

By: Keffer of Eastland

H.B. No. 72

A BILL TO BE ENTITLED

AN ACT

relating to motor fuel taxes.

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

SECTION 1. Section 162.001, Tax Code, is amended by amending Subdivisions (9), (19), (20), (42), (43), and (55) and adding Subdivision (22-a) to read as follows:

(9) "Blending" means the mixing together of one or more ~~[petroleum]~~ products with other products ~~[another product]~~, regardless of the original character of the product blended, to produce a product that is offered for sale, sold, or used as a motor fuel or ~~[if the product obtained by the blending]~~ is capable of use in the generation of power for the propulsion of a motor vehicle. The term does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

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

1 (20) "Distributor" means a person who acquires motor
2 fuel, ~~[from a licensed supplier, permissive supplier, or another~~
3 ~~licensed distributor and]~~ who makes sales at wholesale, and whose
4 activities may also include sales at retail. The term includes a
5 person engaged in the tax-free sale of dyed diesel fuel that is
6 delivered into the fuel supply tanks of marine vessels.

7 (22-a) "Dyed diesel fuel dealer" means a dealer who
8 acquires dyed diesel fuel from a licensed supplier, permissive
9 supplier, or distributor for resale and delivery by the dealer into
10 the fuel supply tanks of motorboats, refrigeration units, or other
11 off-highway equipment at a retail location.

12 (42) "Motor fuel" means gasoline, diesel fuel,
13 liquefied gas, and other products that are offered for sale, sold,
14 or ~~can be~~ used as propellants for ~~to propel~~ a motor vehicle.

15 (43) "Motor fuel transporter" means a person who
16 transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, or
17 other motor fuel to which the person does not own title outside the
18 bulk transfer/terminal system by means of a transport vehicle, a
19 railroad tank car, or a marine vessel.

20 (55) "Shipping document" means a delivery document
21 issued ~~[by a terminal or bulk plant operator]~~ in conjunction with
22 the sale, transfer, or transport ~~[removal]~~ of motor fuel ~~[from the~~
23 ~~terminal or bulk plant]~~. A shipping document issued by a terminal
24 operator shall be machine printed. All other shipping documents ~~[A~~
25 ~~shipping document issued by a bulk plant]~~ shall be typed or
26 handwritten on a preprinted form or machine printed.

27 SECTION 2. Section 162.004, Tax Code, is amended by

1 amending Subsections (a) and (b) and adding Subsections (a-1) and
2 (h) to read as follows:

3 (a) A person may not transport in this state any motor fuel
4 by barge, vessel, railroad tank car, or transport vehicle unless
5 the person has a shipping document for the motor fuel that complies
6 with this section.

7 (a-1) A terminal operator or operator of a bulk plant shall
8 give a shipping document to the person who operates the barge,
9 vessel, railroad tank car, or transport vehicle into which motor
10 fuel is loaded at the terminal rack or bulk plant rack.

11 (b) A ~~[The]~~ shipping document ~~[issued by the terminal~~
12 ~~operator or operator of a bulk plant]~~ shall contain the following
13 information and any other information required by the comptroller:

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

17 (2) the name ~~[and license number]~~ of the purchaser;

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

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

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

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

25 (h) This section does not apply to motor fuel that is
26 delivered into the fuel supply tank of a motor vehicle.

27 SECTION 3. Sections 162.016(a), (b), (d), and (e), Tax

1 Code, are amended to read as follows:

2 (a) A person may not import motor fuel to a destination in
3 this state or export motor fuel to a destination outside this state
4 by any means unless the person possesses a shipping document for
5 that fuel [~~created by the terminal or bulk plant at which the fuel~~
6 ~~was received~~]. The shipping document must include:

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

10 (2) the name [~~and federal employer identification~~
11 ~~number, or the social security number if the employer~~
12 ~~identification number is not available,~~] of the carrier
13 transporting the motor fuel;

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

15 (4) the type of motor fuel;

16 (5) the number of gallons:

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

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

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

24 (7) the name [~~, federal employer identification~~
25 ~~number, license number, and physical address~~] of the purchaser of
26 the motor fuel;

27 (8) the name of the person responsible for paying the

1 tax imposed by this chapter, as given to the terminal by the
2 purchaser if different from the licensed supplier or distributor;
3 ~~and~~

4 (9) the destination state of each portion of a split
5 load of motor fuel if the motor fuel is to be delivered to more than
6 one state; and

7 (10) any other information that, in the opinion of the
8 comptroller, is necessary for the proper administration of this
9 chapter.

10 (b) The ~~[terminal or bulk plant shall provide the]~~ shipping
11 documents shall be provided to the importer or exporter.

12 (d) A seller, transporter, or receiver of ~~[terminal, a bulk~~
13 ~~plant, the carrier, the licensed distributor or supplier, and the~~
14 ~~person that received the]~~ motor fuel shall:

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

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

20 (e) An importer or exporter shall keep in the person's
21 possession the shipping document ~~[issued by the terminal or bulk~~
22 ~~plant]~~ when transporting motor fuel imported into this state or for
23 export from this state. The importer or exporter shall show the
24 document to the comptroller or a peace officer on request. The
25 comptroller may delegate authority to inspect the document to other
26 governmental agencies. The importer or exporter shall provide a
27 copy of the shipping document to the person that receives the fuel

1 when it is delivered.

2 SECTION 4. Sections 162.101(b) and (c), Tax Code, are
3 amended to read as follows:

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

11 (c) A tax is imposed on the removal [~~sale or transfer~~] of
12 gasoline from [~~in~~] the bulk transfer/terminal system in this state
13 [~~by a supplier to a person who does not hold a supplier's license~~].
14 The supplier shall collect the tax imposed by this subchapter from
15 the person who orders the removal from [~~sale or transfer in~~] the
16 bulk transfer terminal system.

17 SECTION 5. Section 162.103(d), Tax Code, is amended to read
18 as follows:

19 (d) A person who sells gasoline in this state, other than by
20 a bulk transfer, on which tax has not been paid for any purpose
21 other than a purpose exempt under Section 162.104 shall at the time
22 of sale collect the tax from the purchaser or recipient of gasoline
23 in addition to the selling price and is liable to this state for the
24 taxes imposed [~~collected at the time and~~] in the manner provided by
25 this chapter.

26 SECTION 6. Section 162.113(d), Tax Code, is amended to read
27 as follows:

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

13 SECTION 7. Section 162.115, Tax Code, is amended by adding
14 Subsection (m-1) to read as follows:

15 (m-1) In addition to the records specifically required by
16 this section, a license holder shall keep any other record required
17 by the comptroller.

18 SECTION 8. Sections 162.116(a) and (d), Tax Code, are
19 amended to read as follows:

20 (a) The monthly return and supplements of each supplier and
21 permissive supplier shall contain for the period covered by the
22 return:

23 (1) [~~the number of net gallons of gasoline received by~~
24 ~~the supplier or permissive supplier during the month, sorted by~~
25 ~~product code, seller, point of origin, destination state, carrier,~~
26 ~~and receipt date,~~

27 [~~2~~] the number of net gallons of gasoline removed at

1 a terminal rack during the month from the account of the supplier,
2 sorted by product code, person receiving the gasoline, terminal
3 code, and carrier;

4 (2) [~~(3)~~] the number of net gallons of gasoline
5 removed during the month for export, sorted by product code, person
6 receiving the gasoline, terminal code, destination state, and
7 carrier;

8 (3) [~~(4)~~] the number of net gallons of gasoline
9 removed during the month from a terminal located in another state
10 for conveyance to this state, as indicated on the shipping document
11 for the gasoline, sorted by product code, person receiving the
12 gasoline, terminal code, and carrier;

13 (4) [~~(5)~~] the number of net gallons of gasoline the
14 supplier or permissive supplier sold during the month in
15 transactions exempt under Section 162.104, sorted by [~~product code,~~
16 ~~carrier,~~] purchaser[, ~~and terminal code,~~

17 [~~(6) the number of net gallons of gasoline sold in the~~
18 ~~bulk transfer/terminal system in this state to any person not~~
19 ~~holding a supplier's or permissive supplier's license]; and~~

20 (5) [~~(7)~~] any other information required by the
21 comptroller.

22 (d) For purposes of Subsection (c), all payments or credits
23 in reduction of a customer's account must be applied ratably
24 between motor fuels and other goods sold to the customer, and the
25 credit allowed will be the tax on the number of gallons represented
26 by the motor fuel portion of the credit. The comptroller may not
27 require a supplier or permissive supplier to remit from a payment or

1 credit in reduction of a customer's account any tax for which the
2 supplier or permissive supplier was allowed to take a credit.

3 SECTION 9. Section 162.118, Tax Code, is amended to read as
4 follows:

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

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

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

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

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

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

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

1 SECTION 10. Section 162.127, Tax Code, is amended by adding
2 Subsection (g) to read as follows:

3 (g) The comptroller shall issue a refund warrant to a
4 distributor not later than the 60th day after the date a valid
5 refund claim is filed with the comptroller. If the comptroller does
6 not issue the refund warrant by that date, the amount of the refund
7 draws interest at the rate provided by Section 111.064 beginning on
8 the 61st day after the date the valid refund claim is filed and
9 ending on a date not more than 10 days before the date of the refund
10 warrant.

11 SECTION 11. Section 162.128(d), Tax Code, is amended to
12 read as follows:

13 (d) A supplier, ~~or~~ permissive supplier, distributor,
14 importer, exporter, or blender that determines taxes were
15 erroneously reported and remitted or that paid more taxes than were
16 due this state because of a mistake of fact or law may take a credit
17 on the monthly tax report on which the error has occurred and tax
18 payment made to the comptroller. The credit must be taken before
19 the expiration of the applicable period of limitation as provided
20 by Chapter 111.

21 SECTION 12. Sections 162.201(b) and (c), Tax Code, are
22 amended to read as follows:

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

1 supplier or permissive supplier, the person who imports the diesel
2 fuel into this state shall pay the tax.

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

9 SECTION 13. Section 162.203(d), Tax Code, is amended to
10 read as follows:

11 (d) A person who sells diesel fuel in this state, other than
12 by a bulk transfer, on which tax has not been paid for any purpose
13 other than a purpose exempt under Section 162.204 shall at the time
14 of sale collect the tax from the purchaser or recipient of diesel
15 fuel in addition to the selling price and is liable to this state
16 for the taxes imposed [~~collected at the time and~~] in the manner
17 provided by this chapter.

18 SECTION 14. Section 162.204(a), Tax Code, is amended to
19 read as follows:

20 (a) The tax imposed by this subchapter does not apply to:

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

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

27 (3) diesel fuel sold to a commercial transportation

1 company that provides public school transportation services to a
2 school district under Section 34.008, Education Code, and that uses
3 the diesel fuel only to provide those services;

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

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

10 (B) for diesel fuel in a situation described by
11 Subsection (e), the bill of lading indicates the destination state,
12 the diesel fuel is subsequently exported, and the exporter is
13 licensed in the destination state to pay that state's tax and has an
14 exporter's license issued under this subchapter;

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

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

27 (7) diesel fuel exported to a foreign country if the

1 bill of lading indicates the foreign destination and the fuel is
2 actually exported to the foreign country;

3 (8) dyed diesel fuel sold or delivered by a supplier to
4 another supplier and dyed diesel fuel sold or delivered by a
5 supplier or distributor into the bulk storage facility of a dyed
6 diesel fuel dealer or dyed diesel fuel bonded user or to a purchaser
7 who provides a signed statement as provided by Section 162.206;

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

14 (10) dyed diesel fuel sold by a supplier or permissive
15 supplier to a distributor, or by a distributor to another
16 distributor;

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

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

25 (13) diesel fuel used by a person, other than a
26 political subdivision, who owns, controls, operates, or manages a
27 commercial motor vehicle as defined by Section 548.001,

1 Transportation Code, if the fuel:

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

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

7 SECTION 15. Section 162.205(a), Tax Code, is amended to
8 read as follows:

9 (a) A person shall obtain the appropriate license or
10 licenses issued by the comptroller before conducting the activities
11 of:

12 (1) a supplier, who may also act as a distributor,
13 importer, exporter, blender, dyed diesel fuel dealer, motor fuel
14 transporter, or aviation fuel dealer without securing a separate
15 license, but who is subject to all other conditions, requirements,
16 and liabilities imposed on those license holders;

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

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

27 (4) an importer, who may also act as an exporter,

1 blender, or motor fuel transporter without securing a separate
2 license, but who is subject to all other conditions, requirements,
3 and liabilities imposed on those license holders;

4 (5) a terminal operator;

5 (6) an exporter;

6 (7) a blender;

7 (8) a motor fuel transporter;

8 (9) an aviation fuel dealer;

9 (10) an interstate trucker; ~~[or]~~

10 (11) a dyed diesel fuel bonded user; or

11 (12) a dyed diesel fuel dealer.

12 SECTION 16. Section 162.206, Tax Code, is amended by
13 amending Subsection (c) and adding Subsections (c-1), (g-1), and
14 (k) to read as follows:

15 (c) A person may not make a tax-free purchase and a licensed
16 supplier or distributor may not make a tax-free sale to a purchaser
17 of any dyed diesel fuel under this section using a signed statement
18 for the first sale or purchase and for any subsequent sale or
19 purchase ~~[+~~

20 ~~[(1) for the purchase or the sale of more than 7,400~~
21 ~~gallons of dyed diesel fuel in a single delivery; or~~

22 ~~[(2)] in a calendar month for [in which the person has~~
23 ~~previously purchased from all sources or in which the licensed~~
24 ~~supplier has previously sold to that purchaser] more than:~~

25 (1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;

26 (2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the
27 purchaser stipulates in the signed statement that all of the fuel

1 will be consumed by the purchaser in the original production of, or
2 to increase the production of, oil or gas and furnishes the supplier
3 with a letter of exception issued by the comptroller; or

4 (3) [~~(c)~~] 25,000 gallons of dyed diesel fuel if the
5 purchaser stipulates in the signed statement that all of the fuel
6 will be consumed by the purchaser in agricultural off-highway
7 equipment.

8 (c-1) The monthly limitations prescribed by Subsection (c)
9 apply regardless of whether the dyed diesel fuel is purchased in a
10 single transaction during that month or in multiple transactions
11 during that month.

12 (g-1) For purposes of this section, the purchaser is
13 considered to have furnished the signed statement to the licensed
14 supplier or distributor if the supplier or distributor verifies
15 that the purchaser has an end user number issued by the comptroller.
16 The licensed supplier or distributor shall use the comptroller's
17 Internet website or other materials provided or produced by the
18 comptroller to verify this information.

19 (k) Properly completed signed statements should be in the
20 possession of the licensed supplier or distributor at the time the
21 sale of dyed diesel fuel occurs. If the licensed supplier or
22 distributor is not in possession of the signed statements within 60
23 days after the date written notice requiring possession of them is
24 given to the licensed supplier or distributor by the comptroller,
25 exempt sales claimed by the licensed supplier or distributor that
26 require delivery of the signed statements shall be disallowed. If
27 the licensed supplier or distributor delivers the signed statements

1 to the comptroller within the 60-day period, the comptroller may
2 verify the reason or basis for the signed statements before
3 allowing the exempt sales. An exempt sale may not be granted on the
4 basis of signed statements delivered to the comptroller after the
5 60-day period.

6 SECTION 17. Section 162.211(b), Tax Code, is amended to
7 read as follows:

8 (b) The license issued to an aviation fuel dealer or dyed
9 diesel fuel dealer is permanent and is valid until the license is
10 surrendered by the holder or canceled by the comptroller.

11 SECTION 18. Section 162.213, Tax Code, is amended to read as
12 follows:

13 Sec. 162.213. LICENSE HOLDER STATUS LIST. (a) The
14 comptroller, on or before December 20 of each year, shall make
15 available to all license holders an alphabetical list of licensed
16 suppliers, permissive suppliers, distributors, aviation fuel
17 dealers, importers, exporters, blenders, terminal operators, dyed
18 diesel fuel dealers, and dyed diesel fuel bonded users. A
19 supplemental list of additions and deletions shall be made
20 available to the license holders each month. A current and
21 effective license or the list furnished by the comptroller is
22 evidence of the validity of the license until the comptroller
23 notifies license holders of a change in the status of a license
24 holder.

25 (b) A licensed supplier or permissive supplier who sells
26 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or
27 aviation fuel dealer whose license has been canceled or revoked

1 under this chapter, or who sells dyed diesel fuel to a distributor,
2 dyed diesel fuel dealer, or dyed diesel fuel bonded user whose
3 license has been canceled or revoked under this chapter, is liable
4 for any tax due on diesel fuel sold after receiving notice of the
5 cancellation or revocation.

6 (c) The comptroller shall notify all license holders under
7 this chapter when a canceled or revoked license is subsequently
8 reinstated and include in the notice the effective date of the
9 reinstatement. Sales to a supplier, permissive supplier,
10 distributor, aviation fuel dealer, dyed diesel fuel dealer, or dyed
11 diesel fuel bonded user after the effective date of the
12 reinstatement may be made tax-free.

13 SECTION 19. Section 162.214(d), Tax Code, is amended to
14 read as follows:

15 (d) The supplier or permissive supplier shall [~~has the~~
16 ~~right~~], after notifying the comptroller of the licensed
17 distributor's or licensed importer's failure to remit taxes under
18 this section, [~~to~~] terminate the ability of the licensed
19 distributor or licensed importer to defer the payment of diesel
20 fuel tax. The supplier or permissive supplier shall reinstate
21 without delay the right of the licensed distributor or licensed
22 importer to defer the payment of diesel fuel tax after the
23 comptroller provides to the supplier or permissive supplier notice
24 that the licensed distributor or licensed importer is in good
25 standing with the comptroller for the purposes of diesel fuel tax
26 imposed under this subchapter.

27 SECTION 20. Section 162.215(d), Tax Code, is amended to

1 read as follows:

2 (d) An aviation fuel dealer and a dyed diesel fuel dealer
3 are [~~is~~] not required to file a return.

4 SECTION 21. Section 162.216, Tax Code, is amended by adding
5 Subsections (l-1) and (m-1) to read as follows:

6 (l-1) A dyed diesel fuel dealer shall keep:

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

8 (A) dyed and undyed diesel fuel inventories on
9 hand at the first of each month;

10 (B) dyed and undyed diesel fuel purchased or
11 received, showing the name of the seller and the date of each
12 purchase or receipt;

13 (C) dyed and undyed diesel fuel sold or used,
14 showing the date of the sale or use; and

15 (D) dyed and undyed diesel fuel lost by fire,
16 theft, or accident; and

17 (2) for dyed diesel fuel an invoice containing:

18 (A) the stamped or preprinted name and address of
19 the seller;

20 (B) the name of the purchaser;

21 (C) the date of delivery of the dyed diesel fuel;

22 (D) the number of gallons of dyed diesel fuel
23 delivered;

24 (E) the type or description of the off-highway
25 equipment into which the dyed diesel fuel is delivered; and

26 (F) a notice stating "DYED DIESEL FUEL,
27 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE."

1 (m-1) In addition to the records specifically required by
2 this section, a license holder shall keep any other record required
3 by the comptroller.

4 SECTION 22. Sections 162.217(a) and (d), Tax Code, are
5 amended to read as follows:

6 (a) The monthly return and supplements of each supplier and
7 permissive supplier shall contain for the period covered by the
8 return:

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

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

17 (2) [~~(3)~~] the number of net gallons of diesel fuel
18 removed during the month for export, sorted by product code, person
19 receiving the diesel fuel, terminal code, destination state, and
20 carrier;

21 (3) [~~(4)~~] the number of net gallons of diesel fuel
22 removed during the month from a terminal located in another state
23 for conveyance to this state, as indicated on the shipping document
24 for the diesel fuel, sorted by product code, person receiving the
25 diesel fuel, terminal code, and carrier;

26 (4) [~~(5)~~] the number of net gallons of diesel fuel the
27 supplier or permissive supplier sold during the month in

1 transactions exempt under Section 162.204, sorted by [~~product code,~~
2 ~~carrier,~~] purchaser [~~, and terminal code,~~

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

6 (5) [~~(7)~~] any other information required by the
7 comptroller.

8 (d) For the purpose of Subsection (c), all payments or
9 credits in reduction of a customer's account must be applied
10 ratably between motor fuels and other goods sold to the customer,
11 and the credit allowed will be the tax on the number of gallons
12 represented by the motor fuel portion of the credit. The
13 comptroller may not require a supplier or permissive supplier to
14 remit from a payment or credit in reduction of a customer's account
15 any tax for which the supplier or permissive supplier was allowed to
16 take a credit.

17 SECTION 23. Section 162.219, Tax Code, is amended to read as
18 follows:

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

22 (1) the number of net gallons of diesel fuel received
23 by the distributor during the month, sorted by product code and[~~7~~]
24 seller [~~, point of origin, destination state, carrier, and receipt~~
25 ~~date~~];

26 (2) the number of net gallons of diesel fuel removed at
27 a terminal rack by the distributor during the month, sorted by

1 product code, seller, and terminal code [~~7~~ and carrier];

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

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

11 (5) the number of net gallons of diesel fuel the
12 distributor sold during the month in transactions exempt under
13 Section 162.204, sorted by product code and by the entity receiving
14 the diesel fuel;

15 (6) the number of net gallons of [~~7~~] dyed diesel fuel
16 sold to a purchaser under a signed statement [~~7~~] or dyed diesel fuel
17 sold to a dyed diesel fuel bonded user, sorted by product code and
18 by the entity receiving the diesel fuel; and

19 (7) [~~(6)~~] any other information required by the
20 comptroller.

21 SECTION 24. Section 162.227, Tax Code, is amended by adding
22 Subsection (c-1) to read as follows:

23 (c-1) A license holder may take a credit on a return for the
24 period in which the purchase occurred, and a person who does not
25 hold a license may file a refund claim with the comptroller, if the
26 license holder or person paid tax on diesel fuel and the diesel fuel
27 is used in this state:

1 (1) as a feedstock or other component in the further
2 manufacturing of tangible personal property for resale not as a
3 motor fuel; or

4 (2) in the original production of oil or gas or to
5 increase the production of oil or gas.

6 SECTION 25. Section 162.229, Tax Code, is amended by adding
7 Subsection (g) to read as follows:

8 (g) The comptroller shall issue a refund warrant to a
9 distributor not later than the 60th day after the date a valid
10 refund claim is filed with the comptroller. If the comptroller does
11 not issue the refund warrant by that date, the amount of the refund
12 draws interest at the rate provided by Section 111.064 beginning on
13 the 61st day after the date the valid refund claim is filed and
14 ending on a date not more than 10 days before the date of the refund
15 warrant.

16 SECTION 26. Section 162.230(d), Tax Code, is amended to
17 read as follows:

18 (d) A supplier, ~~or~~ permissive supplier, distributor,
19 importer, exporter, or blender that determines taxes were
20 erroneously reported and remitted or that paid more taxes than were
21 due to this state because of a mistake of fact or law may take a
22 credit on the monthly tax report on which the error has occurred and
23 tax payment made to the comptroller. The credit must be taken
24 before the expiration of the applicable period of limitation as
25 provided by Chapter 111.

26 SECTION 27. Section 162.402(d), Tax Code, is amended to
27 read as follows:

1 (d) A person [~~operating a bulk plant or terminal~~] who issues
2 a shipping document that does not conform with the requirements of
3 Section 162.016(a) is liable to this state for a civil penalty of
4 \$2,000 or five times the amount of the unpaid tax, whichever is
5 greater, for each occurrence.

6 SECTION 28. Sections 162.404(c) and (d), Tax Code, are
7 amended to read as follows:

8 (c) The prohibition under Section 162.403(32) does not
9 apply to the tax-free sale or distribution of diesel fuel
10 authorized by Section 162.204(a)(1) [~~162.204(1)~~], (2), or (3).

11 (d) The prohibition under Section 162.403(33) does not
12 apply to the tax-free sale or distribution of gasoline under
13 Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

14 SECTION 29. The heading to Section 162.409, Tax Code, is
15 amended to read as follows:

16 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED
17 DISTRIBUTOR, [OR] LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

18 SECTION 30. Sections 162.409(a) and (d), Tax Code, are
19 amended to read as follows:

20 (a) A person commits an offense if:

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

26 (2) the payee on the check or order is a licensed
27 distributor, [or] licensed supplier, or permissive supplier; and

1 (3) the payment is for an obligation or debt that
2 includes a tax under this chapter to be collected by the licensed
3 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

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

10 SECTION 31. Subchapter E, Chapter 162, Tax Code, is amended
11 by adding Section 162.410 to read as follows:

12 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
13 provision of this chapter by a person constitutes a criminal
14 offense under another law of this state, the state may elect the
15 offense for which it will prosecute the person.

16 SECTION 32. Sections 162.016(c) and (h), Tax Code, are
17 repealed.

18 SECTION 33. This Act applies only to taxes imposed on or
19 after the effective date of this Act. Taxes imposed before the
20 effective date of this Act are governed by the law in effect on the
21 date the taxes were imposed, and that law is continued in effect for
22 that purpose.

23 SECTION 34. This Act takes effect December 1, 2005.