirements of  
15 Section 162.016(a) is liable to this state for a civil penalty of  
16 \$2,000 or five times the amount of the unpaid tax, whichever is  
17 greater, for each occurrence.

18 (e) A person operating a terminal or bulk plant who does not  
19 post notice as required by Section 162.016(i) is liable to this  
20 state for a civil penalty of \$100 for each day the notice is not  
21 posted as required by Section 162.016(i).

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

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

27 (2) is required to hold a valid trip permit or

1 interstate trucker's license, but operates a motor vehicle in this  
2 state without a valid trip permit or interstate trucker's license;

3 (3) operates a liquefied gas-propelled motor vehicle  
4 that is required to be licensed in this state, including a motor  
5 vehicle equipped with dual carburetion, and does not display a  
6 current liquefied gas tax decal or multistate fuels tax agreement  
7 decal;

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

13 (5) sells or delivers gasoline or diesel fuel from a  
14 fuel supply tank that is connected with the fuel injector or  
15 carburetor of a motor vehicle;

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

20 (7) sells or delivers dyed diesel fuel for the  
21 operation of a motor vehicle on a public highway;

22 (8) uses dyed diesel fuel for the operation of a motor  
23 vehicle on a public highway except as allowed under Section  
24 162.235;

25 (9) makes a tax-free sale or delivery of liquefied gas  
26 into the fuel supply tank of a motor vehicle that does not display a  
27 current Texas liquefied gas tax decal;

1           (10) makes a sale or delivery of liquefied gas on which  
2 the person knows the tax is required to be collected, if at the time  
3 the sale is made the person does not hold a valid dealer's license;

4           (11) makes a tax-free sale or delivery of liquefied  
5 gas into the fuel supply tank of a motor vehicle bearing  
6 out-of-state license plates;

7           (12) makes a delivery of liquefied gas into the fuel  
8 supply tank of a motor vehicle bearing Texas license plates and no  
9 Texas liquefied gas tax decal, unless licensed under a multistate  
10 fuels tax agreement;

11           (13) refuses to permit the comptroller or the attorney  
12 general to inspect, examine, or audit a book or record required to  
13 be kept by a license holder, other user, or any person required to  
14 hold a license under this chapter;

15           (14) refuses to permit the comptroller or the attorney  
16 general to inspect or examine any plant, equipment, materials, or  
17 premises where motor fuel is produced, processed, blended, stored,  
18 sold, delivered, or used;

19           (15) refuses to permit the comptroller, the attorney  
20 general, an employee of either of those officials, a peace officer,  
21 an employee of the Texas Commission on Environmental Quality, or an  
22 employee of the Department of Agriculture to measure or gauge the  
23 contents of or take samples from a storage tank or container on  
24 premises where motor fuel is produced, processed, blended, stored,  
25 sold, delivered, or used;

26           (16) is a license holder, a person required to be  
27 licensed, or another user and fails or refuses to make or deliver to

1 the comptroller a report required by this chapter to be made and  
2 delivered to the comptroller;

3 (17) is an importer who does not obtain an import  
4 verification number when required by this chapter;

5 (18) purchases motor fuel for export, on which the tax  
6 imposed by this chapter has not been paid, and subsequently diverts  
7 or causes the motor fuel to be diverted to a destination in this  
8 state or any other state or country other than the originally  
9 designated state or country without first obtaining a diversion  
10 number;

11 (19) conceals motor fuel with the intent of engaging  
12 in any conduct proscribed by this chapter or refuses to make sales  
13 of motor fuel on the volume-corrected basis prescribed by this  
14 chapter;

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

18 (21) refuses to surrender a motor vehicle and cargo  
19 for impoundment after being ordered to do so by a person authorized  
20 to impound the motor vehicle and cargo;

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

24 (23) is a license holder, other user, or other person  
25 required to hold a license under this chapter, or the agent or  
26 employee of one of those persons, and makes a false entry or fails  
27 to make an entry in the books and records required under this

1 chapter to be made by the person or fails to retain a document as  
2 required by this chapter;

3 (24) transports in any manner motor fuel under a false  
4 cargo manifest or shipping document, or transports in any manner  
5 motor fuel to a location without delivering at the same time a  
6 shipping document relating to that shipment;

7 (25) engages in a motor fuel transaction that requires  
8 that the person have a license under this chapter without then and  
9 there holding the required license;

10 (26) makes and delivers to the comptroller a report  
11 required under this chapter to be made and delivered to the  
12 comptroller, if the report contains false information;

13 (27) forges, falsifies, or alters an invoice  
14 prescribed by law;

15 (28) makes any statement, knowing said statement to be  
16 false, in a claim for a tax refund filed with the comptroller;

17 (29) furnishes to a supplier a signed statement for  
18 purchasing diesel fuel tax-free and then uses the tax-free diesel  
19 fuel to operate a diesel-powered motor vehicle on a public highway;

20 (30) holds an aviation fuel dealer's license and makes  
21 a taxable sale or use of any gasoline or diesel fuel;

22 (31) fails to remit any tax funds collected by a  
23 license holder, another user, or any other person required to hold a  
24 license under this chapter;

25 (32) makes a sale of diesel fuel tax-free into a  
26 storage facility of a person who:

27 (A) is not licensed as a distributor, as an

1 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

2 (B) does not furnish to the licensed supplier or  
3 distributor a signed statement prescribed in Section 162.206;

4 (33) makes a sale of gasoline tax-free to any person  
5 who is not licensed as an aviation fuel dealer;

6 (34) is a dealer who purchases any motor fuel tax-free  
7 when not authorized to make a tax-free purchase under this chapter;

8 (35) is a dealer who purchases motor fuel with the  
9 intent to evade any tax imposed by this chapter or who accepts a  
10 delivery of motor fuel by any means and does not at the same time  
11 accept or receive a shipping document relating to the delivery;

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

17 (37) imports, sells, uses, blends, distributes, or  
18 stores motor fuel within this state on which the taxes imposed by  
19 this chapter are owed but have not been first paid to or reported by  
20 a license holder, another user, or any other person required to hold  
21 a license under this chapter;

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

26 (39) evades or attempts to evade in any manner a tax  
27 imposed on motor fuel by this chapter.

1       Sec. 162.404. CRIMINAL OFFENSES: SPECIAL PROVISIONS AND  
2 EXCEPTIONS. (a) A person does not commit an offense under Section  
3 162.403 unless the person intentionally or knowingly engaged in  
4 conduct as the definition of the offense requires, except that no  
5 culpable mental state is required for an offense under Section  
6 162.403(6).

7       (b) Each day that a refusal prohibited under Section  
8 162.403(13), (14), or (15) continues is a separate offense.

9       (c) The prohibition under Section 162.403(32) does not  
10 apply to the tax-free sale or distribution of diesel fuel  
11 authorized by Section 162.204(1), (2), or (3).

12       (d) The prohibition under Section 162.403(33) does not  
13 apply to the tax-free sale or distribution of gasoline under  
14 Section 162.104(1), (2), or (3).

15       Sec. 162.405. CRIMINAL PENALTIES. (a) An offense under  
16 Section 162.403(1), (2), (3), (4), (5), (6), (7), or (8) is a Class  
17 C misdemeanor.

18       (b) An offense under Section 162.403(9), (10), (11), (12),  
19 (13), (14), (15), (16), (17), or (18) is a Class B misdemeanor.

20       (c) An offense under Section 162.403(19), (20), or (21) is a  
21 Class A misdemeanor.

22       (d) An offense under Section 162.403(22), (23), (24), (25),  
23 (26), (27), (28), or (29) is a felony of the third degree.

24       (e) An offense under Section 162.403(30), (31), (32), (33),  
25 (34), (35), (36), (37), (38), or (39) is a felony of the second  
26 degree.

27       (f) Violations of three or more separate offenses under

1 Sections 162.403(22) through (29) committed pursuant to one scheme  
2 or continuous course of conduct may be considered as one offense and  
3 punished as a felony of the second degree.

4 Sec. 162.406. CRIMINAL PENALTIES: CORPORATIONS AND  
5 ASSOCIATIONS. (a) Except as provided by Subsection (b),  
6 Subchapter E, Chapter 12, Penal Code, applies to offenses under  
7 this chapter committed by a corporation or association.

8 (b) The court may not fine a corporation or association  
9 under Section 12.51(c), Penal Code, unless the amount of the fine  
10 under that subsection is greater than the amount that could be fixed  
11 by the court under Section 12.51(b), Penal Code.

12 (c) In addition to a sentence imposed on a corporation, the  
13 court shall give notice of the conviction to the attorney general as  
14 required by Article 17A.09, Code of Criminal Procedure.

15 Sec. 162.407. VENUE OF CRIMINAL PROSECUTIONS. The venue  
16 for a prosecution under this subchapter is in Travis County or in  
17 the county where the offense occurred.

18 Sec. 162.408. NEGATION OF EXCEPTION: INFORMATION,  
19 COMPLAINT, OR INDICTMENT. An information, complaint, or indictment  
20 charging a violation of this chapter need not negate an exception to  
21 an act prohibited by this chapter, but the exception may be urged by  
22 the defendant as a defense to the offense charged.

23 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED DISTRIBUTOR  
24 OR LICENSED SUPPLIER. (a) A person commits an offense if:

25 (1) the person issues or passes a check or similar  
26 sight order for the payment of money knowing that the issuer does  
27 not have sufficient funds in or on deposit with the bank or other



1 drawee for the payment in full of the check or order as well as all  
2 other checks or orders outstanding at the time of issuance;

3 (2) the payee on the check or order is a licensed  
4 distributor or licensed supplier; and

5 (3) the payment is for an obligation or debt that  
6 includes a tax under this chapter to be collected by the licensed  
7 distributor or licensed supplier.

8 (b) Sections 32.41(b), (c), (d), (e), and (g), Penal Code,  
9 apply to an offense under this section in the same manner as those  
10 provisions are applicable to the offense under Section 32.41(a),  
11 Penal Code.

12 (c) An offense under this section is a Class C misdemeanor.

13 (d) A person who makes payment on an obligation or debt that  
14 includes a tax under this chapter and pays with an insufficient  
15 funds check issued to a licensed distributor or licensed supplier  
16 may be held liable for a penalty equal to the total amount of tax not  
17 paid to the licensed distributor or licensed supplier.

18 [Sections 162.410-162.500 reserved for expansion]

19 SUBCHAPTER F. ALLOCATION OF TAXES

20 Sec. 162.501. TAX ADMINISTRATION FUND. (a) Before any  
21 other allocation of the taxes collected under this chapter is made,  
22 one percent of the gross amount of the taxes shall be deposited in  
23 the state treasury in a special fund, subject to the use of the  
24 comptroller in the administration and enforcement of this chapter.

25 (b) The unexpended portion of the special fund shall revert,  
26 at the end of the fiscal year, to the other funds to which revenue is  
27 allocated by this subchapter in proportion to the amounts

1 originally derived from the respective sources.

2 (c) In October of each even-numbered year, the comptroller  
3 will report to the legislature on the use of the special fund in the  
4 administration and enforcement of this chapter. The report shall  
5 be reviewed by the state auditor and the Legislative Budget Board.  
6 The report shall include:

7 (1) the total amount expended from the special fund  
8 for administration and enforcement of motor fuel taxes;

9 (2) any other uses of the special fund;

10 (3) the amount of the unexpended portion reverted to  
11 other funds as provided by this chapter;

12 (4) the methods used by the comptroller to enforce  
13 this chapter, including number of internal auditors, external  
14 auditors, and other full-time employees; and

15 (5) recommendations for improving and enhancing the  
16 collection of motor fuel taxes in this state.

17 Sec. 162.502. ALLOCATION OF UNCLAIMED REFUNDABLE GASOLINE  
18 TAXES. (a) On or before the fifth workday after the end of each  
19 month, the comptroller, after making the deductions for refund  
20 purposes, shall determine as accurately as possible, for the period  
21 since the latest determination under this subsection, the number of  
22 gallons of fuel used in motorboats on which the gasoline tax has  
23 been paid to this state, on which refund of the tax has not been  
24 made, and against which limitation has run for filing claim for  
25 refund of the tax. From the number of gallons so determined the  
26 comptroller shall compute the amount of taxes that would have been  
27 refunded under the law had refund claims been filed in accordance

1 with the law.

2 (b) The comptroller shall allocate and deposit these  
3 unclaimed refunds as follows:

4 (1) 25 percent of the revenues based on unclaimed  
5 refunds of taxes paid on motor fuel used in motorboats shall be  
6 deposited to the credit of the available school fund; and

7 (2) the remaining 75 percent of the revenue shall be  
8 deposited to the credit of the general revenue fund.

9 (c) Money deposited to the credit of the general revenue  
10 fund under Subsection (b)(2) may be appropriated only to the Parks  
11 and Wildlife Department for any lawful purpose.

12 Sec. 162.5025. ALLOCATION OF OTHER UNCLAIMED REFUNDABLE  
13 NONDEDICATED TAXES. (a) The comptroller by rule shall devise a  
14 method of determining as accurately as possible the:

15 (1) number of gallons of fuel that are not used to  
16 propel a motor vehicle on the public highways; and

17 (2) amount of taxes collected under this chapter from  
18 fuel that is not used to propel a motor vehicle on the public  
19 highways that would have been refunded under this chapter if refund  
20 claims had been filed in accordance with this chapter and that is  
21 not subject to allocation under Section 162.502.

22 (b) The comptroller shall allocate to the general revenue  
23 fund the amount determined under Subsection (a)(2).

24 (c) The determination and allocation shall be made  
25 periodically as prescribed by rule.

26 Sec. 162.503. ALLOCATION OF GASOLINE TAX. On or before the  
27 fifth workday after the end of each month, the comptroller, after

1 making all deductions for refund purposes and for the amounts  
2 allocated under Sections 162.502 and 162.5025, shall allocate the  
3 net remainder of the taxes collected under Subchapter B as follows:

4 (1) one-fourth of the tax shall be deposited to the  
5 credit of the available school fund;

6 (2) one-half of the tax shall be deposited to the  
7 credit of the state highway fund for the construction and  
8 maintenance of the state road system under existing law; and

9 (3) from the remaining one-fourth of the tax the  
10 comptroller shall:

11 (A) deposit to the credit of the county and road  
12 district highway fund all the remaining tax receipts until a total  
13 of \$7,300,000 has been credited to the fund each fiscal year; and

14 (B) after the amount required to be deposited to  
15 the county and road district highway fund has been deposited,  
16 deposit to the credit of the state highway fund the remainder of the  
17 one-fourth of the tax, the amount to be provided on the basis of  
18 allocations made each month of the fiscal year, which sum shall be  
19 used by the Texas Department of Transportation for the  
20 construction, improvement, and maintenance of farm-to-market  
21 roads.

22 Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. On or before  
23 the fifth workday after the end of each month, the comptroller,  
24 after making deductions for refund purposes, for the administration  
25 and enforcement of this chapter, and for the amounts allocated  
26 under Section 162.5025, shall allocate the remainder of the taxes  
27 collected under Subchapter C as follows:

1           (1) one-fourth of the taxes shall be deposited to the  
2 credit of the available school fund; and

3           (2) three-fourths of the taxes shall be deposited to  
4 the credit of the state highway fund.

5           Sec. 162.5045. ALLOCATION OF TAXES PAID ON UNDYED DIESEL  
6 FUEL USED OFF-HIGHWAY. On or before the fifth workday after the end  
7 of each month, the comptroller shall determine as accurately as  
8 possible for the period since the latest determination under this  
9 section the number of gallons of undyed diesel fuel used for  
10 purposes other than to propel a motor vehicle on the public highways  
11 of this state. From the number of gallons so determined, the  
12 comptroller shall compute the amount of taxes that were paid on that  
13 undyed diesel fuel and shall allocate and deposit that amount to the  
14 credit of the general revenue fund.

15           Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. On or before  
16 the fifth workday after the end of each month, the comptroller,  
17 after making deductions for refund purposes and for the  
18 administration and enforcement of this chapter, shall allocate the  
19 remainder of the taxes collected under Subchapter D as follows:

20           (1) one-fourth of the taxes shall be deposited to the  
21 credit of the available school fund; and

22           (2) three-fourths of the taxes shall be deposited to  
23 the credit of the state highway fund.

24           SECTION 2. Chapter 153, Tax Code, is repealed. A reference  
25 in law to Chapter 153, Tax Code, means Chapter 162, Tax Code, as  
26 added by this Act.

27           SECTION 3. (a) Not later than January 1, 2004, the

1 comptroller shall report to the legislature on the comptroller's  
2 efforts during 2003 to enter into cooperative agreements under  
3 Section 153.017, Tax Code. The report must include a summary of the  
4 terms of any agreements the comptroller entered into during 2003.

5 (b) Not later than January 1, 2005, the comptroller shall  
6 report to the legislature on the comptroller's efforts during 2004  
7 to enter into cooperative agreements under Section 162.003, Tax  
8 Code, as added by this Act. The report must include a summary of the  
9 terms of any agreements the comptroller entered into during 2004.

10 (c) This section takes effect September 1, 2003.

11 SECTION 4. (a) Except as provided by Section 3 of this Act,  
12 this Act takes effect January 1, 2004.

13 (b) On or before February 25, 2004, each person who  
14 possessed gasoline or undyed diesel fuel on which the taxes imposed  
15 by Chapter 162, Tax Code, as added by this Act, have not been paid  
16 shall report and pay to the comptroller the tax imposed by that  
17 chapter on the volume of tax-free gasoline or undyed diesel fuel in  
18 the person's possession if the person held a permit under Chapter  
19 153, Tax Code, as that chapter existed on December 31, 2003, and:

20 (1) the person is a gasoline distributor;

21 (2) the person is a diesel fuel supplier;

22 (3) the person is an agricultural bonded user; or

23 (4) the person is a diesel fuel tax prepaid user and  
24 the volume of tax-free undyed diesel fuel in the person's  
25 possession is 2,000 gallons or more.

26 (c) A person that possessed gasoline or undyed diesel fuel  
27 on which the taxes imposed by Chapter 162, Tax Code, as added by

1 this Act, have not been paid on the effective date of this Act may  
2 not be required to report and pay to the comptroller the tax imposed  
3 by that chapter if:

4 (1) the person is a licensed supplier, permissive  
5 supplier, or aviation fuel dealer as provided by Chapter 162, Tax  
6 Code, as added by this Act;

7 (2) the person held an active agricultural exemption  
8 number as previously provided under Chapter 153, Tax Code, as that  
9 chapter existed on December 31, 2003; or

10 (3) the person is exempt from the tax as provided by  
11 Section 162.104(a)(1), (2), (3), or (5) or Section 162.204(a)(1),  
12 (2), (3), (9), or (10), Tax Code, as added by this Act.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2458 was passed by the House on May 9, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2458 on May 30, 2003, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 2458 was passed by the Senate, with amendments, on May 27, 2003, by a viva-voce vote.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor