

Amend CSHB 3540 by adding the following appropriately numbered article to read as follows and renumbering subsequent article accordingly:

ARTICLE ____ . LOCAL OPTION GAS TAX

SECTION ____ .01. Title 3, Tax Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. LOCAL FUEL TAXES

CHAPTER 401. LOCAL FUEL SALES TAX

Sec. 401.001. DEFINITIONS. In this chapter:

(1) "Dealer" has the meaning assigned by Section 162.001.

(2) "Diesel fuel" has the meaning assigned by Section 162.001.

(3) "Gasoline" has the meaning assigned by Section 162.001.

(4) "Jobber" means a person who:
(A) purchases tax-paid diesel fuel or gasoline from a person who holds a license under Chapter 162; and

(B) makes a sale with the tax included to a person who maintains storage facilities for motor fuel and uses all or part of stored motor fuel to operate a motor vehicle.

(5) "Motor vehicle" has the meaning assigned by Section 162.001.

(6) "Public highway" has the meaning assigned by Section 162.001.

(7) "Sale" has the meaning assigned by Section 162.001.

Sec. 401.002. FUEL SALES TAX AUTHORIZED. (a) A municipality by ordinance or a county, by order of the commissioners court, may impose a sales tax on gasoline and diesel fuel sold in the territory of the municipality or county to propel a motor vehicle on the public highways of this state.

(b) The municipality or county may impose a tax under this chapter only if the tax is approved at an election held under Section 401.004.

Sec. 401.003. RATE OF TAX. The tax authorized by this chapter may be imposed in increments of one-eighth of one percent, not to exceed one percent, on the sale in the territory of the municipality

or county of gasoline and diesel fuel used to propel a motor vehicle on the public highways of this state.

Sec. 401.004. ADOPTION ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this chapter is called by adoption of an ordinance by the municipality or by order of the commissioners court.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local fuel sales tax (name of municipality or county) at the rate of (insert proposed rate)."

Sec. 401.005. ELECTION TO ABOLISH TAX OR CHANGE RATE. (a) The governing body of a municipality by ordinance or the commissioners court of a county by order may call an election on the question of abolishing or changing the rate of the tax authorized by this chapter.

(b) The governing body or commissioners court shall call an election on the question of abolishing or changing the rate of the tax if the municipality or county receives a petition requesting the election signed by a number of registered voters of the municipality or county, as appropriate, equal to at least five percent of the total vote received in the territory of the municipality or county by all candidates for governor in the most recent gubernatorial general election.

(c) The ballot at an election to change the rate of the tax must be printed to permit voting for or against the proposition: "Authorizing (name of municipality or county) to impose a local fuel tax at the rate of (insert proposed rate)."

(d) The ballot at an election to abolish the tax must be printed to permit voting for or against the proposition: "Abolishing the local fuel sales tax in (name of municipality or county)."

Sec. 401.006. COMPUTATION OF TAX. (a) A person, including a dealer or jobber, who makes a sale of gasoline or diesel in the municipality or county to a person who uses the gasoline or diesel fuel to propel a motor vehicle on the public highways of this state shall collect the tax authorized by this chapter for the benefit of the municipality or county.

(b) The seller shall add the tax authorized by this chapter to the selling price of gasoline or diesel fuel, and the tax is a part of the gasoline or diesel fuel price, a debt owed to the seller, and recoverable at law in the same manner as the gasoline or diesel fuel charge.

(c) The tax authorized by this chapter is in addition to the tax imposed by Chapter 162.

Sec. 401.007. EXEMPTIONS APPLICABLE. The exemptions provided by Sections 162.104 and 162.204 apply to the tax authorized by this chapter.

Sec. 401.008. EFFECTIVE DATE OF TAX OR TAX CHANGE. The adoption or abolition of the tax authorized by this chapter or a change in a tax rate takes effect on the date prescribed by the ordinance or order imposing or abolishing the tax or changing the rate.

Sec. 401.009. COLLECTION AND ENFORCEMENT OF TAX. (a) A person required to collect the tax authorized by this chapter shall report and send the taxes to the municipality or county as provided by the municipality or county.

(b) The municipality or county may prescribe monetary penalties, including interest charges, for failure to keep records required by this chapter, to report when required, or to pay the tax when due.

(c) The municipality or county may permit a person who is required to collect the tax authorized by this chapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The municipality or county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the municipality or county.

(d) The attorney acting for the municipality or county may bring suit against a person who violates this chapter.

Sec. 401.010. REFUND. (a) A person who has paid the tax authorized by this chapter on gasoline or diesel fuel used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 401.007 may file a claim for a refund.

(b) The municipality or county shall prescribe the procedures a person must use to obtain a refund under this section.

Sec. 401.011. REQUIRED PERMIT. The municipality or county may require a dealer, jobber, or other person required to collect, report, and pay the tax authorized by this chapter to obtain a permit from the municipality or county.

Sec. 401.012. TRANSFER TO COMPTROLLER. (a) Not later than the last day of the first month following each calendar quarter, the custodian of the municipality or county treasury shall send to the comptroller an amount equal to one-fourth of the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection.

(b) The comptroller shall deposit money received under this section to the credit of the available school fund.

Sec. 401.013. USE OF TAX PROCEEDS. Except as provided by Section 401.012, the municipality or county may use net tax revenue received under this chapter only for a purpose authorized by Section 7-a, Article VIII, Texas Constitution.