

By: Krusee

H.B. No. 2458

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 153.001, Tax Code, is amended by amending Subdivisions (1), (5), (9), (10), (27), (32), and (33) and adding Subdivisions (38)-(55) to read as follows:

(1) "Aviation fuel dealer" means a person who:

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

(B) delivers gasoline or diesel fuel exclusively into the bulk storage facilities of other aviation fuel dealers or into the fuel supply tanks of aircraft or ~~into~~ equipment used solely for servicing aircraft and ~~used~~ exclusively off-highway; and

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

(5) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, number two fuel oil, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, jet fuel, or

1 liquefied gas.

2 (9) "Distributor" means a person that acquires, by
3 tanker truck, railcar, or both, motor fuel from a terminal supplier
4 or another distributor for subsequent sale at wholesale [~~who:~~

5 [~~(A) regularly makes sales or distributions of~~
6 ~~gasoline that are not into the fuel supply tanks of motor vehicles,~~
7 ~~motorboats, or aircraft;~~

8 [~~(B) refines, distills, manufactures, produces,~~
9 ~~or blends for sale or distribution gasoline in this state;~~

10 [~~(C) imports or exports gasoline other than in~~
11 ~~the fuel supply tanks of motor vehicles; or~~

12 [~~(D) in any other manner acquires or possesses~~
13 ~~tax-free gasoline].~~

14 (10) "Gasoline" means any liquid or combination of
15 liquids blended together offered for sale, sold, or used as the fuel
16 for a gasoline-powered engine. The term includes blending agents,
17 but excludes aviation gasoline, jet fuel, diesel fuel, and
18 liquefied gas.

19 (27) "User" means, with respect to motor fuel, a
20 person who owns or operates a motor vehicle or other machine having
21 fuel supply tanks into which gasoline or diesel fuel is delivered.

22 (32) "Export" means to deliver motor fuel, outside the
23 bulk transfer system, to a point outside this state. For purposes
24 of this definition, motor fuel delivered outside this state:

25 (A) by or for the seller constitutes an export by
26 the seller; and

27 (B) by or for the purchaser constitutes an export

1 by the purchaser.

2 (33) "Import" means to deliver motor fuel, outside the
3 bulk transfer system, to a point inside this state from a point
4 outside this state. For purposes of this definition, motor fuel
5 delivered into this state from outside this state:

6 (A) by or for the seller constitutes an import by
7 the seller; and

8 (B) by or for the purchaser constitutes an import
9 by the purchaser.

10 (38) "Blender" means a person that produces blended
11 fuel outside the bulk transfer system.

12 (39) "Bulk transfer" means the shipment of fuel by
13 pipeline or marine vessel between terminals or from a refinery to a
14 terminal.

15 (40) "Bulk transfer system" means the motor fuel
16 distribution system consisting of refineries, pipelines, vessels,
17 and terminals. Motor fuel in a refinery, pipeline, vessel, or
18 terminal is in the bulk transfer system. Motor fuel in the fuel
19 supply tank of an engine or in a tank car, railcar, trailer, truck,
20 or other equipment suitable for ground transportation is outside
21 the bulk transfer system.

22 (41) "Commercial passenger carrier" means a person,
23 other than a political subdivision, that owns, controls, operates,
24 or manages a commercial motor vehicle as defined by Section
25 548.001, Transportation Code.

26 (42) "Diesel exempt user" means a person whose use of
27 diesel fuel is exempt from the tax imposed by Subchapter C under:

1 (A) Section 153.203(d);

2 (B) Section 153.205; or

3 (C) Section 153.209.

4 (43) "Exempt user" means a person whose use of a motor
5 fuel is exempt from a tax imposed by this chapter.

6 (44) "Exporter" means a person that exports motor
7 fuel.

8 (45) "Gross gallons" means the actual amount of fuel
9 removed, sold, or used, measured in gallons, and not adjusted to 60
10 degrees Fahrenheit.

11 (46) "Importer" means a person that imports motor
12 fuel.

13 (47) "Kerosene dealer" means a person that is the
14 operator of a service station or other retail establishment at
15 which:

16 (A) kerosene is sold through barricaded
17 dispensers designed and constructed to prevent delivery directly
18 from the dispenser into the fuel supply tank of a motor vehicle; or

19 (B) kerosene is sold through nonbarricaded
20 dispensers in quantities of not more than 21 gallons and is not
21 delivered into the fuel supply tank of a motor vehicle.

22 (48) "Loading rack" means that part of a terminal or
23 refinery at which petroleum products are physically removed from
24 the terminal or refinery into tanker trucks or railcars.

25 (49) "Net gallons" means the actual amount of fuel
26 removed, sold, or used, measured in gallons, and adjusted to 60
27 degrees Fahrenheit.

1 (50) "Position holder" means, with respect to motor
2 fuel in a terminal, the person that holds the inventory position in
3 the motor fuel, as reflected on the records of the terminal
4 operator. A person holds the inventory position in motor fuel when
5 the person has a contractual agreement with the terminal operator
6 for the use of storage facilities and terminaling services at a
7 terminal with respect to the motor fuel. The term also includes a
8 terminal operator that owns motor fuel in the operator's terminal.

9 (51) "Refinery" means a facility used to produce motor
10 fuel from crude oil, unfinished oils, natural gas liquids, or other
11 hydrocarbons and from which motor fuel may be transported by
12 pipeline or vessel and may be removed at a loading rack.

13 (52) "Removal" means any removal of motor fuel from
14 the bulk transfer system.

15 (53) "Terminal" means a storage and distribution
16 facility for motor fuel that is supplied by pipeline or marine
17 vessel, from which motor fuel may be removed at a loading rack, and
18 that is registered as a terminal with the Internal Revenue Service.
19 The term includes that portion of a refinery with a loading rack.

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

22 (55) "Terminal supplier" means a position holder that
23 is registered under Section 4101, Internal Revenue Code of 1986, as
24 amended, to engage in transactions involving the bulk storage and
25 transfer of motor fuel.

26 SECTION 2. Section 153.004(d), Tax Code, is amended to read
27 as follows:

1 (d) Each person, other than a common carrier, transporting
2 motor fuel [~~under this chapter,~~] shall also carry a copy of the
3 [~~supplier, distributor, jobber, dyed diesel fuel bonded user, or~~
4 ~~agricultural bonded user~~] permit issued to the person by the
5 comptroller[~~7~~] or proof of tax payment on the motor fuel being
6 transported, unless the person is an end user transporting the
7 person's own motor fuel purchased under a signed statement as
8 provided by Section 153.205 or is an exempt user.

9 SECTION 3. Sections 153.006(d) and (e), Tax Code, are
10 amended to read as follows:

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

23 (e) The comptroller may revoke an exporter's [~~a~~
24 ~~distributor's or supplier's~~] permit if the exporter [~~distributor or~~
25 ~~supplier~~] purchases, for export, motor fuel in this state [~~on which~~
26 ~~the tax imposed by this chapter has not been paid~~] and subsequently
27 diverts or causes the fuel to be diverted to a destination in this

1 state or to a destination in another state or country other than the
2 originally designated state or country without first obtaining a
3 diversion number.

4 SECTION 4. Section 153.008, Tax Code, is amended to read as
5 follows:

6 Sec. 153.008. INSPECTION OF PREMISES AND RECORDS. For the
7 purpose of determining the amount of tax collected and payable to
8 the state, the amount of tax accruing and due, and whether a tax
9 liability has been incurred under this chapter, the comptroller
10 may:

11 (1) inspect any premises where motor fuel; crude
12 petroleum; natural gas; derivatives or condensates of crude
13 petroleum, natural gas, or their products; methyl alcohol; ethyl
14 alcohol; or other blending agents are produced, made, prepared,
15 stored, transported, sold, or offered for sale or exchange;

16 (2) examine the books and records required to be kept
17 and records incident to the business of [~~any distributor, supplier,~~
18 ~~dealer, jobber, or~~] any person receiving or possessing, delivering,
19 or selling motor fuel, crude oil, derivatives or condensates of
20 crude petroleum, natural gas, or their products, or any blending
21 agents;

22 (3) examine and either gauge or measure the contents
23 of all storage tanks, containers, and other property or equipment;
24 and

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

27 SECTION 5. Section 153.010, Tax Code, is amended to read as

1 follows:

2 Sec. 153.010. AUTHORITY TO STOP AND EXAMINE. In order to
3 enforce the provisions of this chapter, the comptroller or a peace
4 officer may stop a motor vehicle that appears to be operating with
5 or transporting motor fuel in order to examine the shipping
6 document, cargo manifest, or invoices required to be carried,
7 examine a permit or copy of a permit that may be required to be
8 carried, take samples from the fuel supply or cargo tanks, and make
9 any other investigation that could reasonably be made to determine
10 whether the taxes have been paid or accounted for by [~~a distributor,~~
11 ~~supplier, dealer, dyed diesel fuel bonded user, agricultural bonded~~
12 ~~user, jobber, or~~] any person required to be so permitted. The
13 comptroller, a peace officer, an employee of the attorney general's
14 office, an employee of the Texas Commission on Environmental
15 Quality [~~Natural Resource Conservation Commission~~], or an employee
16 of the Department of Agriculture may take samples of motor fuel from
17 any storage tank or container to:

18 (1) determine if the fuel contains hazardous waste or
19 is adulterated; or

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

22 SECTION 6. Section 153.013(a), Tax Code, is amended to read
23 as follows:

24 (a) A person [~~distributor, supplier, dealer, interstate~~
25 ~~trucker, jobber, dyed diesel fuel bonded user, or agricultural~~
26 ~~bonded user~~] who fails to keep a record, issue an invoice, or file a
27 report required by this chapter, is presumed to have sold or used

1 for taxable purposes all motor fuel shown by an audit by the
2 comptroller to have been sold to the person [~~distributor, supplier,~~
3 ~~dealer, interstate trucker, jobber, dyed diesel fuel bonded user,~~
4 ~~or agricultural bonded user~~]. Motor fuel unaccounted for is
5 presumed to have been sold or used for taxable purposes. The
6 comptroller may fix or establish the amount of taxes, penalties,
7 and interest due the state from the records of deliveries or from
8 any records or information available to him. If a tax claim, as
9 developed from this procedure, is not paid, after the opportunity
10 to request a redetermination, the claim and any audit made by the
11 comptroller or any report filed by the person [~~distributor,~~
12 ~~supplier, dealer, interstate trucker, jobber, dyed diesel fuel~~
13 ~~bonded user, or agricultural bonded user,~~] are evidence in any suit
14 or judicial proceedings filed by the attorney general, and are
15 prima facie evidence of the correctness of the claim or audit. A
16 prima facie presumption of the correctness of the claim may be
17 overcome at the trial by evidence adduced by the person
18 [~~distributor, supplier, dealer, interstate trucker, jobber, dyed~~
19 ~~diesel fuel bonded user, or agricultural bonded user~~].

20 SECTION 7. Section 153.016, Tax Code, is amended to read as
21 follows:

22 Sec. 153.016. ADDITIONAL TAX APPLIES TO [~~DEALER AND JOBBER~~]
23 INVENTORIES. (a) On the effective date of an increase in the rates
24 of the taxes imposed by this chapter, a person [~~dealer or jobber~~]
25 that possesses for the purpose of sale 2,000 or more gallons of
26 gasoline or diesel fuel at each business location on which the taxes
27 imposed by this chapter at a previous rate have been paid shall

1 report to the comptroller the volume of that gasoline and diesel
2 fuel, and at the time of the report shall pay a tax on that gasoline
3 and diesel fuel at a rate equal to the rate of the tax increase.

4 (b) On the effective date of a reduction of the rates of
5 taxes imposed by this chapter, a person [~~dealer or jobber~~] that
6 possesses for the purpose of sale 2,000 or more gallons of gasoline
7 or diesel fuel at each business location on which the taxes imposed
8 by this chapter at the previous rate have been paid becomes entitled
9 to a refund in an amount equal to the difference in the amount of
10 taxes paid on that gasoline or diesel fuel at the previous rate and
11 at the rate in effect on the effective date of the reduction in the
12 tax rates. The rules of the comptroller shall provide for the
13 method of claiming a refund under this chapter and may require that
14 the refund be paid through the distributor [~~or supplier~~] from whom
15 the dealer received the fuel.

16 SECTION 8. Section 153.018, Tax Code, is amended by
17 amending Subsections (a)-(e) and adding Subsection (a-1) to read as
18 follows:

19 (a) An importer [~~A person~~] may not import motor fuel [~~to a~~
20 ~~destination in this state or export motor fuel to a destination~~
21 ~~outside this state by any means~~] unless the importer [~~person~~]
22 possesses a shipping document for that fuel created by the terminal
23 or bulk plant at which the fuel was received. The shipping document
24 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 net [~~temperature-adjusted~~] gallons if
9 purchased from a terminal [~~for export or import~~]; or

10 (B) in net or gross [~~temperature-adjusted~~]
11 gallons [~~or in gross 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 permit number, and physical address of the purchaser of the motor
17 fuel;

18 (8) the permit number [~~name~~] of the importer [~~person~~
19 ~~responsible for paying the tax imposed by this chapter, as given to~~
20 ~~the terminal by the purchaser if different from the permitted~~
21 ~~supplier or distributor~~]; 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 (a-1) An exporter may not export motor fuel from a
26 destination in this state unless the exporter possesses a shipping
27 document for that fuel created by the terminal supplier or

1 distributor from which the fuel was received. The shipping document
2 must include:

3 (1) the permit number of the terminal supplier or
4 distributor;

5 (2) the name and federal employer identification
6 number, or the social security number if the employer
7 identification number is not available, of the carrier transporting
8 the motor fuel;

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

10 (4) the type of motor fuel;

11 (5) the number of gallons in net gallons;

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 permit number, and physical address of the purchaser of the motor
17 fuel;

18 (8) the permit number of the exporter; and

19 (9) any other information that, in the opinion of the
20 comptroller, is necessary for the proper administration of this
21 chapter.

22 (b) The terminal supplier, distributor, terminal, or bulk
23 plant shall provide the shipping documents to the importer or
24 exporter.

25 (c) If motor fuel is to be delivered to more than one state,
26 the terminal supplier, distributor, terminal, or bulk plant shall
27 document the split loads by issuing shipping documents that list

1 the destination state of each portion of the motor fuel.

2 (d) A terminal, a bulk plant, the carrier, the ~~[permitted]~~
3 distributor, the terminal ~~[or]~~ supplier, and the person that
4 received the motor fuel shall:

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

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

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

19 SECTION 9. Subchapter A, Chapter 153, Tax Code, is amended
20 by adding Section 153.019 to read as follows:

21 Sec. 153.019. AVIATION GASOLINE AND JET FUEL. The
22 comptroller may require a person who holds a permit under this
23 chapter to report transactions involving aviation gasoline and jet
24 fuel.

25 SECTION 10. Subchapter B, Chapter 153, Tax Code, is amended
26 by amending Sections 153.101-153.107 and adding Sections
27 153.1051-153.1056 to read as follows:

1 Sec. 153.101. GASOLINE TAX IMPOSED. (a) A tax is imposed
2 on the [~~first sale or~~] use of gasoline in this state.

3 (b) Gasoline is used when it is delivered into a receptacle
4 on a motor vehicle or other machine from which fuel is supplied for
5 the propulsion or operation of the motor vehicle or other machine
6 [~~If the tax imposed by this section is not paid at the time of the~~
7 ~~first sale or use, the comptroller may assess all applicable tax,~~
8 ~~penalty, and interest against any person buying the fuel for~~
9 ~~further resale].~~

10 Sec. 153.102. TAX RATES. (a) The gasoline tax rate is 20
11 cents for each [~~gross or volumetric~~] gallon or fractional part
12 [~~sold or~~] used in this state except as provided by Subsection (b).

13 (b) The gasoline tax rate for gasoline sold to a transit
14 company for exclusive use in its transit [~~carrier~~] vehicles under
15 an exemption certificate promulgated by the comptroller is 19 cents
16 for each gallon.

17 Sec. 153.103. COMPUTATION OF TAX. (a) The amount of the
18 tax shall be computed and paid [~~over~~] to the state on the invoiced
19 [~~temperature-adjusted volume of~~] gallons of taxable gasoline
20 removed from a loading rack in this state [~~sold to wholesalers,~~
21 ~~jobbers, dealers, or other persons purchasing gasoline for resale,~~
22 ~~where such sales are made in single deliveries of 5,000 gallons or~~
23 ~~more, or in lesser quantities where required by city ordinance. The~~
24 ~~comptroller may publish and distribute a table to be used for~~
25 ~~converting the measurement of gross gallons of gasoline to~~
26 ~~temperature-adjusted gallons of gasoline].~~

27 (b) The amount of the tax on imported gasoline shall be

1 computed and paid to the state on the invoiced [~~gross or volumetric~~]
2 gallons of taxable gasoline received outside this state at a
3 refinery, terminal, or bulk plant for delivery to a destination in
4 this state [~~sold where the sales are made in single deliveries of~~
5 ~~less than 5,000 gallons or in quantities less than the maximum~~
6 ~~prescribed by city ordinance, if the maximum is less than 5,000~~
7 ~~gallons~~].

8 (c) The amount of the tax on blended fuel shall be computed
9 and paid to the state on the number of gallons that is equal to the
10 difference between the total number of gallons of blended fuel
11 produced and the number of gallons of previously taxed fuel used in
12 making the blended fuel [~~For a distributor whose gasoline~~
13 ~~deliveries are made to retail outlets that are operated by him or~~
14 ~~deliveries by him on consignment, the tax on sales to users and~~
15 ~~consumers shall be computed on the basis of actual sales~~].

16 (d) The amount of tax on all other gasoline shall be
17 computed and paid to the state on the number of gallons sold, used,
18 or removed in this state.

19 (e) The amount of tax due under this chapter shall be
20 computed on net gallons [~~If the comptroller is not satisfied with a~~
21 ~~tax return or the amount of tax required to be paid to the state by~~
22 ~~any distributor who elects to report on the basis of actual sales,~~
23 ~~the comptroller may compute and determine the amount required to be~~
24 ~~paid on the basis of the beginning inventory, showing the total~~
25 ~~gallons of gasoline in storage at the location on the first day of~~
26 ~~the calendar month, plus the total gallons of gasoline delivered~~
27 ~~into the storage facility during the month, less the total gallons~~

1 ~~of gasoline in the storage facility at the end of the calendar~~
2 ~~month].~~

3 Sec. 153.104. EXEMPTIONS [~~EXCEPTIONS~~]. (a) Gasoline used
4 for a purpose other than the propulsion of a motor vehicle on the
5 public highways of this state is exempt from the tax imposed by this
6 subchapter.

7 (b) Gasoline used by the following persons to propel a motor
8 vehicle on the public highways of this state is exempt from the tax
9 imposed by this subchapter:

10 (1) the federal government;

11 (2) public school districts; and

12 (3) commercial transportation companies that provide
13 public school transportation services to a school district under
14 Section 34.008, Education Code, and that use the gasoline
15 exclusively to provide those services.

16 (c) Gasoline brought into this state in the fuel supply tank
17 of a motor vehicle operated by a person not required to be permitted
18 as an interstate trucker and used to propel a motor vehicle on the
19 public highways of this state is exempt from the tax imposed by this
20 subchapter [~~The tax imposed by this subchapter does not apply to~~
21 ~~gasoline:~~

22 ~~[(1) brought into this state in the fuel supply tank of~~
23 ~~a motor vehicle operated by a person not required to be permitted as~~
24 ~~an interstate trucker,~~

25 ~~[(2) delivered by a permitted distributor to a common~~
26 ~~or contract carrier, oceangoing vessel (including ship, tanker, or~~
27 ~~boat), or a barge for export from this state if the gasoline is~~

1 ~~moved forthwith outside the state;~~

2 ~~[(3) sold by a permitted distributor to another~~
3 ~~permitted distributor;~~

4 ~~[(4) sold to the federal government for its exclusive~~
5 ~~use;~~

6 ~~[(5) delivered by a permitted distributor into a~~
7 ~~storage facility of a permitted aviation fuel dealer from which~~
8 ~~gasoline will be delivered solely into the fuel supply tanks of~~
9 ~~aircraft or aircraft servicing equipment;~~

10 ~~[(6) sold by one aviation fuel dealer to another~~
11 ~~aviation fuel dealer who will deliver the aviation fuel exclusively~~
12 ~~into the fuel supply tanks of aircraft or aircraft servicing~~
13 ~~equipment;~~

14 ~~[(7) sold to a public school district in this state for~~
15 ~~its exclusive use; or~~

16 ~~[(8) sold to a commercial transportation company that~~
17 ~~provides public school transportation services to a school district~~
18 ~~under Section 34.008, Education Code, and used by the company~~
19 ~~exclusively to provide those services].~~

20 Sec. 153.105. COLLECTION OF TAX; ALLOWANCES. (a) Except as
21 otherwise provided by this section, the tax imposed by this
22 subchapter shall be collected by the terminal supplier from the
23 purchaser on removal of gasoline from a terminal. The tax shall be
24 paid to the comptroller at the time and in the manner provided by
25 this subchapter [~~A person who makes a sale or use of gasoline on~~
26 ~~which the tax has not been previously paid in this state for any~~
27 ~~purpose other than those excepted by Section 153.104 of this code~~

1 ~~shall at the time of sale or use collect the tax from the purchaser~~
2 ~~or recipient of gasoline in addition to the selling price and is~~
3 ~~also liable to the state for the taxes collected at the time and in~~
4 ~~the manner as provided by this chapter. A person is liable to the~~
5 ~~state for the tax at the applicable tax rate for each gallon of~~
6 ~~gasoline or fractional part thereof used or consumed by him in a~~
7 ~~taxable manner and shall report and pay the tax as provided by this~~
8 ~~chapter. In each subsequent sale of gasoline on which the tax has~~
9 ~~been collected, the amount of the tax shall be added to the selling~~
10 ~~price so that the tax is paid ultimately by the person using or~~
11 ~~consuming the gasoline for the purpose of propelling a vehicle upon~~
12 ~~the public highways of this state].~~

13 (b) The tax imposed by this subchapter on gasoline imported
14 outside the bulk transfer system shall be computed on the entry of
15 the fuel into this state and shall be paid by the importer to the
16 comptroller at the time and in the manner provided by this
17 subchapter [~~Gasoline is deemed to be used when it is delivered into~~
18 ~~a fuel supply tank].~~

19 (c) The tax imposed by this subchapter on fuel blended
20 outside the bulk transfer system shall be computed at the time of
21 blending and shall be paid by the blender to the comptroller at the
22 time and in the manner provided by this subchapter [~~If gasoline is~~
23 ~~purchased, in a single delivery of 5,000 gallons or more, or in~~
24 ~~lesser quantities where required by city ordinance, by any person~~
25 ~~for the purpose of resale, the seller, distributor, or broker shall~~
26 ~~sell the product to the retailer or any other person purchasing the~~
27 ~~product on the basis of temperature-corrected gallonage to 60~~

1 ~~degrees Fahrenheit and the tax shall be computed and paid over to~~
2 ~~the state on the temperature-corrected basis. All other sales~~
3 ~~shall be reported to the comptroller on the basis of gross or~~
4 ~~volumetric gallons of taxable gasoline sold].~~

5 (d) A person who uses gasoline for a use that is not exempted
6 under Section 153.104 and on which the tax has not been previously
7 paid is liable to this state for the tax and shall report and pay the
8 tax to the comptroller as provided by this subchapter [~~For each one~~
9 ~~degree Fahrenheit that the temperature of gasoline taken at the~~
10 ~~time of loading for sale differs from 60 degrees Fahrenheit, an~~
11 ~~adjustment in the contract price shall be made equal to the~~
12 ~~stipulated value of six-hundredths of one percent of the total~~
13 ~~volume delivered].~~

14 (e) Except as provided by Sections 153.1051, 153.1052,
15 153.1053, and 153.1054, a person who sells or removes gasoline on
16 which the tax has not been previously paid shall, at the time of the
17 sale or removal, collect the tax from the purchaser or recipient of
18 the gasoline and shall report and pay the tax to the comptroller as
19 provided by this subchapter. The tax is in addition to the selling
20 price of the gasoline, and the tax becomes part of the purchase
21 price and is a debt from the buyer to the seller until paid or until
22 the seller receives a bad debt credit or refund from the
23 comptroller.

24 (f) Except as provided by Sections 153.1052, 153.1053, and
25 153.1054, a person who pays the tax imposed by this subchapter on a
26 purchase of gasoline and who resells the gasoline shall add the
27 amount of the tax to the selling price and collect the tax from the

1 purchaser so that the tax is paid ultimately by the person who uses
2 the gasoline. When the tax is added, the tax becomes part of the
3 purchase price and is a debt from the buyer to the seller until paid
4 or until the seller receives a bad debt credit or refund from the
5 comptroller.

6 (g) The tax on one-half of one [~~two~~] percent of the taxable
7 gallons of gasoline removed from a terminal by a terminal supplier
8 [~~sold~~] in this state shall be allocated to the distributor who
9 purchases [~~making the first taxable sale or use of~~] the gasoline
10 from a terminal supplier, [~~and timely paying the tax to the state~~]
11 for the expenses of [~~collecting, accounting for,~~] reporting[~~,~~] and
12 [~~remitting the tax collected and for~~] keeping records as required
13 by this subchapter. The distributor shall pay to the terminal
14 supplier the amount of tax due on the gasoline purchased, less
15 one-half of one percent.

16 (h) The tax on one-fourth of one percent of the taxable
17 gallons of gasoline removed from a terminal by a terminal supplier
18 in this state shall be allocated to the terminal supplier that
19 removes the gasoline and timely pays the tax to the state.

20 (i) The amount of tax required to be paid to the comptroller
21 under Section 153.118(a) is the amount of tax due under this
22 section, after the deductions prescribed by Subsections (g) and
23 (h).

24 (j) A terminal supplier shall allow a distributor to pay the
25 tax on transactions that occur during a calendar month as late as
26 the 23rd day of the next month, if:

27 (1) the distributor agrees to pay the tax by

1 electronic funds transfer or cashier's check;

2 (2) the distributor agrees that payment by electronic
3 funds transfer or cashier's check will be received in the terminal
4 supplier's account or by the terminal supplier not later than 5 p.m.
5 on that 23rd day;

6 (3) the distributor is not delinquent in paying any
7 other amount the distributor owes the terminal supplier; and

8 (4) the distributor has not failed during the
9 preceding year to remit the tax to the terminal supplier by 5 p.m.
10 by the 23rd day of the month after the month of the transaction if
11 the distributor agreed to those payments.

12 Sec. 153.1051. EXCEPTIONS TO COLLECTION OF TAX BY TERMINAL
13 SUPPLIER. (a) A terminal supplier is not required to collect the
14 tax imposed by this subchapter on gasoline removed by the terminal
15 supplier to an exempt user if the terminal supplier designates to
16 the comptroller:

17 (1) the name and address of the exempt user;

18 (2) the number of gallons removed;

19 (3) the date of removal; and

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

21 (b) A terminal supplier is not required to collect the tax
22 imposed by this subchapter on gasoline removed by the terminal
23 supplier to an exporter if:

24 (1) the exporter designates to the terminal supplier
25 the destination for delivery of the fuel to a location outside this
26 state;

27 (2) the exporter is licensed in the state of

1 destination and has supplied the terminal supplier with that
2 license number;

3 (3) the exporter has not been barred from making
4 tax-free exports by the comptroller for making false refund claims;
5 and

6 (4) the terminal supplier collects and remits to the
7 state of destination all taxes imposed on that fuel by the
8 destination state.

9 Sec. 153.1052. EXCEPTION TO COLLECTION OF TAX BY
10 DISTRIBUTOR. A distributor is not required to collect the tax
11 imposed by this subchapter on gasoline sold by the distributor to an
12 exempt user if the distributor designates to the comptroller:

- 13 (1) the name and address of the exempt user;
14 (2) the number of gallons sold;
15 (3) the date of sale; and
16 (4) any other information required by the comptroller.

17 Sec. 153.1053. EXCEPTION TO COLLECTION OF TAX BY AVIATION
18 FUEL DEALER. An aviation fuel dealer is not required to collect the
19 tax imposed by this subchapter on gasoline sold by the aviation fuel
20 dealer and delivered into the fuel supply tanks of aircraft or
21 aircraft servicing equipment if the aviation fuel dealer retains
22 records for each delivery of that fuel stating:

- 23 (1) the name and address of the purchaser;
24 (2) the registration or "N" number of the aircraft or
25 the number or a description of the aircraft servicing equipment;
26 (3) the number of gallons sold;
27 (4) the date of sale; and

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

2 Sec. 153.1054. EXCEPTION TO COLLECTION OF TAX BY DEALER. A
3 dealer is not required to collect the tax imposed by this subchapter
4 on gasoline sold by the dealer to an exempt user if the dealer
5 retains records for each sale stating:

6 (1) the name and address of the exempt user;

7 (2) the number of gallons sold;

8 (3) the date of sale; and

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

10 Sec. 153.1055. LIABILITY OF TERMINAL OPERATOR. (a) A
11 terminal operator is jointly and severally liable to this state for
12 the tax imposed by this subchapter on fuel removed from the terminal
13 by a position holder that is not the terminal operator or a
14 permitted terminal supplier. The terminal operator shall remit the
15 tax to the comptroller at the time and in the manner prescribed for
16 a terminal supplier.

17 (b) A terminal operator is relieved of liability under
18 Subsection (a) if the terminal operator establishes that, at the
19 time of the removal:

20 (1) the terminal operator held a valid terminal
21 operator's permit;

22 (2) the terminal operator had an unexpired
23 notification certificate from the position holder as required by
24 the Internal Revenue Service; and

25 (3) the terminal operator did not have a reason to
26 believe that any information in the certificate was false.

27 Sec. 153.1056. PRESUMPTION; BURDEN OF PROOF. (a) It is

1 presumed that all gasoline removed, imported, blended, or sold in
2 this state will be used to propel a motor vehicle on the public
3 highways of this state. It is presumed that all gasoline used in
4 this state is used to propel a motor vehicle on the public highways
5 of this state.

6 (b) A terminal supplier has the burden of proving that an
7 exception for collection of the tax under Section 153.1051 applies
8 to a removal of gasoline by the terminal supplier. The burden is
9 satisfied if the terminal supplier designates to the comptroller
10 the information required by Section 153.1051 for each removal of
11 gasoline.

12 (c) A distributor has the burden of proving that an
13 exception for collection of the tax under Section 153.1052 applies
14 to a sale of gasoline by the distributor. The burden is satisfied
15 if the distributor designates to the comptroller the information
16 required by Section 153.1052 for each sale of gasoline.

17 (d) An aviation fuel dealer has the burden of proving that
18 an exception for collection of the tax under Section 153.1053
19 applies to a sale of gasoline by the aviation fuel dealer. The
20 burden is satisfied if the aviation fuel dealer retains records
21 containing the information required by Section 153.1053 for each
22 sale of gasoline and, if requested by the comptroller, supplies the
23 information to the comptroller.

24 (e) A dealer has the burden of proving that an exception for
25 collection of the tax under Section 153.1054 applies to a sale of
26 gasoline by the dealer. The burden is satisfied if the dealer
27 retains records containing the information required by Section

1 153.1054 for each sale of gasoline and, if requested by the
2 comptroller, supplies the information to the comptroller.

3 (f) A user has the burden of proving that an exemption under
4 Section 153.104 applies to a use of gasoline by the user.

5 Sec. 153.106. PERMITS: APPLICATION. (a) A terminal
6 operator, terminal supplier, importer, exporter, blender,
7 distributor, interstate trucker, dealer [~~gasoline jobber~~], or
8 aviation fuel dealer shall file an application with the comptroller
9 for a permit to engage in that business [~~one of the nonassignable~~
10 ~~permits provided for~~] in this state [~~subchapter~~].

11 (b) The comptroller shall promulgate the application form,
12 which must contain the following information:

13 (1) the name under which the applicant transacts or
14 intends to transact business and, for a terminal supplier's permit,
15 the applicant's registration number under Section 4101, Internal
16 Revenue Code of 1986;

17 (2) the principal office, residence, or place of
18 business in Texas of the applicant;

19 (3) if the applicant is not an individual, the names of
20 the principal officers of an applicant corporation, or the names of
21 the members of an applicant partnership, and the office, street, or
22 post office addresses of each; and

23 (4) other information required by the comptroller.

24 (c) The comptroller shall determine from the information
25 shown in the application or other investigation the kind and class
26 of permit to be issued.

27 (d) The comptroller may issue a single permit containing

1 multiple designations to an applicant who wishes to engage in more
2 than one category of business for which a permit is required.

3 (e) The comptroller may deny or may revoke a permit if false
4 information is submitted on the application or on a required fuels
5 tax report or supplement.

6 Sec. 153.107. PERMITS NOT ASSIGNABLE [~~DISTRIBUTOR'S~~
7 ~~PERMIT~~]. A [~~person performing the functions of a distributor shall~~
8 ~~obtain a distributor's~~] permit issued under this subchapter may not
9 be assigned.

10 SECTION 11. Sections 153.112(a) and (b), Tax Code, are
11 amended to read as follows:

12 (a) A terminal supplier permit, an importer permit, an
13 exporter permit, a blender permit, a distributor [~~distributor's~~]
14 permit, and an aviation fuel dealer permit are [~~is permanent and is~~]
15 valid so long as the holder [~~permittee~~] has in force and effect the
16 required bond or security and furnishes timely reports and
17 supplements as required, or until [~~the permit is~~] surrendered by
18 the holder or canceled by the comptroller. The comptroller shall
19 cancel a distributor [~~distributor's~~] permit if no purchase, sale,
20 or use of gasoline has been reported by the holder [~~distributor~~] for
21 the prior nine months.

22 (b) A terminal operator [~~An aviation fuel dealer's~~] permit
23 and a dealer permit are [~~is permanent and is~~] valid until [~~the~~
24 ~~permit is~~] surrendered by the holder or canceled by the
25 comptroller.

26 SECTION 12. Section 153.113(a), Tax Code, is amended to
27 read as follows:

1 (a) A permit must be posted in a conspicuous place or kept
2 available for inspection at the principal place of business of the
3 permit holder [~~owner~~]. A copy of the permit must be kept at each
4 place of business or other place of storage from which gasoline is
5 removed, sold, [~~distributed~~] or used, and in each motor vehicle
6 used by the permit holder to transport gasoline purchased by him for
7 resale[~~, distribution~~] or use.

8 SECTION 13. Subchapter B, Chapter 153, Tax Code, is amended
9 by amending Section 153.114 and adding Section 153.1141 to read as
10 follows:

11 Sec. 153.114. LIST OF PERMIT HOLDERS [~~DISTRIBUTORS,~~
12 ~~AVIATION FUEL DEALERS, AND GASOLINE JOBBERS~~]. The comptroller, on
13 or before December 20 of each year, shall mail or distribute to each
14 [~~all~~] permitted terminal operator, terminal supplier, and
15 distributor [~~distributors~~] a printed alphabetical list of
16 permitted terminal operators, terminal suppliers, distributors,
17 and aviation fuel dealers[~~, and gasoline jobbers. A distributor and~~
18 ~~an aviation fuel dealer on the list are qualified to purchase~~
19 ~~gasoline tax free during the following calendar year. A gasoline~~
20 ~~jobber on the list is qualified to purchase gasoline tax-paid~~
21 ~~during the following calendar year~~]. A supplemental list of
22 additions and deletions shall be delivered to the terminal
23 operators, terminal suppliers, and distributors each month. A
24 current and effective permit or the list furnished by the
25 comptroller is evidence of the validity of the permit until the
26 comptroller notifies terminal operators, terminal suppliers, and
27 distributors of a change in the status of a permit holder.

1 Sec. 153.1141. INVOICES. (a) A person who purchases
2 gasoline for delivery into the fuel supply tank of a motor vehicle
3 described by Section 153.001(12) shall obtain an invoice from the
4 seller. The person must carry the invoice in the vehicle until the
5 next purchase of gasoline for delivery into that vehicle.

6 (b) A person who purchases gasoline in a tax-paid
7 transaction and who will claim a refund of the tax paid must obtain
8 an invoice from the seller.

9 (c) An invoice issued by a seller must:

10 (1) have the name and address of the seller stamped or
11 preprinted;

12 (2) separately state the amount of the tax paid and the
13 selling price of the gasoline, or state that the tax is included in
14 the selling price; and

15 (3) contain spaces for providing:

16 (A) the name of the purchaser;

17 (B) the date of delivery of the gasoline;

18 (C) the number of gallons delivered;

19 (D) the odometer or hubmeter reading;

20 (E) the state highway license or unit number;

21 (F) the type of vehicle or equipment, such as a
22 motorboat, railway engine, highway vehicle, off-highway vehicle,
23 refrigeration unit, or stationary engine into which the gasoline is
24 delivered; and

25 (G) the signature of the recipient.

26 (d) If the delivery of tax-paid gasoline is made through an
27 automated method in which the purchase is automatically applied to

1 the purchaser's account, one invoice may be issued at the time of
2 billing covering multiple purchases made during a 30-day billing
3 cycle.

4 (e) The seller shall complete the invoice in duplicate and
5 shall deliver the original invoice to the purchaser not later than
6 the 30th day after the date on which the gasoline was sold. The
7 seller shall retain the duplicate.

8 (f) If the delivery into the fuel supply tanks of a motor
9 vehicle is through a method in which there is no seller or agent
10 present, the purchaser or recipient must prepare the required
11 invoice at the time of delivery.

12 SECTION 14. Section 153.115(a), Tax Code, is amended to
13 read as follows:

14 (a) An interstate trucker who imports gasoline into Texas in
15 the fuel supply tanks of a motor vehicle operated for commercial
16 purposes and described by Section 153.001(12)(A), (B), or (C) shall
17 report and pay the tax, as required by Section 153.118, at the
18 imposed rate on gasoline that is imported and used on Texas
19 highways. The number of gallons of gasoline used on Texas highways
20 shall be computed by dividing the total miles traveled in all states
21 by the total number of gallons of gasoline delivered into the fuel
22 supply tanks of the motor vehicle in all states. The mileage factor
23 obtained shall be divided into the total Texas miles traveled in
24 order to determine the number of gallons of gasoline used in Texas.

25 SECTION 15. Section 153.116, Tax Code, is amended by
26 amending Subsections (a), (b), (c), and (j) and adding Subsection
27 (a-1) to read as follows:

1 (a) The comptroller shall determine the amount of security
2 required of a person permitted as a terminal operator, [~~distributor~~
3 ~~or a gasoline jobber~~] taking into consideration the amount of motor
4 fuel [~~tax~~] that has or is expected to be removed from the terminal
5 operated by the person in a calendar month [~~become due from the~~
6 ~~person~~], any past history of the person as a terminal operator
7 [~~distributor or a gasoline jobber~~], and the necessity to protect
8 the state against the failure of the person to satisfy a liability
9 arising under Section 153.1055 [~~to pay the tax as it becomes due~~].

10 (a-1) The comptroller shall determine the amount of
11 security required of a person permitted as a terminal supplier,
12 importer, or blender, taking into consideration the amount of tax
13 that has or is expected to become due from the person in a calendar
14 month, any past history of the person as a terminal supplier,
15 importer, or blender, and the necessity to protect the state
16 against the failure of the person to pay or collect and remit the
17 tax imposed by this subchapter.

18 (b) The [~~If it is determined that the posting of security is~~
19 ~~necessary to protect the state, the~~] comptroller shall determine
20 the amount of security, if any, required of a person permitted as
21 [~~may require~~] a distributor, exporter, dealer, or aviation fuel
22 dealer, taking into consideration [~~or a gasoline jobber to post a~~
23 ~~bond. A distributor shall post a bond equal to two times~~] the [~~most~~]
24 amount of tax that the person has or is expected to be required to
25 pay to the terminal suppliers or distributors from whom the person
26 obtains motor fuel in a calendar month, any past history of the
27 person as a distributor, exporter, dealer, or aviation fuel dealer,

1 and the necessity to protect the state against the failure of the
2 person to pay [~~could accrue on tax-free gasoline purchased or~~
3 ~~acquired during a reporting period. A gasoline jobber shall post a~~
4 ~~bond in an amount determined by] the [~~comptroller according to the~~
5 ~~past~~] tax imposed by this subchapter to the terminal suppliers or
6 distributors from whom the person obtains motor fuel as required by
7 Section 153.105(f) [~~payment history of the gasoline jobber. The~~
8 ~~minimum bond is \$30,000. The maximum bond is \$600,000 unless the~~
9 ~~comptroller believes there is undue risk of loss of tax revenues, in~~
10 ~~which event he may require one or more bonds or securities in a~~
11 ~~total amount exceeding \$600,000].~~~~

12 (c) A person that [~~distributor or a gasoline jobber who~~] has
13 filed a bond or other security under this subchapter [~~is exempted~~
14 ~~from the bond or other security requirements of this subchapter~~
15 ~~and~~] is entitled, on request, to have the comptroller return,
16 refund, or release the bond or security if in the judgment of the
17 comptroller the person has for four consecutive years continuously
18 complied with the conditions of the bond or other security filed
19 under this subchapter. However, if the comptroller determines that
20 the revenues of the state would be jeopardized by the return,
21 refund, or release of the bond or security, the comptroller may
22 elect not to return, refund, or release the bond or security, and
23 may continue to require [~~reimpose a requirement of~~] a bond or other
24 security as the comptroller determines necessary to protect the
25 revenues of the state.

26 (j) The comptroller shall notify immediately the issuer of a
27 letter of credit of a final deficiency determination [~~of the~~

1 ~~distributor's delinquent liability]~~ or [a] judgment for delinquent
2 motor fuels tax, penalties, interest, and costs against a person
3 ~~[secured in any action by this state to recover gasoline taxes,~~
4 ~~costs, penalties, and interest found to be due this state by a~~
5 ~~distributor]~~ in whose behalf the letter of credit was issued. The
6 letter of credit allowed as security for the remittance of taxes
7 under this subchapter shall contain a statement that the issuer
8 agrees to respond to the comptroller's notice of liability with
9 amounts to satisfy the deficiency determination or judgment
10 ~~[comptroller's delinquency claim against the distributor].~~

11 SECTION 16. Sections 153.117 and 153.118, Tax Code, are
12 amended to read as follows:

13 Sec. 153.117. RECORDS. (a) In addition to the records
14 required by this section, a terminal operator, terminal supplier,
15 importer, exporter, blender, distributor, interstate trucker,
16 dealer, or aviation fuel dealer shall keep any records of motor fuel
17 removed, sold, or used in this state, and any invoices, bills of
18 lading, and other pertinent records and papers, as the comptroller
19 may require for the efficient administration of this chapter [A
20 ~~distributor shall keep:~~

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

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

24 ~~[(B) all gasoline refined, compounded, or~~
25 ~~blended,~~

26 ~~[(C) all gasoline purchased or received, showing~~
27 ~~the name of the seller and 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; and~~

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

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

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

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

14 (b) An exempt user or other person who files a claim for a
15 refund for gasoline used for nonhighway purposes ~~[A dealer]~~ shall
16 keep a record showing the number of gallons of:

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

19 (2) all gasoline purchased or received, showing the
20 permit number ~~[name]~~ of the seller and the date of each purchase ~~[or~~
21 ~~receipt]~~;

22 (3) ~~[all]~~ gasoline ~~[sold or]~~ used for other purposes,
23 showing the purpose for which the gasoline was used ~~[date of the~~
24 ~~sale or use]~~; ~~[and]~~

25 (4) all gasoline deliveries into the fuel supply tanks
26 of motor vehicles; and

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

1 (c) An interstate trucker shall keep a record of:

2 (1) the total miles traveled in all states by all
3 vehicles traveling into or from Texas and the total quantity of
4 gasoline consumed in those vehicles; and

5 (2) the total miles traveled in Texas and the total
6 quantity of gasoline purchased and delivered into the fuel supply
7 tanks of motor vehicles in Texas.

8 (d) An aviation fuel dealer or dealer shall keep a record
9 showing the number of gallons of:

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

12 (2) all gasoline purchased or received, showing the
13 permit number [~~name~~] of the seller and date of each purchase or
14 receipt;

15 (3) all gasoline sold or used [~~in aircraft or aircraft~~
16 ~~servicing equipment~~]; and

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

18 (e) The records of an aviation fuel dealer or dealer made
19 under Subsection (d)(3) of this section must show the information
20 required by Section 153.1053 or 153.1054, as appropriate [+

21 [~~(1) the name of the purchaser or user of gasoline,~~

22 [~~(2) the date of the sale or use of gasoline, and~~

23 [~~(3) the registration or "N" number of the airplane or~~
24 ~~a description or number of the aircraft or a description or number~~
25 ~~of the aircraft servicing equipment in which gasoline is used].~~

26 (f) A person required to file a report under Section 153.118
27 or who files a refund claim shall keep all records necessary to

1 substantiate the report or refund claim [~~The comptroller may~~
2 ~~require selective schedules from a distributor, dealer, aviation~~
3 ~~fuel dealer, interstate trucker, gasoline jobber, or common or~~
4 ~~contract carrier for any purchases, sales, or deliveries of~~
5 ~~gasoline when the schedules are not inconsistent with the~~
6 ~~requirements of this chapter~~].

7 (g) The records required to [~~must~~] be kept under this
8 section shall be retained and made available for inspection by the
9 comptroller or the attorney general until the fourth anniversary of
10 the 25th day of the month following the end of the month during
11 which the transaction to which the record pertains occurred. The
12 [~~for four years and are open to inspection at all times by the~~]
13 comptroller or [~~and~~] the attorney general may require a person
14 required to keep the records to prepare schedules of a reasonable
15 number of records for inspection.

16 [~~(h) A gasoline jobber shall keep a record showing the~~
17 ~~number of gallons of:~~

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

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

22 [~~(3) all gasoline sold, distributed, or used, showing~~
23 ~~the name of the purchaser and the date of the sale or use, and~~

24 [~~(4) all gasoline lost by fire, theft, or accident.]~~

25 Sec. 153.118. REPORTS AND PAYMENTS. (a) On or before the
26 25th day of each month, a terminal supplier, importer, or blender
27 [~~distributor or other person liable to this state for payment of the~~

1 ~~tax imposed under this chapter]~~ shall file ~~[all]~~ reports of
2 gasoline transactions and any supplements ~~[as required by]~~ the
3 comptroller may require, and shall remit the amount of tax required
4 to be collected or to be paid during the preceding calendar month.
5 In addition to any other information required by the comptroller,
6 the ~~[The]~~ report shall contain ~~[be executed by the distributor, the~~
7 ~~distributor's representative, or any other person required to~~
8 ~~report and shall be filed with the comptroller in a manner or on a~~
9 ~~form provided or approved by the comptroller]~~, for each blending,
10 removal, importation, or sale of fuel that occurred during the
11 preceding calendar month:

12 (1) the name of the exempt user or the permit number of
13 the person to whom the fuel was removed or sold or for whom it was
14 imported or blended;

15 (2) the number of gallons blended, removed, imported,
16 or sold;

17 (3) the load number of the gasoline blended, removed,
18 imported, or sold; and

19 (4) for imported gasoline, the import verification
20 number and diversion number, if any ~~[containing complete and~~
21 ~~detailed information not inconsistent with the requirements of this~~
22 ~~chapter of gasoline transactions. A distributor required to file a~~
23 ~~report under this section who has not sold or used any gasoline~~
24 ~~during the reporting period shall file with the comptroller the~~
25 ~~report setting forth the facts or information. The failure of a~~
26 ~~distributor or other person to obtain forms or software from the~~
27 ~~comptroller is no excuse for the failure to file a report containing~~

1 ~~all the information required to be reported]~~.

2 (b) On or before the 25th day of each month, a distributor or
3 exporter shall file a report of gasoline transactions that occurred
4 during the preceding calendar month and any supplements to that
5 report the comptroller may require. In addition to any other
6 information required by the comptroller, the report shall contain,
7 for each sale or export that occurred during the preceding calendar
8 month:

9 (1) the name of the exempt user or the permit number of
10 the person to whom the fuel was sold, or the destination to which
11 the fuel was exported;

12 (2) the number of gallons of gasoline sold or
13 exported;

14 (3) the load number of the gasoline sold or exported;
15 and

16 (4) for exported gasoline, the diversion number, if
17 any.

18 (c) On or before the 25th day of each month, a terminal
19 operator shall file a report of gasoline received and stored during
20 the preceding calendar month and any supplements to that report the
21 comptroller may require. In addition to any other information
22 required by the comptroller, the report shall contain:

23 (1) the name, address, and permit number of the person
24 receiving or storing the gasoline;

25 (2) the name of the vessel or other method of transport
26 by which the gasoline is transported to the terminal; and

27 (3) the number of gallons and type of gasoline being

1 stored.

2 (d) On or before the 25th day of the month following the end
3 of each calendar quarter, an interstate trucker shall file a report
4 and remit the amount of tax due for the preceding calendar quarter[-
5 ~~The report shall be properly executed and filed with the~~
6 ~~comptroller and must contain complete and detailed information as~~
7 ~~the comptroller may require on forms provided for that purpose. An~~
8 ~~interstate trucker who has not used any gasoline during the~~
9 ~~reporting period shall file with the comptroller the report setting~~
10 ~~forth the facts or information. The failure of an interstate~~
11 ~~trucker to obtain forms from the comptroller is no excuse for the~~
12 ~~failure to file a report containing all the information required to~~
13 ~~be reported].~~

14 (e) On or before the 25th day of the month following the end
15 of each calendar quarter, a person who is required by Section
16 153.105(d) or (e) to pay the tax imposed by this subchapter and who
17 is not a terminal operator, terminal supplier, importer, blender,
18 distributor, exporter, or interstate trucker shall file a report
19 and remit the amount of tax due for the preceding calendar quarter.

20 (f) A report is not required to be filed by:

21 (1) an aviation fuel dealer;

22 (2) a trip permit user; or

23 (3) a dealer.

24 (g) A person required to file a report under this section
25 that has not removed, imported, exported, blended, sold, or used
26 any gasoline during the reporting period shall file with the
27 comptroller a report stating that gasoline was not removed,

1 imported, exported, blended, sold, or used during the reporting
2 period.

3 (h) A report required by this section must be signed by the
4 person required to file the report or the person's representative.

5 (i) A report required by this section must be filed on a form
6 or using electronic filing software prescribed by the comptroller.
7 The failure to obtain a form or software from the comptroller does
8 not excuse a failure to file a report.

9 (j) The comptroller may allow a person who holds a permit
10 containing multiple designations under Section 153.106(d) to file a
11 single report containing all of the information required for each
12 of the designations.

13 ~~[(d) An aviation fuel dealer is not required to file a~~
14 ~~report with the comptroller.]~~

15 ~~[(f) A gasoline jobber is not required to file a report with~~
16 ~~the comptroller.]~~

17 SECTION 17. Sections 153.119 and 153.1195, Tax Code, are
18 amended to read as follows:

19 Sec. 153.119. REFUNDS OF TAXES PAID ON EXEMPTED [~~EXCEPTED~~]
20 USES OF GASOLINE. (a) The following persons may claim a refund
21 with the comptroller for taxes paid under this subchapter:

22 (1) a distributor that has paid tax on gasoline that
23 has been sold to an exempt user in tax-free transactions under
24 Section 153.1051(a);

25 (2) an aviation fuel dealer that has paid the tax on
26 gasoline that will be held for sale in tax-free transactions under
27 Section 153.1053;

1 (3) an exempt user that has paid tax on gasoline that
2 will be used by that person for a purpose exempt under Section
3 153.104(b); or

4 (4) a person that has paid tax on gasoline that will be
5 used by that person for a purpose other than propelling a motor
6 vehicle on the public highways of this state [~~A person who exports,~~
7 ~~sells to the federal government, to a public school district in this~~
8 ~~state, or to a commercial transportation company for exclusive use~~
9 ~~in providing public school transportation services to a school~~
10 ~~district under Section 34.008, Education Code, without having added~~
11 ~~the amount of the tax imposed by this chapter to his selling price,~~
12 ~~loses by fire, theft, or accident, or uses gasoline for the purpose~~
13 ~~of operating or propelling a motorboat, tractor used for~~
14 ~~agricultural purposes, or stationary engine, or for another purpose~~
15 ~~except in a vehicle operated or intended to be operated on the~~
16 ~~public highways of this state, and who has paid the tax imposed on~~
17 ~~gasoline by this chapter either directly or indirectly is, when the~~
18 ~~person has complied with the invoice and filing provisions of this~~
19 ~~section and the rules of the comptroller, entitled to reimbursement~~
20 ~~of the tax paid by him, less any amount allowed distributors under~~
21 ~~Section 153.105(e). A public school district that has paid the tax~~
22 ~~imposed under this chapter on gasoline used by the district or a~~
23 ~~commercial transportation company that has paid the tax imposed~~
24 ~~under this chapter on gasoline used by the company exclusively to~~
25 ~~provide public school transportation services to a school district~~
26 ~~under Section 34.008, Education Code, is entitled to reimbursement~~
27 ~~of the amount of the tax paid in the same manner and subject to the~~

1 ~~same procedures as other exempted users]~~.

2 (b) A person may file a refund claim for tax paid on the
3 gasoline used in motor vehicles that are operated exclusively off
4 the public highways except for incidental travel on the public
5 highways as determined by the comptroller, but not for tax paid on
6 that portion of gasoline used in the incidental travel.

7 (c) A permitted interstate trucker is entitled to a credit
8 equivalent to the tax rate for each gallon paid on all gasoline on
9 which the gasoline tax has been paid and later consumed in vehicles
10 outside the state. If the amount of credit to which the interstate
11 trucker is entitled for any calendar quarter exceeds the amount of
12 tax for which the interstate trucker is liable for gasoline
13 consumed in the vehicles during the reporting period, the excess
14 shall be allowed as a credit or refund on a timely filed quarterly
15 report against tax for which the interstate trucker would be
16 otherwise liable for any of the three succeeding quarters.
17 Evidence of the mileage traveled and gallonage consumed and the
18 payment of the gasoline tax on a form as may be required by or is
19 satisfactory to the comptroller shall be furnished by an interstate
20 trucker claiming a credit or tax refund.

21 (d) If the quantity of gasoline used in Texas by auxiliary
22 power units or power take-off equipment on any motor vehicle can be
23 accurately measured while the motor vehicle is stationary by any
24 metering or other measuring device or method designed to measure
25 the fuel separately from fuel used to propel the motor vehicle, the
26 comptroller may approve and adopt the use of any device as a basis
27 for determining the quantity of gasoline consumed in those

1 operations for tax credit or tax refund.

2 (e) A person who exports or loses by fire, theft, or
 3 accident 100 or more gallons of gasoline on which the tax has been
 4 paid, or sells gasoline in any quantity to the United States
 5 government for the exclusive use of that government on which the tax
 6 has been paid, may file a claim for a refund of the net tax paid to
 7 the state in the manner provided by this chapter or as the
 8 comptroller may direct. The comptroller may bar a person who has
 9 made a false refund claim from purchasing fuel for export under
 10 Section 153.1051(b) without paying the tax imposed by this
 11 subchapter.

12 (f) The right to receive a refund under this section is not
 13 assignable, except that a person residing or maintaining a place of
 14 business outside the state who purchases 100 or more gallons of
 15 gasoline and promptly [~~forthwith~~] exports the entire quantity may
 16 assign the person's [~~his~~] right to claim a refund to the exporter
 17 [~~permitted distributor~~] from whom the gasoline was purchased [~~or to~~
 18 ~~any permitted distributor who has paid the tax on the gasoline~~
 19 ~~either directly or through another permitted distributor in Texas~~].
 20 If an exporter [~~a distributor~~] secures an assignment and the proof
 21 of export required by the comptroller, the exporter may file a
 22 refund claim [~~he may credit the tax paid on any monthly report~~
 23 ~~filed~~] with the comptroller [~~within one year after the first day of~~
 24 ~~the month following the date of delivery of the gasoline to the~~
 25 ~~exporter~~].

26 Sec. 153.1195. CREDIT OR REFUND [~~CREDITS~~] FOR BAD DEBTS.

27 (a) A terminal supplier [~~permitted distributor~~] may take a credit

1 on the monthly report to be filed with the comptroller, or a
2 distributor may file a refund claim with the comptroller, if:

3 (1) the terminal supplier or distributor has paid the
4 taxes imposed by this subchapter on gasoline sold on account;

5 (2) the terminal supplier or distributor determines
6 that the account is uncollectable and worthless; ~~and~~

7 (3) at the time of the transaction, the person to whom
8 the terminal supplier or distributor sold the gasoline held a
9 permit or was an exempt user; and

10 (4) the account is written off as a bad debt on the
11 accounting books of the terminal supplier or distributor.

12 (b) The return on which the credit is taken or the refund
13 claim must state the permit number of the person whose account has
14 been written off as a bad debt and any other information required by
15 the comptroller. The amount of the credit that may be taken under
16 Subsection (a) ~~[of this section]~~ may equal but may not exceed the
17 amount of taxes paid on the gasoline to which the written-off
18 account applies.

19 (c) If, after a credit is taken or refund is received under
20 Subsection (a) ~~[of this section]~~, the account on which the credit or
21 refund was based is paid, or if the comptroller otherwise
22 determines that the credit or refund was not authorized by
23 Subsection (a) ~~[of this section]~~, the unpaid taxes shall be paid by
24 the terminal supplier or distributor taking the credit or receiving
25 the refund, plus a penalty of 10 percent of the amount of the unpaid
26 taxes and interest at the rate provided by Section 111.060 ~~[of this~~
27 ~~code]~~ beginning on the day that the credit was taken or the refund

1 was issued.

2 (d) This section does not apply to a sale of gasoline that is
3 delivered into the fuel supply tank of a motor vehicle or a
4 motorboat and for which payment is made through the use and
5 acceptance of a credit card.

6 (e) A credit or refund under this section must be taken or
7 claimed at the time the account is written off as a bad debt, but may
8 only be taken or claimed before the expiration of the applicable
9 limitation period as provided by Chapter 111 [~~of this code~~].

10 (f) The comptroller may take action against the person whose
11 account has been written off for collection of the tax owed and any
12 applicable penalties and interest.

13 SECTION 18. Section 153.120(a), Tax Code, is amended to
14 read as follows:

15 (a) A refund claim must be filed on a form provided by the
16 comptroller and [~~7~~] be supported by the original invoice issued by
17 the seller [~~7 and contain:~~

18 [~~(1) the stamped or preprinted name and address of the~~
19 ~~seller,~~

20 [~~(2) the name of the purchaser,~~

21 [~~(3) the date of delivery of the gasoline,~~

22 [~~(4) the date of the issuance of the invoice (if~~
23 ~~different from the date of fuel delivery),~~

24 [~~(5) the number of gallons of gasoline delivered,~~

25 [~~(6) the amount of tax, either separately stated from~~
26 ~~the selling price or a notation that the selling price includes the~~
27 ~~tax, and~~

1 ~~[(7) the type of vehicle or equipment, such as a~~
2 ~~motorboat, railway engine, highway vehicle, off-highway vehicle,~~
3 ~~or refrigeration unit or stationary engine into which the fuel is~~
4 ~~delivered].~~

5 SECTION 19. Section 153.121(a), Tax Code, is amended to
6 read as follows:

7 (a) A ~~[Except as provided by this section, a]~~ claim for a
8 refund, other than a bad debt refund under Section 153.1195, must be
9 filed with the comptroller within one year after the first day of
10 the calendar month following the sale, purchase, use, ~~[delivery,~~
11 export, or loss by fire, theft, or accident of gasoline, whichever
12 period expires latest.

13 SECTION 20. Section 153.122, Tax Code, is amended to read as
14 follows:

15 Sec. 153.122. GASOLINE TAX REFUND PAYMENT. After
16 examination of the refund claim, the comptroller before issuing a
17 refund warrant shall deduct from the amount of the refund the
18 one-fourth of one [two] percent deducted originally by the terminal
19 supplier and the one-half of one percent deducted originally by the
20 distributor on the removal ~~[first sale or distribution]~~ of the
21 gasoline.

22 SECTION 21. Sections 153.201, 153.202, 153.203, and
23 153.204, Tax Code, are amended to read as follows:

24 Sec. 153.201. DIESEL FUEL TAX IMPOSED. (a) A tax is
25 imposed on the ~~[first sale or]~~ use of diesel fuel in this state.

26 (b) Diesel fuel is used when it is delivered into a
27 receptacle on a motor vehicle or other machine from which fuel is

1 supplied for the propulsion or operation of the motor vehicle or
2 other machine [~~If the tax imposed by this section is not paid at the~~
3 ~~time of first sale or use, the comptroller may assess all applicable~~
4 ~~tax, penalty, and interest against any person buying the fuel for~~
5 ~~further resale)].~~

6 Sec. 153.202. TAX RATES. (a) The diesel fuel tax rate is 20
7 cents for each [~~gross or volumetric~~] gallon or fractional part
8 [~~sold or~~] used in this state except as provided by Subsection (b).

9 (b) The diesel fuel tax rate for diesel fuel sold [~~by a~~
10 ~~permitted supplier~~] to a transit company for exclusive use in its
11 transit vehicles under an exemption certificate issued by the
12 comptroller is 19.5 cents for each gallon.

13 Sec. 153.203. EXEMPTIONS [~~EXCEPTIONS~~]. (a) Diesel fuel
14 used for a purpose other than the propulsion of a motor vehicle on
15 the public highways of this state is exempt from the tax imposed by
16 this subchapter.

17 (b) Diesel fuel used by the following persons to propel a
18 motor vehicle on the public highways of this state is exempt from
19 the tax imposed by this subchapter:

- 20 (1) the federal government;
21 (2) public school districts; and
22 (3) commercial transportation companies that provide
23 public school transportation services to a school district under
24 Section 34.008, Education Code, and that use the gasoline
25 exclusively to provide those services.

26 (c) Diesel fuel brought into this state in the fuel supply
27 tank of a motor vehicle operated by a person not required to be

1 permitted as an interstate trucker and used to propel a motor
2 vehicle on the public highways of this state is exempt from the tax
3 imposed by this subchapter.

4 (d) Diesel [~~The tax imposed by this subchapter does not~~
5 ~~apply to:~~

6 [~~(1) diesel fuel delivered by a permitted supplier to~~
7 ~~a common or contract carrier, oceangoing vessel (including ship,~~
8 ~~tanker, or boat), or barge for export from this state, if the diesel~~
9 ~~fuel is moved forthwith outside this state;~~

10 [~~(2) diesel fuel sold by a permitted supplier to the~~
11 ~~federal government for its exclusive use;~~

12 [~~(3) diesel fuel sold or delivered by a permitted~~
13 ~~supplier to another permitted supplier or to the bulk storage~~
14 ~~facility of an agricultural bonded user, or dyed diesel fuel sold or~~
15 ~~delivered by a permitted supplier to the bulk storage facility of a~~
16 ~~dyed diesel fuel bonded user, to the bulk storage facility of a~~
17 ~~diesel tax prepaid user, or to a purchaser who provides a signed~~
18 ~~statement as provided by Section 153.205 of this code, but not~~
19 ~~including a delivery of tax-free diesel fuel into the fuel supply~~
20 ~~tanks of a motor vehicle, except for a motor vehicle owned by the~~
21 ~~federal government;~~

22 [~~(4) diesel fuel sold or delivered by a permitted~~
23 ~~supplier into the storage facility of a permitted aviation fuel~~
24 ~~dealer, from which diesel fuel will be sold or delivered solely into~~
25 ~~the fuel supply tanks of aircraft or aircraft servicing equipment;~~

26 [~~(5) diesel fuel sold or delivered by a permitted~~
27 ~~supplier into fuel supply tanks of railway engines, motorboats, or~~

1 ~~refrigeration units or other stationary equipment powered by a~~
2 ~~separate motor from a separate fuel supply tank;~~

3 ~~[(6) kerosene when delivered by a permitted supplier~~
4 ~~into a storage facility at a retail business from which all~~
5 ~~deliveries are exclusively for heating, cooking, lighting, or~~
6 ~~similar nonhighway use;~~

7 ~~[(7) diesel fuel sold or delivered by one aviation~~
8 ~~fuel dealer to another aviation fuel dealer who will deliver the~~
9 ~~diesel fuel exclusively into the supply tanks of aircraft or~~
10 ~~aircraft servicing equipment;~~

11 ~~[(8) diesel fuel sold by a permitted supplier to a~~
12 ~~public school district in this state for its exclusive use;~~

13 ~~[(9) diesel fuel sold by a permitted supplier to a~~
14 ~~commercial transportation company that provides public school~~
15 ~~transportation services to a school district under Section 34.008,~~
16 ~~Education Code, and used by the company exclusively to provide~~
17 ~~those services;~~

18 ~~[(10) diesel] fuel used by a commercial passenger~~
19 ~~carrier is exempt from the tax imposed by this subchapter [~~sold by a~~~~
20 ~~~~permitted supplier to a person, other than a political subdivision,~~~~
21 ~~~~who owns, controls, operates, or manages a commercial motor vehicle~~~~
22 ~~~~as defined by Section 548.001, Transportation Code,~~] if the fuel:~~

23 (1) [(A)] is delivered exclusively into the fuel
24 supply tank of the commercial motor vehicle; and

25 (2) [(B)] is used exclusively to transport passengers
26 for compensation or hire between points in this state on a fixed
27 route or schedule.

1 (e) The ~~[, or~~

2 ~~[(11) the volume of water that is blended together~~
3 ~~with taxable diesel fuel when the finished product sold or used is~~
4 ~~clearly identified on the retail pump, storage tank, and sales~~
5 ~~invoice as a combination of diesel fuel and water.~~

6 ~~[(b) The tax imposed by this subchapter does not apply to~~
7 ~~the] volume of water, fuel ethanol, biodiesel, or mixtures thereof~~
8 ~~that is [are] blended together with taxable diesel fuel,~~ when the
9 finished product sold or used is clearly identified on the retail
10 pump, storage tank, and sales invoice as a combination of diesel
11 fuel and water, fuel ethanol, biodiesel, or mixtures thereof, and
12 when used to propel a motor vehicle on the public highways of this
13 state, is exempt from the tax imposed by this subchapter.

14 Sec. 153.204. COMPUTATION OF TAX. (a) The amount of the
15 tax shall be computed and paid to the state on the invoiced
16 ~~[temperature-adjusted volume of]~~ gallons of taxable diesel fuel
17 removed from a loading rack in this state ~~[sold to dealers or other~~
18 ~~persons purchasing diesel fuel for resale, where such sales are~~
19 ~~made in single deliveries of 5,000 gallons or more, or in lesser~~
20 ~~quantities where required by city ordinance. The comptroller may~~
21 ~~publish and distribute a table to be used for converting the~~
22 ~~measurement of gross gallons of diesel fuel to temperature-adjusted~~
23 ~~gallons of diesel fuel].~~

24 (b) The amount of the tax on imported diesel fuel shall be
25 computed and paid to the state on the invoiced ~~[gross or volumetric]~~
26 gallons of taxable diesel fuel received outside this state at a
27 refinery, terminal, or bulk plant for delivery to a destination in

1 this state [~~sold where the sales are made in single deliveries of~~
2 ~~less than 5,000 gallons or in quantities less than the maximum~~
3 ~~prescribed by city ordinance, if the maximum is less than 5,000~~
4 ~~gallons]~~.

5 (c) The amount of the tax on blended [~~For a supplier whose~~
6 ~~diesel fuel shall be computed and paid to the state on the number of~~
7 ~~gallons that is equal to the difference between the total number of~~
8 ~~gallons of blended fuel produced and the number of gallons of~~
9 ~~previously taxed fuel used in making the blended fuel~~ [~~deliveries~~
10 ~~are made to retail outlets that are operated by him or deliveries by~~
11 ~~him on consignment, the tax on sales to users and consumers shall be~~
12 ~~computed on the basis of actual sales]~~.

13 (d) The amount of tax on all other diesel fuel shall be
14 computed and paid to the state on the number of gallons sold, used,
15 or removed in this state.

16 (e) The amount of tax due under this subchapter shall be
17 computed on net gallons [~~If the comptroller is not satisfied with a~~
18 ~~tax return or the amount of tax required to be paid to the state by a~~
19 ~~supplier who elects to report on the basis of actual sales, the~~
20 ~~comptroller may compute and determine the amount required to be~~
21 ~~paid on the basis of the beginning inventory, showing the total~~
22 ~~gallons of diesel fuel in storage at the location on the first day~~
23 ~~of the calendar month, plus the total gallons of diesel fuel~~
24 ~~delivered into the storage facility during the month, and less the~~
25 ~~total gallons of diesel fuel in the storage facility at the end of~~
26 ~~the calendar month]~~.

27 SECTION 22. Section 153.205, Tax Code, as amended by

1 Chapters 1263 and 1444, Acts of the 77th Legislature, Regular
2 Session, 2001, is reenacted and amended to read as follows:

3 Sec. 153.205. STATEMENT FOR PURCHASE OF DIESEL FUEL TAX
4 FREE. (a) A person may use a signed statement that complies with
5 this section to purchase dyed diesel fuel in a tax-free transaction
6 under Section 153.2061(c) or 153.2062(c), if the fuel is purchased
7 for the person's own use and if the use is for a purpose exempt under
8 Section 153.203(a).

9 (b) [~~The first sale or use of diesel fuel in this state is~~
10 ~~taxable, except that sales of dyed diesel fuel, or of undyed diesel~~
11 ~~fuel if the fuel will be used for an agricultural nonhighway~~
12 ~~purpose, may be made without collecting the tax if the purchaser~~
13 ~~furnishes to a permitted supplier a signed statement, including an~~
14 ~~end user number or agricultural exemption number issued by the~~
15 ~~comptroller.~~] A person who wants to use a signed statement to
16 purchase dyed diesel fuel for an exempt purpose that is not an
17 agricultural purpose must apply to the comptroller for an end user
18 number [~~to be used in conjunction with a signed statement~~]. A person
19 who wants to use a signed statement to purchase dyed [~~or undyed~~]
20 diesel fuel for an exempt agricultural [~~nonhighway~~] purpose must
21 apply to the comptroller for an agricultural exemption number [~~to~~
22 ~~be used in conjunction with a signed statement~~]. The comptroller
23 may not require an applicant for an end user number or agricultural
24 exemption number to post bond or other security as a condition for
25 issuance of the number [~~A supplier may not make a tax-free sale of~~
26 ~~any diesel fuel to a purchaser using a signed statement unless the~~
27 ~~purchaser has an end user number or agricultural exemption number~~

1 ~~issued by the comptroller under this section].~~

2 (c) [(b)] A signed statement used by the holder of an end
3 user number must include the purchaser's end user number, be signed
4 by ~~[sale of dyed diesel fuel may be made without collecting the tax~~
5 ~~if]~~ the purchaser, state the exempt purpose or purposes for which
6 the dyed diesel fuel will be used, and stipulate ~~[furnishes to a~~
7 ~~permitted supplier a signed statement, including an end user number~~
8 ~~issued by the comptroller, that stipulates]~~ that:

9 (1) all ~~[none]~~ of the dyed diesel fuel purchased with
10 ~~[on]~~ the signed statement will be used exclusively for the stated
11 exempt purpose or purposes ~~[is of a type that may legally be used on~~
12 ~~the public highway];~~

13 (2) all of the dyed diesel fuel purchased with ~~[on]~~ the
14 signed statement will be consumed by the purchaser, or all of the
15 dyed diesel fuel will be consumed by the purchaser in oil or gas
16 production, as applicable, and will not be resold; and

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

21 (d) [(c)] A signed statement used by the holder of an
22 agricultural exemption number must include the purchaser's
23 agricultural exemption number, be signed by the purchaser, and
24 stipulate ~~[sale of dyed or undyed diesel fuel for an agricultural~~
25 ~~nonhighway use may be made without collecting the tax if the~~
26 ~~purchaser furnishes to a permitted supplier a signed statement,~~
27 ~~including an agricultural exemption number issued by the~~

1 ~~comptroller, that stipulates]~~ that:

2 (1) all of the dyed [~~and undyed~~] diesel fuel purchased
3 with [~~on~~] the signed statement will be used exclusively in
4 nonhighway, agricultural [~~nonhighway~~] equipment;

5 (2) all of the dyed [~~and undyed~~] diesel fuel purchased
6 with [~~on~~] the signed statement will be consumed by the purchaser and
7 will not be resold; and

8 (3) none of the dyed [~~or undyed~~] diesel fuel purchased
9 with [~~on~~] the signed statement will be delivered or permitted to be
10 delivered into the fuel supply tank of a motor vehicle operated on
11 the public highways of this state.

12 (e) [~~(d)~~] A person may not use [~~make a tax-free purchase of~~
13 ~~any diesel fuel under this section using~~] a signed statement:

14 (1) for the purchase of more than 7,400 gallons of dyed
15 [~~or undyed~~] diesel fuel in a single transaction or delivery; [~~or~~]

16 (2) for the purchase of dyed diesel fuel in a calendar
17 month in which the person has previously purchased more than:

18 (A) 10,000 gallons of dyed diesel fuel from all
19 sources;

20 (B) 25,000 gallons of dyed diesel fuel from all
21 sources if the exempt purpose stated in the signed statement is the
22 production of [~~purchaser stipulates in the signed statement that~~
23 ~~all of the fuel will be consumed by the purchaser in~~] oil or gas
24 [~~production~~]; or

25 (C) 25,000 gallons of dyed [~~or undyed~~] diesel
26 fuel from all sources if the exempt purpose stated in the signed
27 statement is agriculture; or

1 (3) for the purchase of undyed diesel fuel [~~purchased~~
2 ~~for agricultural purposes by a person who furnishes to the~~
3 ~~permitted supplier, in conjunction with the signed statement, an~~
4 ~~agricultural exemption number issued by the comptroller]~~.

5 ~~[(c) Any gallons purchased in excess of the limitations~~
6 ~~prescribed by Subsection (d) constitute a taxable purchase. The~~
7 ~~purchaser paying the tax on dyed or undyed diesel fuel in excess of~~
8 ~~the limitations prescribed by Subsection (d) may claim a refund of~~
9 ~~the tax paid on any dyed or undyed diesel fuel used for nonhighway~~
10 ~~purposes under Section 153.222.]~~

11 ~~(f) [A supplier may not make a tax-free sale of any diesel~~
12 ~~fuel under this section to a purchaser using a signed statement:~~

13 ~~[(1) for the sale of more than 7,400 gallons of dyed or~~
14 ~~undyed diesel fuel in a single transaction or delivery; or~~

15 ~~[(2) in a calendar month in which the supplier has~~
16 ~~previously sold more than:~~

17 ~~[(A) 10,000 gallons of dyed diesel fuel to the~~
18 ~~purchaser;~~

19 ~~[(B) 25,000 gallons of dyed diesel fuel to the~~
20 ~~purchaser if the purchaser stipulates in the signed statement that~~
21 ~~all of the fuel will be consumed by the purchaser in oil or gas~~
22 ~~production; or~~

23 ~~[(C) 25,000 gallons of dyed or undyed diesel fuel~~
24 ~~to the purchaser if the purchaser furnishes to the permitted~~
25 ~~supplier, in conjunction with the signed statement, an agricultural~~
26 ~~exemption number issued by the comptroller.~~

27 ~~[(g)]~~ Any gallons sold in excess of the limitations

1 prescribed by Subsection (e) [~~(f)~~] constitute a taxable sale. The
2 terminal supplier or distributor shall collect the tax from the
3 purchaser and remit the tax to the comptroller at the time and in
4 the manner provided by this subchapter. The purchaser [~~paying the~~
5 ~~tax on dyed or undyed diesel fuel in excess of the limitations~~
6 ~~prescribed by Subsection (f)~~] may, however, claim a refund of the
7 tax paid on any dyed [~~or undyed~~] diesel fuel used for nonhighway
8 purposes under Section 153.222.

9 (g) [~~(h) The signed statement and end user number or~~
10 ~~agricultural exemption number from the purchaser as provided by~~
11 ~~this section relieves the permitted supplier from the burden of~~
12 ~~proof that the sale of dyed diesel fuel or of undyed diesel fuel for~~
13 ~~an agricultural nonhighway purpose was not taxable to the purchaser~~
14 ~~and remains in effect unless:~~

15 [~~(1) the statement is revoked in writing by the~~
16 ~~purchaser or supplier, or~~

17 [~~(2) the comptroller notifies the supplier in writing~~
18 ~~that the purchaser may no longer make tax-free purchases.~~

19 [~~(i)~~] A taxable use of any part of the dyed [~~or undyed~~]
20 diesel fuel purchased under a signed statement shall, in addition
21 to any criminal penalty, forfeit the right of the person to purchase
22 dyed [~~or undyed~~] diesel fuel tax-free [~~tax free~~] for a period of one
23 year from the date of the offense[, ~~and any tax, interest, and~~
24 ~~penalty found to be due through false or erroneous execution or~~
25 ~~continuance of a promissory statement by the purchaser, if assessed~~
26 ~~to the supplier, is a debt of the purchaser to the supplier until~~
27 ~~paid, and is recoverable at law in the same manner as the purchase~~

1 ~~price of the fuel~~]. The purchaser [~~person~~] may, however, claim a
2 refund of the tax paid on any dyed [~~or undyed~~] diesel fuel used for
3 nonhighway purposes under Section 153.222.

4 SECTION 23. Subchapter C, Chapter 153, Tax Code, is amended
5 by amending Sections 153.206, 153.207, 153.208, and 153.209 and
6 adding Sections 153.2061-153.2067 to read as follows:

7 Sec. 153.206. COLLECTION AND PAYMENT OF TAX; ALLOWANCES.

8 (a) Except as otherwise provided by this section, [~~A supplier who~~
9 ~~makes a sale or use of diesel fuel in this state for a purpose other~~
10 ~~than those exceptions listed in Section 153.203 of this code shall~~
11 ~~at the time of sale or use be liable to the state for~~] the tax
12 imposed by [~~in~~] this subchapter [~~and~~] shall be collected by the
13 terminal supplier from the purchaser on the removal of diesel fuel
14 from a terminal, and the tax shall be paid to the comptroller at the
15 time and [~~report and pay the tax~~] in the manner provided by this [~~in~~
16 ~~the~~] subchapter.

17 (b) The tax imposed by this subchapter on [~~A dealer shall~~
18 ~~collect the tax at the rate imposed on each gallon of~~] diesel fuel
19 imported outside the bulk transfer system shall be computed on the
20 entry of the fuel into this state and shall be paid by the importer
21 to the comptroller at the time and in the manner provided by this
22 subchapter [~~delivered by him into the fuel supply tanks of a motor~~
23 ~~vehicle and shall report and pay to the state any tax collected that~~
24 ~~has not been paid to a permitted supplier~~].

25 (c) The tax imposed by this subchapter on fuel blended
26 outside the bulk transfer system shall be computed at the time of
27 blending and shall be paid by the blender [~~A dyed diesel fuel bonded~~

1 ~~user, agricultural bonded user, or other user, except a diesel tax~~
2 ~~prepaid user, shall report and pay to the state the tax at the rate~~
3 ~~imposed on each gallon of diesel fuel delivered by him into the fuel~~
4 ~~supply tanks of a motor vehicle, unless the tax has been paid to a~~
5 ~~permitted supplier or a dealer, or, as a diesel tax prepaid user,~~
6 ~~the tax has been prepaid directly]~~ to the comptroller at the time
7 and in the manner provided by this subchapter.

8 (d) An interstate trucker who imports diesel fuel into Texas
9 in the fuel supply tanks of a motor vehicle operated for commercial
10 purposes and described by Section 153.001(12)(A), (B), or (C) shall
11 report and pay the tax at the rate imposed on diesel fuel that is
12 imported and used on Texas highways. The number of gallons of
13 diesel fuel used on Texas highways shall be computed by dividing the
14 total miles traveled in all states by the total number of gallons of
15 diesel fuel delivered into the fuel supply tanks of the motor
16 vehicle in all states. The mileage factor obtained shall be divided
17 into the total Texas miles traveled in order to determine the number
18 of gallons of diesel fuel used in Texas. An interstate trucker
19 shall remit all taxes due by him based on the diesel fuel tax rate
20 for each gallon on diesel fuel consumed within the state at the time
21 of the filing of the quarterly report.

22 (e) A person who uses diesel [~~Diesel~~] fuel for a use that is
23 not exempted under Section 153.203 and on which the tax has not been
24 previously paid is liable to this state for the tax and shall report
25 and pay the tax to the comptroller as provided by this subchapter
26 [~~deemed to be used when it is delivered into fuel supply tanks~~].

27 (f) Except as provided by Sections 153.2061, 153.2062,

1 153.2063, 153.2064, and 153.2065, a person who sells or removes
2 [If] diesel fuel on which the tax has not been previously paid
3 shall, at the time of the sale or removal, collect the tax from the
4 purchaser or recipient of the diesel fuel and shall report and pay
5 the tax to the comptroller as provided by this subchapter. The tax
6 is in addition to the selling price, and the tax becomes part of the
7 purchase price and is a debt from the buyer to the seller until paid
8 or until the seller receives a bad debt credit or refund from the
9 comptroller ~~[is purchased, in a single delivery of 5,000 gallons or~~
10 ~~more, or in lesser quantities where required by city ordinance, by~~
11 ~~any person for the purpose of resale, the seller, supplier, or~~
12 ~~broker shall sell the product to the retailer or any other person~~
13 ~~purchasing the product on the basis of temperature-corrected~~
14 ~~gallonage to 60 degrees Fahrenheit and the tax shall be computed and~~
15 ~~paid over to the state on the temperature-corrected basis. All~~
16 ~~other sales shall be reported to the comptroller on the basis of~~
17 ~~gross or volumetric gallons of taxable diesel fuel sold].~~

18 (g) Except as provided by Sections 153.2062(b), 153.2063,
19 153.2064(b), and 153.2065, a person who pays the tax imposed by this
20 subchapter on a purchase of diesel fuel and who resells the diesel
21 fuel shall add the amount of the tax to the selling price and
22 collect the tax from the purchaser so that the tax is paid
23 ultimately by the person who uses the diesel fuel. When the tax is
24 added, the tax becomes part of the purchase price and is a debt from
25 the buyer to the seller until paid or until the seller receives a
26 bad debt credit or refund from the comptroller ~~[For each one degree~~
27 ~~Fahrenheit that the temperature of diesel fuel taken at the time of~~

1 ~~loading for sale or consignment differs from 60 degrees Fahrenheit,~~
2 ~~an adjustment in the contract price shall be made equal to the~~
3 ~~stipulated value of four-hundredths of one percent of the total~~
4 ~~volume delivered].~~

5 (h) The tax on one-half of one [~~two~~] percent of the taxable
6 gallons of diesel fuel removed from a terminal by a terminal
7 supplier [~~sold~~] in this state shall be allocated to the distributor
8 who purchases the diesel fuel from the terminal supplier, for the
9 expenses of [~~making the first taxable sale or use of the diesel fuel~~
10 ~~and timely paying the tax to the state for the expenses of~~
11 ~~collecting, accounting for,~~] reporting[~~, and remitting the tax~~
12 ~~collected~~] and [~~for~~] keeping records as required by this
13 subchapter. The distributor shall pay to the terminal supplier the
14 amount of tax due on the diesel fuel purchased, minus the one-half
15 of one percent.

16 (i) The tax on one-fourth of one percent of the taxable
17 gallons of diesel fuel removed from a terminal by a terminal
18 supplier in this state shall be allocated to the terminal supplier
19 that removes the diesel fuel and timely pays the tax to the state.

20 (j) The amount of tax required to be paid to the comptroller
21 under Section 153.221(a) is the amount of tax due under this
22 section, after the deductions prescribed by Subsections (h) and (i)
23 [~~A dyed diesel fuel bonded user, an agricultural bonded user, or a~~
24 ~~permitted interstate trucker is entitled to deduct one-half of one~~
25 ~~percent of the taxable gallons of diesel fuel on timely payment of~~
26 ~~the taxes to this state for the expense of recordkeeping,~~
27 ~~reporting, and remitting the tax].~~

1 (k) A terminal supplier shall allow a distributor to pay the
2 tax on transactions that occur during a calendar month as late as
3 the 23rd day of the next month if:

4 (1) the distributor agrees to pay the tax by
5 electronic funds transfer or cashier's check;

6 (2) the distributor agrees that payment by electronic
7 funds transfer or cashier's check will be received in the terminal
8 supplier's account or by the terminal supplier not later than 5 p.m.
9 on that 23rd day;

10 (3) the distributor is not delinquent in paying any
11 other amount the distributor owes the terminal supplier; and

12 (4) the distributor has not failed during the
13 preceding year to remit the tax to the terminal supplier by 5 p.m.
14 on the 23rd day of the month after the month of the transaction if
15 the distributor has agreed to those payments [(j) — In each
16 subsequent sale of diesel fuel on which the tax has been collected,
17 the amount of the tax shall be added to the selling price so that the
18 tax is paid ultimately by the person using or consuming the diesel
19 fuel for the purpose of propelling a vehicle on the public highways
20 of this state].

21 Sec. 153.2061. EXCEPTIONS TO COLLECTION OF TAX BY TERMINAL
22 SUPPLIER. (a) A terminal supplier is not required to collect the
23 tax imposed by this subchapter on dyed diesel fuel removed by the
24 terminal supplier to a distributor if the terminal supplier
25 designates to the comptroller:

26 (1) the permit number of the distributor;

27 (2) the number of gallons removed;

1 (3) the date of removal; and

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

3 (b) A terminal supplier is not required to collect the tax
4 imposed by this subchapter on diesel fuel removed by the terminal
5 supplier to an exempt user other than a diesel exempt user if the
6 terminal supplier designates to the comptroller:

7 (1) the name and address of the exempt user;

8 (2) the number of gallons removed;

9 (3) the date of removal;

10 (4) whether the diesel fuel sold was dyed or undyed;

11 and

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

13 (c) A terminal supplier is not required to collect the tax
14 imposed by this subchapter on dyed diesel fuel removed by the
15 terminal supplier to a diesel exempt user if the terminal supplier
16 designates to the comptroller:

17 (1) the permit number, agricultural exemption number,
18 or end user number of the diesel exempt user;

19 (2) the number of gallons removed;

20 (3) the date of removal; and

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

22 (d) A terminal supplier is not required to collect the tax
23 imposed by this subchapter on dyed diesel fuel removed by the
24 terminal supplier to an aviation fuel dealer for delivery into the
25 storage facility of the aviation fuel dealer if the terminal
26 supplier designates to the comptroller:

27 (1) the permit number of the aviation fuel dealer;

1 (2) the number of gallons removed;

2 (3) the date of removal; and

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

4 (e) A terminal supplier is not required to collect the tax
5 imposed by this subchapter on dyed kerosene removed by the terminal
6 supplier to a kerosene dealer for delivery into the storage
7 facility of the kerosene dealer, if the terminal supplier
8 designates to the comptroller:

9 (1) the permit number of the kerosene dealer;

10 (2) the number of gallons removed;

11 (3) the date of removal; and

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

13 (f) A terminal supplier is not required to collect the tax
14 imposed by this subchapter on diesel fuel removed by the terminal
15 supplier to an exporter if:

16 (1) the exporter designates to the terminal supplier
17 the destination for delivery of the fuel to a location outside this
18 state;

19 (2) the exporter is licensed in the state of
20 destination and has supplied the terminal supplier with that
21 license number;

22 (3) the exporter has not been barred from making
23 tax-free exports by the comptroller for making false refund claims;
24 and

25 (4) the terminal supplier collects and remits to the
26 state of destination all taxes imposed on that fuel by the
27 destination state.

1 Sec. 153.2062. EXCEPTIONS TO COLLECTION OF TAX BY
2 DISTRIBUTOR. (a) A distributor is not required to collect the tax
3 imposed by this subchapter on dyed diesel fuel sold to another
4 distributor if the distributor who sells the fuel designates to the
5 comptroller:

6 (1) the permit number of the distributor to whom the
7 fuel is sold;

8 (2) the number of gallons sold;

9 (3) the date of sale; and

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

11 (b) A distributor is not required to collect the tax imposed
12 by this subchapter on diesel fuel sold by the distributor to an
13 exempt user other than a diesel exempt user if the distributor
14 designates to the comptroller:

15 (1) the name and address of the exempt user;

16 (2) the number of gallons sold;

17 (3) the date of sale;

18 (4) whether the diesel fuel sold was dyed or undyed;

19 and

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

21 (c) A distributor is not required to collect the tax imposed
22 by this subchapter on dyed diesel fuel sold by the distributor to a
23 diesel exempt user if the distributor designates to the
24 comptroller:

25 (1) the permit number, agricultural exemption number,
26 or end user number of the diesel exempt user;

27 (2) the number of gallons sold;

1 (3) the date of sale; and

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

3 (d) A distributor is not required to collect the tax imposed
4 by this subchapter on dyed diesel fuel sold by the distributor and
5 delivered into the storage facility of an aviation fuel dealer if
6 the distributor designates to the comptroller:

7 (1) the permit number of the aviation fuel dealer;

8 (2) the number of gallons sold;

9 (3) the date of sale; and

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

11 (e) A distributor is not required to collect the tax imposed
12 by this subchapter on dyed kerosene sold by the distributor and
13 delivered into the storage facility of a kerosene dealer if the
14 distributor designates to the comptroller:

15 (1) the permit number of the kerosene dealer;

16 (2) the number of gallons sold;

17 (3) the date of sale; and

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

19 Sec. 153.2063. EXCEPTION TO COLLECTION OF TAX BY KEROSENE
20 DEALER. A kerosene dealer is not required to collect the tax
21 imposed by this subchapter on kerosene sold by the kerosene dealer
22 for heating, cooking, lighting, or a similar nonhighway purpose if
23 the kerosene dealer retains records for each sale of the fuel
24 stating:

25 (1) the name of the person to whom the kerosene is
26 sold;

27 (2) the number of gallons sold;

- 1 (3) the date of sale;
- 2 (4) whether the kerosene sold was dyed or undyed; and
- 3 (5) any other information required by the comptroller.

4 Sec. 153.2064. EXCEPTION TO COLLECTION OF TAX BY AVIATION
5 FUEL DEALER. (a) An aviation fuel dealer is not required to
6 collect the tax imposed by this subchapter on dyed diesel fuel sold
7 by the aviation fuel dealer and delivered into the storage facility
8 of another aviation fuel dealer if the aviation fuel dealer who
9 sells the fuel designates to the comptroller:

10 (1) the permit number of the aviation fuel dealer to
11 whom the fuel is sold;

12 (2) the number of gallons sold;

13 (3) the date of sale; and

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

15 (b) An aviation fuel dealer is not required to collect the
16 tax imposed by this subchapter on diesel fuel sold by the aviation
17 fuel dealer and delivered into the fuel supply tanks of aircraft or
18 aircraft servicing equipment if the aviation fuel dealer retains
19 records for each sale of that fuel stating:

20 (1) the name and address of the purchaser;

21 (2) the registration or "N" number of the aircraft or
22 the number or a description of the aircraft servicing equipment;

23 (3) the number of gallons sold;

24 (4) the date of sale;

25 (5) whether the diesel fuel sold was dyed or undyed;

26 and

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

1 Sec. 153.2065. EXCEPTION TO COLLECTION OF TAX BY DEALER. A
2 dealer is not required to collect the tax imposed by this subchapter
3 on diesel fuel sold by the dealer to an exempt user other than a
4 diesel exempt user, if the dealer retains records for each sale of
5 that fuel stating:

6 (1) the name and address of the exempt user;

7 (2) the number of gallons sold;

8 (3) the date of sale;

9 (4) whether the diesel fuel sold was dyed or undyed;

10 and

11 (5) any other information required by the comptroller.

12 Sec. 153.2066. LIABILITY OF TERMINAL OPERATOR. (a) A
13 terminal operator is jointly and severally liable to this state for
14 the tax imposed by this subchapter on fuel removed from the terminal
15 by a position holder that is not the terminal operator or a
16 permitted terminal supplier. The terminal operator shall remit the
17 tax to the comptroller at the time and in the manner prescribed for
18 a terminal supplier.

19 (b) A terminal operator is relieved of liability under
20 Subsection (a) if the terminal operator establishes that, at the
21 time of the removal:

22 (1) the terminal operator held a valid terminal
23 operator's permit;

24 (2) the terminal operator had an unexpired
25 notification certificate from the position holder as required by
26 the Internal Revenue Service; and

27 (3) the terminal operator did not have a reason to

1 believe that any information in the certificate was false.

2 Sec. 153.2067. PRESUMPTION; BURDEN OF PROOF. (a) It is
3 presumed that all diesel fuel removed, imported, blended, or sold
4 in this state will be used to propel a motor vehicle on the public
5 highways of this state. It is presumed that all diesel fuel used in
6 this state is used to propel a motor vehicle on the public highways
7 of this state.

8 (b) A terminal supplier has the burden of proving that an
9 exception for collection of the tax under Section 153.2061 applies
10 to a removal of diesel fuel by the terminal supplier. The burden is
11 satisfied if the terminal supplier designates to the comptroller
12 the information required by Section 153.2061 for each removal of
13 diesel fuel.

14 (c) A distributor has the burden of proving that an
15 exception for collection of the tax under Section 153.2062 applies
16 to a sale of diesel fuel by the distributor. For a sale to a person
17 other than a signed statement user, the burden is satisfied if the
18 distributor designates to the comptroller the information required
19 by Section 153.2062 for each sale of diesel fuel. For a sale to a
20 signed statement user, the burden is satisfied if the distributor
21 designates to the comptroller the information required by Section
22 153.2062(c), receives from the purchaser a signed statement that
23 satisfies the requirements of Section 153.205, and if, requested by
24 the comptroller, provides the signed statement to the comptroller.

25 (d) A kerosene dealer has the burden of proving that an
26 exception for collection of the tax under Section 153.2063 applies
27 to a sale of diesel fuel by the kerosene dealer. The burden is

1 satisfied if the kerosene dealer retains records containing the
2 information required by Section 153.2063 for each sale of diesel
3 fuel and, if requested by the comptroller, supplies the information
4 to the comptroller.

5 (e) An aviation fuel dealer has the burden of proving that
6 an exception for collection of the tax under Section 153.2064
7 applies to a sale of diesel fuel by the aviation fuel dealer. The
8 burden is satisfied if the aviation fuel dealer retains records
9 containing the information required by Section 153.2064 for each
10 sale of diesel fuel and, if requested by the comptroller, supplies
11 the information to the comptroller.

12 (f) A dealer has the burden of proving that an exception for
13 collection of the tax under Section 153.2065 applies to a sale of
14 diesel fuel by the dealer. The burden is satisfied if the dealer
15 retains records containing the information required by Section
16 153.2065 for each sale of diesel fuel and, if requested by the
17 comptroller, supplies the information to the comptroller.

18 (g) A user has the burden of proving that an exemption under
19 Section 153.203 applies to a use of diesel fuel by the user.

20 Sec. 153.207. PERMITS; APPLICATION. (a) A terminal
21 operator, terminal supplier, importer, exporter, blender,
22 distributor [~~dyed diesel fuel bonded user, agricultural bonded~~
23 ~~user~~], interstate trucker[~~, diesel tax prepaid user~~], commercial
24 passenger carrier, dealer, kerosene dealer, or aviation fuel
25 dealer[~~, or diesel fuel jobber~~] shall file an application with the
26 comptroller for a permit to engage in that business in this state.
27 A person who wishes to purchase dyed diesel fuel as a dyed diesel

1 fuel bonded user or agricultural bonded user shall file an
2 application with the comptroller for a permit under Section 153.209
3 [one of the nonassignable permits provided for in this subchapter].

4 (b) The comptroller shall promulgate the application form,
5 which must contain the following information:

6 (1) the name under which the applicant transacts or
7 intends to transact business and, for a terminal supplier's permit,
8 the applicant's registration number under Section 4101, Internal
9 Revenue Code of 1986;

10 (2) the principal office, residence, or place of
11 business in Texas of the applicant;

12 (3) if the applicant is not an individual, names of the
13 principal officers of an applicant corporation, names of each
14 partner in an applicant partnership, and the office, street, or
15 post office address of each; and

16 (4) other information required by the comptroller.

17 (c) The comptroller shall determine from the information
18 shown in the application or other investigation the kind and class
19 of permit to be issued.

20 (d) The comptroller may issue a single permit containing
21 multiple designations to an applicant who wishes to engage in more
22 than one category of business for which a permit is required.

23 (e) The comptroller may deny or revoke a permit if false
24 information is submitted on the application or on a required fuels
25 tax report or supplement.

26 Sec. 153.208. PERMITS NOT ASSIGNABLE [~~SUPPLIER'S PERMIT~~].
27 A permit issued under this subchapter may not be assigned. [~~(a)~~ A

1 ~~person performing the functions of a supplier shall obtain a~~
2 ~~supplier's permit.~~

3 ~~[(b) A supplier's permit authorizes a person to sell~~
4 ~~tax-free diesel fuel to:~~

5 ~~[(1) another supplier;~~

6 ~~[(2) a dyed diesel fuel bonded user or agricultural~~
7 ~~bonded user;~~

8 ~~[(3) an aviation fuel dealer;~~

9 ~~[(4) a diesel prepaid user if delivered into his bulk~~
10 ~~storage facilities only; and~~

11 ~~[(5) a person issuing a signed statement.~~

12 ~~[(c) A supplier's permit authorizes a person to supply~~
13 ~~tax-paid diesel fuel to suppliers and other purchasers.~~

14 ~~[(d) A supplier may not make a tax-free sale or delivery of~~
15 ~~diesel fuel into the fuel supply tanks of a motor vehicle other than~~
16 ~~a motor vehicle owned by the United States.]~~

17 Sec. 153.209. DYED DIESEL FUEL BONDED USER AND AGRICULTURAL
18 BONDED USER PERMITS. (a) A person who holds a dyed diesel fuel
19 bonded user permit may purchase any quantity ~~[authorizes a user to~~
20 ~~purchase more than 10,000 gallons a month]~~ of dyed diesel fuel in a
21 tax-free transaction under Section 153.2061(c) or 153.2062(c) if:

22 (1) the fuel is purchased for the person's own use;

23 (2) the use is for a purpose exempt under Section
24 153.203(a) and is not for an agricultural purpose; and

25 (3) the quantity purchased is the amount reasonably
26 necessary for the person's own use for an exempt purpose ~~[for the~~
27 ~~user's own use].~~

1 (b) A person who holds an [An] agricultural bonded user
2 permit may purchase any quantity of [authorizes a user to purchase
3 more than 10,000 gallons of] dyed [and undyed] diesel fuel in a
4 tax-free transaction under Section 153.2061(c) or 153.2062(c) if:

5 (1) the fuel is purchased for the person's own use;

6 (2) the use is for an agricultural purpose that is
7 exempt under Section 153.203(a); and

8 (3) the quantity purchased is the amount reasonably
9 necessary for the person's [for the user's] own use for nonhighway,
10 agricultural purposes [only].

11 [~~(c) This section does not affect the right of a purchaser to~~
12 ~~purchase not more than 25,000 gallons of dyed diesel fuel for the~~
13 ~~purchaser's own use in oil or gas production, or of dyed or undyed~~
14 ~~diesel fuel for the purchaser's own use for agricultural purposes~~
15 ~~only, using a signed statement under Section 153.205.]~~

16 SECTION 24. Sections 153.215(a) and (b), Tax Code, are
17 amended to read as follows:

18 (a) A terminal supplier permit, an importer permit, an
19 exporter permit, a blender permit, a distributor permit, a kerosene
20 dealer permit, an aviation fuel dealer [supplier's] permit, a dyed
21 diesel fuel bonded user permit, and an agricultural bonded user
22 permit are [permanent and] valid as long as the holder [permittee]
23 has in force and effect the required bond or security and furnishes
24 timely reports and supplements as required, or until [the permit
25 is] surrendered by the holder or canceled by the comptroller. The
26 comptroller shall cancel a permit if no purchase, sale, or use of
27 diesel fuel has been reported by the holder [permittee] for the

1 prior nine months.

2 (b) A terminal operator permit and a dealer [~~An aviation~~
3 ~~fuel dealer's~~] permit are [~~is permanent and is~~] valid until [~~the~~
4 ~~permit is~~] surrendered by the holder or canceled by the
5 comptroller.

6 SECTION 25. Section 153.216(a), Tax Code, is amended to
7 read as follows:

8 (a) A permit must be posted in a conspicuous place or kept
9 available for inspection at the principal place of business of the
10 permit holder [~~owner~~]. A copy of the permit must be kept at each
11 place of business or other place of storage from which diesel fuel
12 is removed, sold, [~~distributed~~,] or used, and in each motor vehicle
13 used by the permit holder to transport diesel fuel purchased by him
14 for resale [~~, distribution,~~] or use.

15 SECTION 26. Section 153.217, Tax Code, is amended to read as
16 follows:

17 Sec. 153.217. LIST OF PERMIT HOLDERS [~~SUPPLIERS, DYED~~
18 ~~DIESEL FUEL BONDED USERS, AGRICULTURAL BONDED USERS, AVIATION FUEL~~
19 ~~DEALERS, AND DIESEL FUEL JOBBERS~~]. [~~(a)~~] The comptroller, on or
20 before December 20 of each calendar year, shall mail or distribute
21 to each terminal operator, terminal supplier, and distributor a
22 printed alphabetical list of the names of persons who hold end user
23 numbers and agricultural exemption numbers and of the names of
24 permitted terminal operators, terminal suppliers, distributors,
25 dyed diesel fuel bonded users, agricultural bonded users,
26 commercial passenger carriers, aviation fuel dealers, and kerosene
27 dealers [~~diesel fuel jobbers. A permitted supplier, an~~

1 ~~agricultural bonded user, and an aviation fuel dealer on the list~~
2 ~~are qualified to purchase dyed or undyed diesel fuel tax free during~~
3 ~~the following calendar year. A dyed diesel fuel bonded user on the~~
4 ~~list is qualified to purchase dyed diesel fuel tax free during the~~
5 ~~following calendar year. A diesel fuel jobber on the list is~~
6 ~~qualified to purchase diesel fuel tax-paid during the following~~
7 ~~calendar year]. A supplemental list of additions and deletions~~
8 shall be delivered to each terminal operator, terminal supplier,
9 and distributor each month. A current and effective permit or the
10 list furnished by the comptroller is evidence of the validity of the
11 permit or end user number until the comptroller notifies terminal
12 operators, terminal suppliers, and distributors of a change in the
13 status of a permit holder or end user number.

14 ~~[(b) The comptroller, on or before January 31 of each~~
15 ~~calendar year, shall mail or distribute to each supplier a printed~~
16 ~~alphabetical list of diesel tax prepaid user permittees who are~~
17 ~~qualified to purchase diesel fuel tax free during the ensuing~~
18 ~~calendar year. A supplemental list of additions and deletions~~
19 ~~shall be delivered to each supplier each month.]~~

20 SECTION 27. Section 153.218, Tax Code, is amended by
21 amending Subsections (a), (b), (c), and (j), and adding Subsections
22 (a-1) and (a-2) to read as follows:

23 (a) The comptroller shall determine the amount of security
24 required of a person permitted as a terminal operator, [~~supplier,~~
25 ~~dyed diesel fuel bonded user, agricultural bonded user, or diesel~~
26 ~~fuel jobber]~~ taking into consideration the amount of motor fuel
27 [~~the tax]~~ that has or is expected to be removed [~~become due~~] from

1 the terminal operated by the person in a calendar month, any past
2 history of the person as a terminal operator [~~supplier, dyed diesel~~
3 ~~fuel bonded user, agricultural bonded user, or diesel fuel jobber~~],
4 and the necessity to protect the state against the failure of the
5 person to satisfy a liability arising under Section 153.2066 [~~to~~
6 ~~pay the tax as it becomes due~~].

7 (a-1) The comptroller shall determine the amount of
8 security required of a person permitted as a terminal supplier,
9 importer, or blender, taking into consideration the amount of tax
10 that has or is expected to become due from the person in a calendar
11 month, any past history of the person as a terminal supplier,
12 importer, or blender, and the necessity to protect the state
13 against the failure of the person to pay or collect and remit the
14 tax imposed by this subchapter.

15 (a-2) The comptroller shall determine the amount of
16 security, if any, required of a person permitted as a distributor,
17 exporter, dealer, kerosene dealer, or aviation fuel dealer, taking
18 into consideration the amount of tax that the person has or is
19 expected to be required to pay to terminal suppliers or
20 distributors from whom the person obtains motor fuel in a calendar
21 month, any past history of the person as a distributor, exporter,
22 dealer, kerosene dealer, or aviation fuel dealer, and the necessity
23 to protect the state against the failure of the person to pay the
24 tax imposed by this subchapter to the terminal suppliers or
25 distributors from whom the person obtains motor fuel as required by
26 Section 153.206(g).

27 (b) If it is determined that the posting of security is

1 necessary to protect the state, the comptroller may require a
2 commercial passenger carrier [~~supplier~~], dyed diesel fuel bonded
3 user, or agricultural bonded user to post a surety bond equal to two
4 times the most amount of tax that could accrue on tax-free diesel
5 fuel purchased or acquired during a reporting period. [~~A diesel
6 fuel jobber shall post a bond in an amount determined by the
7 comptroller according to the past payment history of the jobber.
8 The minimum bond for a supplier or diesel fuel jobber is \$30,000,
9 and the maximum bond is \$600,000.~~] The minimum bond for a dyed
10 diesel fuel bonded user or agricultural bonded user is \$10,000, and
11 the maximum bond is \$600,000. However, if the comptroller
12 determines there is undue risk of loss of tax revenues, the
13 comptroller may require one or more bonds or securities in a total
14 amount exceeding \$600,000.

15 (c) A person that [~~supplier, dyed diesel fuel bonded user,
16 agricultural bonded user, or diesel fuel jobber who~~] has filed a
17 bond or other security under this subchapter [~~is exempted from the
18 bond or other security requirements of this subchapter and~~] is
19 entitled, on request, to have the comptroller return, refund, or
20 release the bond or security if in the judgment of the comptroller
21 the person has for four consecutive years continuously complied
22 with the conditions of the bond or other security filed under this
23 subchapter. However, if the comptroller determines that the
24 revenues of the state would be jeopardized by the return, refund, or
25 release of the bond or security, the comptroller may elect not to
26 return, refund, or release the bond or security, and may continue to
27 require [~~reimpose a requirement of~~] a bond or other security as the

1 comptroller determines is necessary to protect the revenues of the
2 state.

3 (j) The comptroller shall notify immediately the issuer of a
4 letter of credit of a final deficiency determination [~~of the~~
5 ~~supplier's, dyed diesel fuel bonded user's, or agricultural bonded~~
6 ~~user's delinquent liability~~] or [a] judgment for delinquent motor
7 fuels tax, penalties, interest, and costs against a person [~~secured~~
8 ~~in any action by this state to recover diesel taxes, costs,~~
9 ~~penalties, and interest found to be due this state by a supplier,~~
10 ~~dyed diesel fuel bonded user, or agricultural bonded user~~] in whose
11 behalf the letter of credit was issued. The letter of credit
12 allowed as security for the remittance of taxes under this
13 subchapter shall contain a statement that the issuer agrees to
14 respond to the comptroller's notice of liability with amounts to
15 satisfy the deficiency determination or judgment [~~comptroller's~~
16 ~~delinquency claim against the supplier, dyed diesel fuel bonded~~
17 ~~user, or agricultural bonded user~~].

18 SECTION 28. Subchapter C, Chapter 153, Tax Code, is amended
19 by amending Sections 153.219, 153.220, 153.221, 153.222, and
20 153.2225 and adding Section 153.2201 to read as follows:

21 Sec. 153.219. RECORDS. (a) In addition to the records
22 required by this section, a terminal operator, terminal [A]
23 supplier, importer, exporter, blender, distributor, interstate
24 trucker, commercial passenger carrier, dealer, kerosene dealer,
25 aviation fuel dealer, dyed diesel fuel bonded user, agricultural
26 bonded user, or signed statement user shall keep any records of
27 motor fuel removed, sold, or used in this state, and any invoices,

1 bills of lading, and other pertinent records and papers, as the
2 comptroller may require for the efficient administration of this
3 chapter [~~a record showing the number of gallons of:~~

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

6 [~~(2) all diesel fuel refined, compounded, or blended;~~

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

9 [~~(4) all diesel fuel sold, distributed, or used~~
10 ~~showing the name of each purchaser and the date of sale,~~
11 ~~distribution, or use; and~~

12 [~~(5) all diesel fuel lost by fire, theft, or~~
13 ~~accident].~~

14 (b) An exempt user, diesel exempt user, [~~A dealer shall keep~~
15 ~~a record showing the number of gallons of:~~

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

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

20 [~~(3) all diesel fuel sold, distributed, or used; and~~

21 [~~(4) all diesel fuel lost by fire, theft, or accident.~~

22 [~~(c) A dyed diesel fuel bonded user, an agricultural bonded~~
23 ~~user,~~] or other person [~~user with nonhighway equipment uses~~] who
24 purchases dyed diesel fuel or files a claim for a refund for undyed
25 diesel fuel used for nonhighway purposes shall keep a record
26 showing the number of gallons of:

27 (1) inventories of all dyed and undyed diesel fuel on

1 hand at the first of each month;

2 (2) all dyed and undyed diesel fuel purchased or
3 received, showing the permit number [~~name~~] of the seller and the
4 date of each purchase;

5 (3) all diesel fuel deliveries into the fuel supply
6 tanks of motor vehicles, showing the type of fuel delivered;

7 (4) diesel fuel used for other purposes, showing the
8 type of fuel delivered and the purpose for which used; and

9 (5) all dyed and undyed diesel fuel lost by fire,
10 theft, or accident.

11 (c) A kerosene dealer, [~~(d) An~~] aviation fuel dealer, or
12 dealer shall keep a record showing the number of gallons of:

13 (1) all dyed and undyed diesel fuel inventories on
14 hand at the first of each month;

15 (2) all dyed and undyed diesel fuel purchased or
16 received, showing the permit number [~~name~~] of the seller and the
17 date of each purchase or receipt;

18 (3) all dyed and undyed diesel fuel sold[~~r~~
19 ~~distributed,~~] or used [~~in aircraft or aircraft servicing~~
20 ~~equipment~~]; and

21 (4) all dyed and undyed diesel fuel lost by fire,
22 theft, or accident.

23 (d) [~~(e)~~] The records of a kerosene dealer, [~~an~~] aviation
24 fuel dealer, or dealer made under Subsection (c)(3) [~~(d)(3) of this~~
25 section] must contain the information required by Section 153.2063,
26 153.2064, or 153.2065, as appropriate [~~show:~~

27 [~~(1) the name of the purchaser or user of diesel fuel,~~

1 ~~[(2) the date of the sale, distribution, or use of the~~
2 ~~diesel fuel, and~~

3 ~~[(3) the registration or "N" number of the airplane or~~
4 ~~a description or number of the aircraft servicing equipment in~~
5 ~~which diesel fuel is used].~~

6 (e) ~~[(f)]~~ A permitted interstate trucker shall keep a
7 record of:

8 (1) the total miles traveled in all states by all
9 vehicles traveling into or from Texas and the total quantity of
10 diesel fuel consumed in those vehicles; and

11 (2) the total miles traveled in Texas and the total
12 quantity of diesel fuel delivered into the fuel supply tanks of
13 motor vehicles in Texas.

14 (f) A person required to file a report under Section 153.221
15 or who files a refund claim shall keep all records necessary to
16 substantiate the report or refund claim.

17 ~~(g) [The comptroller may require selective schedules from a~~
18 ~~supplier, dealer, aviation fuel dealer, interstate trucker, diesel~~
19 ~~fuel jobber, or common or contract carrier for a purchase, sale, or~~
20 ~~delivery of diesel fuel if the schedules are not inconsistent with~~
21 ~~the requirements of this chapter.~~

22 ~~[(h)]~~ The records required to ~~[must]~~ be kept under this
23 section shall be retained and made available for inspection by the
24 comptroller or the attorney general until the fourth anniversary of
25 the 25th day of the month following the end of the month during
26 which the transaction to which the record pertains occurred. The
27 ~~[for four years and are open to inspection at all times by the]~~

1 comptroller or the attorney general may require a person required
2 to keep the records to prepare schedules of a reasonable number of
3 records for inspection.

4 ~~[(i) A diesel fuel jobber shall keep a record showing the~~
5 ~~number of gallons of:~~

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

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

10 ~~[(3) all diesel fuel sold, distributed, or used,~~
11 ~~showing the name of the purchaser and the date of the sale or use;~~
12 ~~and~~

13 ~~[(4) all diesel fuel lost by fire, theft, or accident.~~

14 ~~[(j) A supplier shall keep:~~

15 ~~[(1) an itemized statement showing by load the number~~
16 ~~of gallons of all diesel fuel received during the preceding~~
17 ~~calendar month for export;~~

18 ~~[(2) an itemized statement showing by load the number~~
19 ~~of gallons of all diesel fuel exported from this state by~~
20 ~~destination state or country;~~

21 ~~[(3) an itemized statement showing by load the number~~
22 ~~of gallons of all diesel fuel imported during the preceding~~
23 ~~calendar month by state or country of origin;~~

24 ~~[(4) an itemized statement differentiating between~~
25 ~~dyed and undyed diesel fuel and showing by purchaser, end user~~
26 ~~number, or agricultural exemption number the number of gallons of~~
27 ~~dyed and undyed diesel fuel sold tax free to a purchaser using a~~

1 ~~signed statement in accordance with Section 153.205; and~~

2 ~~[(5) an itemized statement showing by purchaser and~~
3 ~~permit number the number of gallons of dyed and undyed diesel fuel~~
4 ~~sold tax free to dyed diesel fuel bonded users and agricultural~~
5 ~~bonded users.]~~

6 Sec. 153.220. INVOICES. (a) A person who purchases diesel
7 fuel for delivery ~~[of diesel fuel]~~ into the fuel supply tank ~~[tanks]~~
8 of a motor vehicle ~~[operated for commercial purposes and]~~ described
9 by Section 153.001(12) shall obtain an invoice from the seller. The
10 person must carry the invoice in the vehicle until the next purchase
11 of fuel for delivery into that vehicle ~~[be evidenced by an invoice~~
12 ~~issued in duplicate by a dealer or an invoice or a distribution log~~
13 ~~issued by a dyed diesel fuel bonded user, an agricultural bonded~~
14 ~~user, or other user].~~

15 (b) ~~[An invoice must be carried in the vehicle until the~~
16 ~~next purchase or delivery of fuel into that vehicle. A distribution~~
17 ~~log must be carried with the vehicle until the end of the calendar~~
18 ~~month.~~

19 ~~[(c)]~~ A person who purchases diesel fuel in a tax-paid
20 transaction and who will claim a refund of the tax paid must obtain
21 an invoice from the seller.

22 (c) An invoice issued by a seller ~~[dealer shall also issue~~
23 ~~an invoice for a sale, distribution, or use for a purpose other than~~
24 ~~propelling a motor vehicle on the public highways of this state.~~

25 ~~[(d) The invoice or distribution log] must [contain]:~~

26 (1) have the name and address of the seller ~~[person~~
27 ~~making the delivery] stamped or preprinted ~~[on it];~~~~

1 (2) separately state [~~a statement of~~] the amount of
2 the [~~diesel fuel~~] tax paid and [~~separate from~~] the selling price of
3 the fuel, or state [~~a statement~~] that the [~~diesel fuel~~] tax is
4 included in the selling price; and

5 (3) contain [~~a statement that no diesel fuel tax was~~
6 ~~collected by the seller if the invoice is to be used by the seller to~~
7 ~~support a refund claim; and~~

8 [~~(4)~~] spaces for providing [~~the following~~]:

9 (A) the name of the purchaser;

10 (B) the date of delivery of the fuel;

11 (C) the number of gallons delivered;

12 (D) the odometer or hubmeter reading;

13 (E) the state highway license or unit number;

14 (F) the type of vehicle or equipment, such as a
15 motorboat, railway engine, highway vehicle, off-highway vehicle,
16 [~~or~~] refrigeration unit, or stationary engine into which the fuel
17 is delivered; and

18 (G) the signature of the recipient.

19 (d) [~~(e)~~] If the delivery of tax-paid diesel fuel is made
20 through an automated method in which [~~whereby~~] the purchase is
21 automatically applied to the purchaser's account, one invoice may
22 be issued at the time of billing covering multiple purchases made
23 during a 30-day billing cycle.

24 (e) The seller shall complete the invoice in duplicate and
25 shall deliver the original invoice to the purchaser not later than
26 the 30th day after the date on which the fuel was sold. The seller
27 shall retain the duplicate.

1 (f) If the fuel delivery into the fuel supply tanks of a
2 motor vehicle is through a method in which [~~where~~] there is no
3 seller or agent present, [~~then~~] the purchaser or recipient must
4 prepare the required invoice at the time of delivery.

5 Sec. 153.2201. TAX PAYMENTS BY AN INTERSTATE TRUCKER;
6 ALLOWANCE. (a) An interstate trucker who imports diesel fuel into
7 Texas in the fuel supply tanks of a motor vehicle operated for
8 commercial purposes and described by Section 153.001(12) shall
9 report and pay the tax, as required by Section 153.221, at the
10 imposed rate on diesel fuel that is imported and used on Texas
11 highways. The number of gallons of diesel fuel used on Texas
12 highways shall be computed by dividing the total miles traveled in
13 all states by the total number of gallons of diesel fuel delivered
14 into the fuel supply tanks of the motor vehicle in all states. The
15 mileage factor obtained shall be divided into the total Texas miles
16 traveled in order to determine the number of gallons of diesel fuel
17 used in Texas.

18 (b) An interstate trucker shall remit all taxes due by the
19 person based on the applicable tax rate for each gallon of diesel
20 fuel consumed within the state at the time of the filing of the
21 person's quarterly reports.

22 (c) A permitted interstate trucker is entitled to deduct
23 one-half of one percent of the taxable gallons of diesel fuel on
24 timely payment of the taxes to the state for the expense of
25 recordkeeping, reporting, and remitting the tax.

26 Sec. 153.221. REPORTS AND PAYMENTS. (a) On or before the
27 25th day of each month, a terminal supplier, importer, or blender [a

1 ~~dealer required to collect the tax under Section 153.206(b), or a~~
2 ~~dyed diesel fuel bonded user, agricultural bonded user, or other~~
3 ~~user required to pay the tax under Section 153.206(c)] shall file a~~
4 report of diesel fuel transactions [~~or of diesel fuel delivered by a~~
5 ~~dyed diesel fuel bonded user, agricultural bonded user, or other~~
6 ~~user into the fuel tank of a motor vehicle owned or operated by the~~
7 ~~user]~~ and such supplements as the comptroller may require, and
8 shall remit the amount of tax required to be collected or to be paid
9 during the preceding calendar month. In addition to any other
10 information required by the comptroller, the report shall contain,
11 for each blending, removal, importation, or sale of fuel that
12 occurred during the preceding calendar month:

13 (1) the name of the exempt user or the permit number,
14 end user number, or agricultural exemption number of the person to
15 whom the fuel was removed or sold or for whom it was blended or
16 imported;

17 (2) the number of gallons blended, removed, imported,
18 or sold;

19 (3) whether the diesel fuel was dyed or undyed;

20 (4) the load number of the fuel blended, removed,
21 imported, or sold; and

22 (5) for imported fuel, the import verification number
23 and diversion number, if any.

24 (b) On or before the 25th day of each month, a distributor or
25 exporter shall file a report of diesel fuel transactions that
26 occurred during the preceding calendar month and any supplements to
27 that report the comptroller may require. In addition to any other

1 information required by the comptroller, the report shall contain,
2 for each sale or export that occurred during the preceding calendar
3 month:

4 (1) the name of the exempt user or the permit number,
5 end user number, or agricultural exemption number of the person to
6 whom the fuel was sold, or the destination to which the fuel was
7 exported;

8 (2) the number of gallons of diesel fuel sold or
9 exported;

10 (3) whether the diesel fuel was dyed or undyed;

11 (4) the load number of the diesel fuel sold or
12 exported; and

13 (5) for exported fuel, the diversion number, if any [A
14 ~~report must be filed on a form or in a manner provided by the~~
15 ~~comptroller and contain information required by the comptroller,~~
16 ~~showing complete and detailed information of diesel fuel~~
17 ~~transactions or use during the preceding month. A supplier~~
18 ~~required to file a report under this section who has not sold, used,~~
19 ~~or distributed any diesel fuel during the reporting period shall~~
20 ~~file with the comptroller the report setting forth the facts or~~
21 ~~information. The failure of a supplier, dealer, or dyed diesel fuel~~
22 ~~bonded user, agricultural bonded user, or other user to obtain~~
23 ~~forms or software from the comptroller is no excuse for the failure~~
24 ~~to file a report. The report must be executed by the supplier,~~
25 ~~dealer, or user, or his representative, and is subject to the~~
26 ~~penalties provided in this chapter].~~

27 (c) [(b)] On or before the 25th day of the month following

1 the end of each calendar quarter, [~~a dyed diesel fuel bonded user,~~
2 ~~an agricultural bonded user, or~~] an interstate trucker shall file a
3 report and remit the amount of tax due for the preceding calendar
4 quarter[~~. A report must be executed and filed with the comptroller~~
5 ~~and contain complete and detailed information on diesel fuel~~
6 ~~transactions during the preceding calendar quarter and other~~
7 ~~information required by the comptroller on forms or in a manner~~
8 ~~provided for that purpose. A dyed diesel fuel bonded user, an~~
9 ~~agricultural bonded user, or an interstate trucker required to file~~
10 ~~a report under this section who has not sold, used, or distributed~~
11 ~~any diesel fuel during the reporting period shall file with the~~
12 ~~comptroller the report setting forth the facts or information. The~~
13 ~~failure of a dyed diesel fuel bonded user, an agricultural bonded~~
14 ~~user, or an interstate trucker to obtain forms or software from the~~
15 ~~comptroller is no excuse for the failure to file a report containing~~
16 ~~all the information required to be reported~~].

17 (d) On or before the 25th day of each month, a terminal
18 operator shall file a report of diesel fuel received and stored
19 during the preceding calendar month and any supplements to that
20 report the comptroller may require. In addition to any other
21 information required by the comptroller, the report shall contain:

22 (1) the name, address, and permit number of the person
23 receiving or storing the diesel fuel;

24 (2) the name of the vessel or other method of transport
25 by which the diesel fuel is transported to the terminal; and

26 (3) the number of gallons and type of diesel fuel being
27 stored.

1 (e) On or before the 25th day of the month following the end
2 of each calendar quarter, a person required by Section 153.206(e)
3 or (f) to pay the tax imposed by this subchapter and who is not a
4 terminal operator, terminal supplier, importer, blender,
5 distributor, exporter, or interstate trucker shall file a report
6 and remit the amount of tax due for the preceding calendar quarter.

7 (f) [~~e~~] No report is required to be filed by:

- 8 (1) an aviation fuel dealer;
- 9 (2) a trip permit user;
- 10 (3) a dealer [~~diesel tax prepaid user~~];
- 11 (4) a kerosene dealer [~~person issuing signed~~
12 ~~statements~~]; [~~or~~]
- 13 (5) an agricultural bonded user;
- 14 (6) a dyed diesel fuel bonded user;
- 15 (7) a person who purchased fuel using a signed
16 statement; or
- 17 (8) a commercial passenger carrier [~~a diesel fuel~~
18 ~~jobber~~].

19 (g) A person required to file a report under this section
20 that has not removed, imported, exported, blended, sold, or used
21 any diesel fuel during the reporting period shall file with the
22 comptroller a report stating that diesel fuel was not removed,
23 imported, exported, blended, sold, or used during the reporting
24 period.

25 (h) A report required by this section must be signed by the
26 person required to file the report or the person's representative.

27 (i) A report required by this section must be filed on a form

1 or using electronic filing software prescribed by the comptroller.
2 The failure to obtain a form or software from the comptroller does
3 not excuse a failure to file a report.

4 (j) The comptroller may allow a person who holds a permit
5 containing multiple designations under Section 153.207(d) to file a
6 single report containing all of the information required for each
7 of the designations.

8 Sec. 153.222. REFUNDS OF TAXES PAID ON EXEMPTED [~~EXCEPTED~~]
9 USES OF DIESEL FUEL. (a) The following persons may file a refund
10 with the comptroller for taxes paid under this subchapter:

11 (1) a distributor [~~A dealer or diesel fuel jobber~~] who
12 has paid tax on undyed diesel fuel that has been [~~used or~~] sold to an
13 exempt user in a tax-free transaction under Section 153.2062(b);

14 (2) a kerosene [~~for use by the~~] dealer who has paid tax
15 on undyed [~~or~~] diesel fuel that has been held for sale in tax-free
16 transactions under Section 153.2063;

17 (3) an aviation fuel dealer [~~jobber for any purpose~~
18 ~~other than propelling a motor vehicle on the public highways of this~~
19 ~~state or that has been sold to the United States or a public school~~
20 ~~district in this state for the exclusive use of the purchaser, or to~~
21 ~~a commercial transportation company for exclusive use in providing~~
22 ~~public school transportation services to a school district under~~
23 ~~Section 34.008, Education Code, without adding the amount of the~~
24 ~~tax to his selling price, and a user~~] who has paid tax on undyed
25 [~~any~~] diesel fuel that will be held for sale in tax-free
26 transactions under Section 153.2064(b);

27 (4) an exempt user other than a diesel exempt user who

1 ~~[has been used by him for a purpose other than propelling a motor~~
2 ~~vehicle on the public highways, is a public school district and has~~
3 ~~paid the tax on diesel fuel purchased for its exclusive use, is a~~
4 ~~commercial transportation company and]~~ has paid [the] tax on diesel
5 fuel that will be used by that person for a purpose exempt under
6 Section 153.203(b); or

7 (5) a diesel exempt user or any other person that ~~[used~~
8 ~~by the company exclusively to provide public school transportation~~
9 ~~services to a school district under Section 34.008, Education Code,~~
10 ~~or is a person who]~~ has paid tax on diesel fuel that will be used by
11 that person for any purpose other than propelling a motor vehicle on
12 the public highways of this state ~~[used in a commercial motor~~
13 ~~vehicle as provided by Section 153.203(10) may file a claim for a~~
14 ~~refund of taxes paid, less the deduction allowed vendors].~~

15 (b) A person may file a refund claim for tax paid on the
16 diesel fuel used in motor vehicles that are operated exclusively
17 off the public highways except for incidental travel on the public
18 highways as determined by the comptroller, but not for tax paid on
19 that portion of diesel fuel used in the incidental travel.

20 (c) A permitted interstate trucker is entitled to a credit
21 equivalent to the tax rate for each gallon paid on all diesel fuel
22 on which the diesel fuel tax has been paid and later consumed in
23 motor vehicles outside the state. If the amount of credit to which
24 the interstate trucker is entitled for any calendar quarter exceeds
25 the amount of tax for which the interstate trucker is liable for
26 diesel fuel consumed in the motor vehicles during the reporting
27 period, the excess shall be allowed as a credit or refund on a

1 timely filed quarterly report against the tax for which the
2 interstate trucker would be otherwise liable for any of the three
3 succeeding quarters. Evidence of the mileage traveled and
4 gallonage consumed and the payment of the diesel fuel tax, on a form
5 that may be required by or is satisfactory to the comptroller, shall
6 be furnished by the interstate trucker claiming the credit or tax
7 refund.

8 (d) If the quantity of diesel fuel used in Texas by
9 auxiliary power units or power take-off equipment on any motor
10 vehicle can be accurately measured while the motor vehicle is
11 stationary by any metering or other measuring device or method
12 designed to measure the fuel separately from fuel used to propel the
13 motor vehicle, the comptroller may approve and adopt the use of any
14 device as a basis for determining the quantity of diesel fuel
15 consumed in those operations for tax credit or tax refund. If no
16 separate metering device or other approved measuring method is
17 provided, the following credit or refund procedures are authorized.
18 A distributor [~~permitted supplier~~], a dyed diesel fuel bonded user,
19 or an agricultural bonded user who operates diesel-powered motor
20 vehicles equipped with a power take-off or a diesel-powered
21 auxiliary power unit mounted on the motor vehicle and using the fuel
22 supply tank of the motor vehicle may be allowed a deduction from the
23 taxable gallons used in this state in each motor vehicle so
24 equipped. The comptroller shall determine the percentage of the
25 deduction. A user who is required to pay the tax on diesel fuel used
26 in motor vehicles so equipped may file a claim for a refund not to
27 exceed the percentage allowed by the comptroller of the total motor

1 ~~[taxable]~~ fuel used in this state in each motor vehicle so equipped.

2 (e) A person who exports or loses by fire, theft, or
3 accident 100 or more gallons of diesel fuel on which the tax has
4 been paid, or who sells diesel fuel in any quantity to the United
5 States for its exclusive use on which the tax has been paid, may
6 file a claim for a refund of the net tax paid to the state as the
7 comptroller may direct. The comptroller may bar a person who has
8 made a false refund claim from purchasing fuel for export under
9 Section 153.2061(f) without paying the tax imposed by this
10 subchapter.

11 (f) The right to receive a refund under this section is not
12 assignable, except that a person residing or maintaining a place of
13 business outside the state who purchases 100 or more gallons of
14 diesel fuel and promptly exports the entire quantity may assign the
15 person's right to claim a refund to the exporter from whom the
16 diesel fuel was purchased. If an exporter secures an assignment and
17 the proof of export required by the comptroller, the exporter may
18 file a refund claim with the comptroller.

19 Sec. 153.2225. CREDIT OR REFUND ~~[CREDITS]~~ FOR BAD DEBTS.

20 (a) A terminal ~~[permitted]~~ supplier may take a credit on the
21 monthly report to be filed with the comptroller, or a distributor
22 may file a refund claim with the comptroller, if:

23 (1) the terminal supplier or distributor has paid the
24 taxes imposed by this subchapter on diesel fuel sold on account;

25 (2) the terminal supplier or distributor determines
26 that the account is uncollectable and worthless; ~~[and]~~

27 (3) at the time of the transaction, the person to whom

1 the terminal supplier or distributor sold the diesel fuel held a
2 permit, end user number, or agricultural exemption number issued by
3 the comptroller, or was an exempt user; and

4 (4) the account is written off as a bad debt on the
5 accounting books of the terminal supplier or distributor.

6 (b) The return on which the credit is taken or the refund
7 claim must state the permit number of the person whose account has
8 been written off as a bad debt and any other information required by
9 the comptroller. The amount of the credit that may be taken under
10 Subsection (a) [~~of this section~~] may equal but may not exceed the
11 amount of taxes paid on the diesel fuel to which the written-off
12 account applies.

13 (c) If, after a credit is taken or refund is received under
14 Subsection (a) [~~of this section~~], the account on which the credit or
15 refund was based is paid, or if the comptroller otherwise
16 determines that the credit or refund was not authorized by
17 Subsection (a) [~~of this section~~], the unpaid taxes shall be paid by
18 the terminal supplier or distributor taking the credit or receiving
19 the refund, plus a penalty of 10 percent of the amount of the unpaid
20 taxes and interest at the rate provided by Section 111.060 [~~of this~~
21 ~~code~~] beginning on the day that the credit was taken or the refund
22 was issued.

23 (d) This section does not apply to a sale of diesel fuel that
24 is delivered into the fuel supply tank of a motor vehicle or
25 motorboat and for which payment is made through the use and
26 acceptance of a credit card.

27 (e) A credit or refund under this section must be taken or

1 claimed at the time the account is written off as a bad debt, but may
2 only be taken or claimed before the expiration of the applicable
3 limitation period as provided by Chapter 111 [~~of this code~~].

4 (f) The comptroller may take action against the person whose
5 account has been written off for collection of the tax owed and any
6 applicable penalties and interest.

7 SECTION 29. Section 153.223(a), Tax Code, is amended to
8 read as follows:

9 (a) A refund claim must be filed with the comptroller on
10 forms provided by the comptroller and show the date of filing, the
11 period covered in the claim, the number of gallons of diesel fuel
12 subject to refund, and other information required by the
13 comptroller. A claim must be supported by one or more original
14 invoices issued to or by the claimant, or such other information as
15 the comptroller deems necessary. [~~A permitted supplier may not~~
16 ~~file a claim for a refund of taxes paid by a purchaser of undyed~~
17 ~~diesel fuel.~~]

18 SECTION 30. Section 153.224(a), Tax Code, is amended to
19 read as follows:

20 (a) A [~~Except as provided by this section, a~~] claim for [~~a~~]
21 refund, other than a bad debt refund under Section 153.2225, must be
22 filed with the comptroller within one year after the first day of
23 the calendar month following the sale, purchase, use, [~~delivery,~~]
24 export, or loss by fire, theft, or accident of diesel fuel,
25 whichever period expires latest.

26 SECTION 31. Sections 153.225 and 153.226, Tax Code, are
27 amended to read as follows:

1 Sec. 153.225. DIESEL FUEL TAX REFUND PAYMENTS. After
2 examination and approval of the refund claim, the comptroller
3 before issuing a refund warrant shall deduct from the amount of the
4 refund payment the one-fourth of one [~~2~~] percent deducted
5 originally by the terminal supplier and the one-half of one percent
6 deducted originally by the distributor on the removal [~~sale or~~
7 ~~delivery~~] of the diesel fuel.

8 Sec. 153.226. NOTICE REGARDING DYED DIESEL FUEL. A notice
9 stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE
10 USE" must be:

11 (1) provided by a terminal [~~permitted~~] supplier or
12 distributor to a person who receives dyed diesel fuel;

13 (2) provided by a seller of dyed diesel fuel to the
14 person's buyer; and

15 (3) posted by a seller on a retail pump or bulk plant
16 at which the person sells dyed diesel fuel for use by the person's
17 buyers.

18 SECTION 32. Section 153.401(a), Tax Code, is amended to
19 read as follows:

20 (a) If any person, including a person having a permit as a
21 terminal operator, terminal supplier, importer, exporter, blender,
22 distributor, [~~supplier, dyed diesel fuel bonded user, agricultural~~
23 ~~bonded user, dealer,~~] or interstate trucker, fails to file a report
24 as required by this chapter or fails to pay a tax imposed by this
25 chapter when due, the person forfeits five percent of the amount due
26 as a penalty, and if the person fails to file the report or pay the
27 tax within 30 days after the day on which the tax or report is due,

1 the person forfeits an additional five percent.

2 SECTION 33. Sections 153.402(a), (c), (d), and (e), Tax
3 Code, are amended to read as follows:

4 (a) A person forfeits to the state a civil penalty of not
5 less than \$25 nor more than \$200 if the person:

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

9 (2) operates a motor vehicle in this state without a
10 valid interstate trucker's or a trip permit when the person is
11 required to hold one of those permits;

12 (3) operates a liquefied gas-propelled motor vehicle
13 that is required to be licensed in Texas, including motor vehicles
14 equipped with dual carburetion, and does not display a current
15 liquefied gas tax decal or multistate fuels tax agreement decal;

16 (4) makes a tax-free sale or delivery of liquefied gas
17 into the fuel supply tank of a motor vehicle that does not display a
18 current Texas liquefied gas tax decal;

19 (5) makes a taxable sale or delivery of liquefied gas
20 without holding a valid dealer's permit;

21 (6) makes a tax-free sale or delivery of liquefied gas
22 into the fuel supply tank of a motor vehicle bearing out-of-state
23 license plates;

24 (7) makes a delivery of liquefied gas into the fuel
25 supply tank of a motor vehicle bearing Texas license plates and no
26 Texas liquefied gas tax decal, unless licensed under a multistate
27 fuels tax agreement;

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

6 (9) sells or delivers gasoline or diesel fuel from any
7 fuel supply tank connected with the fuel injector or carburetor of a
8 motor vehicle;

9 (10) owns or operates a motor vehicle for which
10 reports or mileage records are required by this chapter without an
11 operating odometer or other device in good working condition to
12 record accurately the miles traveled;

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

17 (12) fails or refuses to comply with or violates a
18 provision of this chapter;

19 (13) fails or refuses to comply with or violates a
20 comptroller's rule for administering or enforcing this chapter;

21 (14) is an importer who does not obtain an import
22 verification number when required by this chapter; or

23 (15) purchases motor fuel for export[~~, on which the~~
24 ~~tax imposed by this chapter has not been paid,~~] and subsequently
25 diverts or causes the motor fuel to be diverted to a destination in
26 this state or any other state or country other than the originally
27 designated state or country without first obtaining a diversion

1 number.

2 (c) A person receiving motor fuel who accepts a shipping
3 document that does not conform with the requirements of Section
4 153.018(a) or (b) is liable to this state for a civil penalty of
5 \$2,000 or five times the amount of the unpaid tax, whichever is
6 greater, for each occurrence.

7 (d) A person operating a bulk plant or terminal who issues a
8 shipping document that does not conform with the requirements of
9 Section 153.018(a) or (b) is liable to this state for a civil
10 penalty of \$2,000 or five times the amount of the unpaid tax,
11 whichever is greater, for each occurrence.

12 (e) A person operating a terminal or bulk plant who does not
13 post notice as required by Section 153.018(j) [~~153.018(i)~~] is
14 liable to this state for a civil penalty of \$100 for each day the
15 notice is not posted as required by Section 153.018(j)
16 [~~153.018(i)~~].

17 SECTION 34. Section 153.403, Tax Code, is amended to read as
18 follows:

19 Sec. 153.403. CRIMINAL OFFENSES. Except as provided by
20 Section 153.404, a person commits an offense if the person:

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

24 (2) is required to hold a valid trip permit or
25 interstate trucker's permit, but operates a motor vehicle in this
26 state without a valid trip permit or interstate trucker's permit;

27 (3) operates a liquefied gas-propelled motor vehicle

1 that is required to be licensed in Texas, including a motor vehicle
2 equipped with dual carburetion, and does not display a current
3 liquefied gas tax decal or multistate fuels tax agreement decal;

4 (4) 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 or with the fuel supply tank feeding
7 the fuel injector or carburetor of the motor vehicle transporting
8 the product;

9 (5) sells or delivers gasoline or diesel fuel from a
10 fuel supply tank that is connected with the fuel injector or
11 carburetor of a motor vehicle;

12 (6) owns or operates a motor vehicle for which reports
13 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 (7) ~~[as a diesel tax prepaid user fails to prepay the~~
17 ~~tax on every diesel-powered motor vehicle owned or operated by him,~~

18 ~~[(8)] uses dyed diesel fuel[, on which a tax is required~~
19 ~~to be paid,]~~ for the operation of a motor vehicle on a public
20 highway in this state, unless:

21 (A) the use is lawful under the Internal Revenue
22 Code and implementing regulations and is not otherwise prohibited
23 by this chapter; or

24 (B) the person is a diesel exempt user and the use
25 is incidental highway travel, as defined by the comptroller;

26 (8) ~~[(9)]~~ makes a tax-free sale or delivery of
27 liquefied gas into the fuel supply tank of a motor vehicle that does

1 not display a current Texas liquefied gas tax decal;

2 (9) [~~(10)~~] makes a sale or delivery of liquefied gas
3 on which the person knows the tax is required to be collected, if at
4 the time the sale is made the person does not hold a valid dealer's
5 permit;

6 (10) [~~(11)~~] makes a tax-free sale or delivery of
7 liquefied gas into the fuel supply tank of a motor vehicle bearing
8 out-of-state license plates;

9 (11) [~~(12)~~] makes a delivery of liquefied gas into the
10 fuel supply tank of a motor vehicle bearing Texas license plates and
11 no Texas liquefied gas tax decal, unless licensed under a
12 multistate fuels tax agreement;

13 (12) [~~(13)~~] refuses to permit the comptroller or the
14 attorney general to inspect, examine, or audit a book or record
15 required to be kept by a terminal operator, terminal supplier,
16 importer, exporter, blender, distributor, [supplier,] dyed diesel
17 fuel bonded user, agricultural bonded user, dealer, interstate
18 trucker, commercial passenger carrier, kerosene dealer, aviation
19 fuel dealer, [~~jobber,~~] common or contract carrier, or any person
20 required to hold a permit under this chapter;

21 (13) [~~(14)~~] refuses to permit the comptroller or the
22 attorney general to inspect or examine any plant, equipment,
23 materials, or premises where motor fuel is produced, processed,
24 stored, sold, delivered, or used;

25 (14) [~~(15)~~] refuses to permit the comptroller, the
26 attorney general, an employee of either of those officials, a peace
27 officer, an employee of the Texas Commission on Environmental

1 Quality [~~Natural Resource Conservation Commission~~], or an employee
2 of the Department of Agriculture to measure or gauge the contents of
3 or take samples from a storage tank or container on premises where
4 motor fuel is produced, processed, stored, sold, delivered, or
5 used;

6 (15) [~~(16)~~] is a terminal supplier, importer,
7 exporter, blender, distributor, [dyed diesel fuel bonded user,
8 agricultural bonded user,] interstate trucker, or a person required
9 to file a report by Section 153.118(e) or 153.221(e) [supplier] and
10 fails or refuses to make or deliver to the comptroller a report
11 required by this chapter to be made and delivered to the
12 comptroller;

13 (16) [~~(17)~~] is an importer who does not obtain an
14 import verification number when required by this chapter;

15 (17) [~~(18)~~] purchases motor fuel for export [~~, on which~~
16 ~~the tax imposed by this chapter has not been paid,~~] and subsequently
17 diverts or causes the motor fuel to be diverted to a destination in
18 this state or any other state or country other than the originally
19 designated state or country without first obtaining a diversion
20 number;

21 (18) [~~(19)~~] conceals motor fuel with the intent of
22 engaging in any conduct proscribed by this chapter or refuses to
23 make sales of motor fuel on the volume-corrected basis prescribed
24 by this chapter;

25 (19) [~~(20)~~] refuses, while transporting motor fuel,
26 to stop the motor vehicle he is operating when called on to do so by
27 a person authorized to stop the motor vehicle;

1 (20) [~~(21)~~] refuses to surrender a motor vehicle and
2 cargo for impoundment after being ordered to do so by a person
3 authorized to impound the motor vehicle and cargo;

4 (21) [~~(22)~~] mutilates, destroys, or secretes a book or
5 record required by this chapter to be kept by a terminal operator,
6 terminal supplier, importer, exporter, blender, commercial
7 passenger carrier, kerosene dealer, signed statement user, [a]
8 distributor, [~~supplier,~~] dyed diesel fuel bonded user,
9 agricultural bonded user, dealer, interstate trucker, aviation
10 fuel dealer, [~~jobber,~~] or person required to hold a permit under
11 this chapter;

12 (22) [~~(23)~~] is a terminal operator, terminal
13 supplier, importer, exporter, blender, commercial passenger
14 carrier, kerosene dealer, signed statement user, distributor,
15 [~~supplier,~~] dyed diesel fuel bonded user, agricultural bonded user,
16 dealer, interstate trucker, aviation fuel dealer, [~~jobber,~~] or
17 other person required to hold a permit under this chapter, or the
18 agent or employee of one of those persons, and makes a false entry
19 or fails to make an entry in the books and records required under
20 this chapter to be made by the person or fails to retain a document
21 as required by this chapter;

22 (23) [~~(24)~~] transports in any manner motor fuel under
23 a false cargo manifest or shipping document, or transports in any
24 manner motor fuel to a location without delivering at the same time
25 a shipping document relating to that shipment;

26 (24) [~~(25)~~] engages in a motor fuel transaction or
27 business activity in this state for which [~~that requires that the~~

1 ~~person have~~] a permit is required by [~~under~~] this chapter without
2 then and there holding the required permit;

3 (25) [~~(26)~~] makes and delivers to the comptroller a
4 report required under this chapter to be made and delivered to the
5 comptroller, if the report contains false information;

6 (26) [~~(27)~~] forges, falsifies, or alters an invoice
7 prescribed by law;

8 (27) [~~(28)~~] makes any statement, knowing said
9 statement to be false, in a claim for a tax refund filed with the
10 comptroller;

11 (28) [~~(29)~~] furnishes to a distributor [~~supplier~~] a
12 signed statement for purchasing dyed diesel fuel tax free and then
13 uses the dyed [~~tax-free~~] diesel fuel to operate a diesel-powered
14 motor vehicle on a public highway;

15 (29) [~~(30)~~] holds an aviation fuel dealer's permit and
16 makes a taxable sale or use of any gasoline or diesel fuel;

17 (30) [~~(31)~~] ~~fails to remit any tax funds collected by a~~
18 ~~distributor, supplier, dyed diesel fuel bonded user, agricultural~~
19 ~~bonded user, dealer, interstate trucker, jobber, or any other~~
20 ~~person required to hold a permit under this chapter;~~

21 [~~(32)~~] ~~makes a sale of diesel fuel tax free into a~~
22 ~~storage facility of a person who:~~

23 [~~(A)~~] ~~is not permitted as a supplier, as an~~
24 ~~aviation fuel dealer, as a dyed diesel fuel bonded user, as an~~
25 ~~agricultural bonded user, or as a diesel tax prepaid user of diesel~~
26 ~~fuel, or~~

27 [~~(B)~~] ~~does not furnish to the permitted supplier a~~

1 ~~signed statement prescribed in Section 153.205,~~

2 ~~[(33)]~~ makes a sale of gasoline tax free to any person
3 who is not an exempt user ~~[permitted as either a distributor or an~~
4 ~~aviation fuel dealer];~~

5 (31) ~~[(34)]~~ is a dealer who purchases any motor fuel
6 tax free ~~[when not authorized to make a tax-free purchase under this~~
7 ~~chapter];~~

8 (32) ~~[(35)]~~ is a dealer who purchases motor fuel with
9 the intent to evade any tax imposed by this chapter, or who accepts
10 a 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 (33) ~~[(36)]~~ transports motor fuel for which a cargo
13 manifest or shipping document is required to be carried without
14 possessing or exhibiting on demand by an officer authorized to make
15 the demand a cargo manifest or shipping document containing the
16 information required to be shown on the manifest or shipping
17 document;

18 (34) ~~[(37)]~~ imports, sells, uses, distributes, or
19 stores motor fuel within this state on which the taxes imposed by
20 this chapter are owed but have not been ~~[first]~~ paid ~~[to or reported~~
21 ~~by the holder of a distributor, supplier, liquefied gas dealer,~~
22 ~~interstate trucker, diesel tax prepaid user, dyed diesel fuel~~
23 ~~bonded user, or agricultural bonded user permit];~~

24 (35) ~~[(38)]~~ blends products together to produce a
25 blended fuel that is offered for sale, sold, or used that expands
26 the volume of the original product to evade paying applicable motor
27 fuel taxes; ~~[or]~~

1 (36) [~~(39)~~] evades or attempts to evade in any manner
2 a tax imposed on motor fuel by this chapter;

3 (37) alters or attempts to alter the strength or
4 composition of a dye or marker in dyed diesel fuel;

5 (38) sells motor fuel and does not collect the tax
6 imposed by this chapter from the purchaser, unless the sale
7 satisfies the requirements of Section 153.1051, 153.1052,
8 153.1053, 153.1054, 153.2061, 153.2062, 153.2063, 153.2064, or
9 153.2065; or

10 (39) purchases motor fuel and does not pay the tax
11 imposed by this chapter, unless the seller was not required to
12 collect the tax under Section 153.1051, 153.1052, 153.1053,
13 153.1054, 153.2061, 153.2062, 153.2063, 153.2064, or 153.2065.

14 SECTION 35. Section 153.404(b), Tax Code, is amended to
15 read as follows:

16 (b) Each day that a refusal prohibited under Section
17 153.403(12), (13), or (14) [~~153.403(13), (14), or (15)~~] continues
18 is a separate offense.

19 SECTION 36. Section 153.405, Tax Code, is amended to read as
20 follows:

21 Sec. 153.405. CRIMINAL PENALTIES. (a) An offense under
22 Section 153.403(1), (2), (3), (4), (5), (6), or (7) [~~or (8)~~] is a
23 Class C misdemeanor.

24 (b) An offense under Section 153.403(8), (9) [~~153.403(9)~~],
25 (10), (11), (12), (13), (14), (15), (16), or (17) [~~or (18)~~] is a
26 Class B misdemeanor.

27 (c) An offense under Section 153.403(18), (19), or (20)

1 [~~153.403(19), (20), or (21)~~] is a Class A misdemeanor.

2 (d) An offense under Section 153.403(21), (22)
3 [~~153.403(22)~~], (23), (24), (25), (26), (27), or (28) [~~, or (29)~~] is a
4 felony of the third degree.

5 (e) An offense under Section 153.403(29), (30)
6 [~~153.403(30)~~], (31), (32), (33), (34), (35), (36), (37), (38), or
7 (39) is a felony of the second degree.

8 (f) Violations of three or more separate offenses under
9 Sections 153.403(21) through (28) [~~153.403(22) through (29)~~]
10 committed pursuant to one scheme or continuous course of conduct
11 may be considered as one offense and punished as a felony of the
12 second degree.

13 SECTION 37. Section 153.409, Tax Code, is amended to read as
14 follows:

15 Sec. 153.409. ISSUANCE OF BAD CHECK TO TERMINAL [~~PERMITTED~~
16 ~~DISTRIBUTOR OR PERMITTED~~] SUPPLIER. (a) A person commits an
17 offense if:

18 (1) the person issues or passes a check or similar
19 sight order for the payment of money knowing that the issuer does
20 not have sufficient funds in or on deposit with the bank or other
21 drawee for the payment in full of the check or order as well as all
22 other checks or orders outstanding at the time of issuance;

23 (2) the payee on the check or order is a terminal
24 [~~permitted distributor or permitted~~] supplier; and

25 (3) the payment is for an obligation or debt that
26 includes a tax under this chapter to be collected by the terminal
27 [~~permitted distributor or permitted~~] supplier.

1 (b) Sections 32.41(b), (c), (d), (e), and (g), Penal Code,
2 apply to an offense under this section in the same manner as those
3 provisions are applicable to the offense under Section 32.41(a),
4 Penal Code.

5 (c) An offense under this section is a Class C misdemeanor.

6 (d) A person who makes payment on an obligation or debt that
7 includes a tax under this chapter and pays with an insufficient
8 funds check issued to a terminal [~~permitted distributor or~~
9 ~~permitted~~] supplier may be held liable for a penalty equal to the
10 total amount of tax not paid to the terminal [~~permitted distributor~~
11 ~~or permitted~~] supplier.

12 SECTION 38. The following provisions of the Tax Code are
13 repealed:

14 (1) Sections 153.001(2), (6), (7), (8), (11), (13),
15 (15), (21), and (25);

16 (2) Section 153.1071;

17 (3) Section 153.110;

18 (4) Section 153.111;

19 (5) Section 153.112(e);

20 (6) Section 153.120(b);

21 (7) Sections 153.121(c) and (d);

22 (8) Section 153.2081;

23 (9) Section 153.210;

24 (10) Section 153.213;

25 (11) Section 153.214;

26 (12) Section 153.2141;

27 (13) Sections 153.215(e) and (f);

1 (14) Section 153.223(b);

2 (15) Sections 153.224(c) and (d); and

3 (16) Sections 153.404(c) and (d).

4 SECTION 39. (a) This Act takes effect September 1, 2003.

5 (b) On or before February 25, 2004, a person that possesses
6 on the effective date of this Act gasoline or undyed diesel fuel on
7 which the taxes imposed by Chapter 153, Tax Code, have not been paid
8 shall report and pay to the comptroller the tax imposed by that
9 chapter on the volume of tax-free gasoline or undyed diesel fuel in
10 the person's possession unless:

11 (1) the person is an exempt user;

12 (2) the person is a diesel exempt user, the person
13 reports to the comptroller the volume of tax-free undyed diesel
14 fuel in the person's possession, and the person attests to the
15 comptroller that the undyed diesel fuel will be used exclusively
16 for nonhighway purposes;

17 (3) the person is a kerosene dealer, the person
18 reports to the comptroller the volume of tax-free undyed kerosene
19 in the person's possession, and the person attests to the
20 comptroller that the undyed kerosene will be sold exclusively for
21 nonhighway purposes; or

22 (4) the person is an aviation fuel dealer, the person
23 reports to the comptroller the volume of tax-free gasoline and
24 undyed diesel fuel in the person's possession, and the person
25 attests to the comptroller that the gasoline and undyed diesel fuel
26 will be sold exclusively for nonhighway purposes.