

Amend CSHB 2233 as follows:

(1) Strike SECTIONS 86 - 103 of the bill (page 22, line 64 through page 28, line 8).

(2) Add the following appropriately numbered SECTIONS to read as follows and renumber subsequent SECTIONS accordingly:

SECTION __. 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.

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

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

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

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

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

SECTION __. Section 162.004, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (h) to read as follows:

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

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

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

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

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

(3) the date the motor fuel was loaded;

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

(5) the destination state of the motor fuel, as

represented by the purchaser of the motor fuel or the purchaser's agent; and

(6) a description of the product being transported.

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

SECTION __. Sections 162.016(a), (b), (d), and (e), Tax Code, are amended to read as follows:

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

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

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

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

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

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

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

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

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

(9) the destination state of each portion of a split

load of motor fuel if the motor fuel is to be delivered to more than one state; and

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

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

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

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

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

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

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

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

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

the person who orders the removal from [~~sale or transfer in~~] the bulk transfer terminal system.

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

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

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

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

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

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

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

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

(1) [~~the number of net gallons of gasoline received by the supplier or permissive supplier during the month, sorted by~~]

~~product code, seller, point of origin, destination state, carrier, and receipt date,~~

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

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

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

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

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

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

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

SECTION __. Section 162.118, Tax Code, is amended to read as follows:

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

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

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

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

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

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

(6) any other information required by the comptroller.

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

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

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

(d) A supplier, ~~[or]~~ permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax

payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

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

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

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

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

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

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

- (a) The tax imposed by this subchapter does not apply to:
- (1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;
 - (2) diesel fuel sold to a public school district in this state for the district's exclusive use;
 - (3) diesel fuel sold to a commercial transportation

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

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

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

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

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

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

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

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

(9) the volume of water, fuel ethanol, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the

retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, biodiesel, or mixtures thereof;

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

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

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

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

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

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

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

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

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

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, dyed diesel fuel dealer, motor fuel transporter, or aviation fuel dealer without securing a separate license but who is subject to all other conditions,

requirements, and liabilities imposed on those license holders;

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

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

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer;

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

(11) a dyed diesel fuel bonded user; or

(12) a dyed diesel fuel dealer.

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

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

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

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

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

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

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

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

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

(k) Properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. If the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller, exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements shall be disallowed. If the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period, the comptroller may verify the reason or basis for the signed statements before allowing the exempt sales. An exempt sale may not be granted on the basis of signed statements delivered to the comptroller after the 60-day period.

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

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

SECTION __. Section 162.213, Tax Code, is amended to read as follows:

Sec. 162.213. LICENSE HOLDER STATUS LIST. (a) The

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

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

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

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

(d) The supplier or permissive supplier shall ~~[has the right]~~, after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, ~~[to]~~ terminate the ability of the licensed distributor or licensed importer to defer the payment of diesel fuel tax. The supplier or permissive supplier shall reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of diesel fuel tax after the comptroller provides to the supplier or permissive supplier notice

that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of diesel fuel tax imposed under this subchapter.

SECTION __. Section 162.215(d), Tax Code, is amended to read as follows:

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

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

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

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

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

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

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

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

(2) for dyed diesel fuel an invoice containing:

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

(B) the name of the purchaser;

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

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

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

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

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

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

(a) The monthly return and supplements of each supplier and

permissive supplier shall contain for the period covered by the return:

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

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

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

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

(4) ~~(5)~~ the number of net gallons of diesel fuel the supplier or permissive supplier sold during the month in transactions exempt under Section 162.204, sorted by ~~product code, carrier,~~ purchaser~~, and terminal code,~~

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

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

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

SECTION __. Section 162.219, Tax Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

(g) The comptroller shall issue a refund warrant to a distributor not later than the 60th day after the date a valid refund claim is filed with the comptroller. If the comptroller does not issue the refund warrant by that date, the amount of the refund

draws interest at the rate provided by Section 111.064 beginning on the 61st day after the date the valid refund claim is filed and ending on a date not more than 10 days before the date of the refund warrant.

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

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

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

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

(e) A person operating a terminal or bulk plant who does not post notice as required by Section 162.016 ~~(i)~~ (h) is liable to this state for a civil penalty of \$100 for each day the notice is not posted as required by Section 162.016 ~~(i)~~ (h).

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

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

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

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

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

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

(a) A person commits an offense if:

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

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

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

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

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

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

SECTION __. Section 162.016(c) and Section 162.016(h), Tax Code, are repealed.

SECTION __. This article applies only to taxes imposed on or after the effective date of this article. Taxes imposed before the effective date of this article are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose.

SECTION __. This article takes effect September 1, 2005.