

By: Krusee, Hill

H.B. No. 5

Substitute the following for H.B. No. 5:

By: Grusendorf

C.S.H.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to the rate of the state gasoline and diesel fuel taxes.

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

SECTION 1. Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATE. Except as provided by Section 162.1025, the [The] gasoline tax rate is 20 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

SECTION 2. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. ANNUAL RATE CHANGE ACCORDING TO CONSUMER PRICE INDEX. (a) In this section:

(1) "Consumer price index" means the consumer price index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers' families and single workers living alone (CPI-W: Seasonally Adjusted U.S. City Average--All Items).

(2) "Consumer price index percentage change" means the percentage increase or decrease in the consumer price index of a given state fiscal year from the consumer price index of the preceding state fiscal year.

(b) On October 1 of each year, the rate of the gasoline tax

1 imposed under this subchapter is increased or decreased by a
2 percentage that is equal to the consumer price index percentage
3 change for the preceding fiscal year.

4 (c) Not later than September 1 of each year, the Legislative
5 Budget Board shall:

6 (1) compute the new tax rate as provided by this
7 section;

8 (2) give the new tax rate to the secretary of state for
9 publication in the Texas Register; and

10 (3) notify each license holder under this subchapter
11 of the applicable new tax rate.

12 SECTION 3. Section 162.103(a), Tax Code, is amended to read
13 as follows:

14 (a) A backup tax is imposed at the rate prescribed by
15 Sections [Section] 162.102 and 162.1025 on:

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

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

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

25 SECTION 4. Section 162.202, Tax Code, is amended to read as
26 follows:

27 Sec. 162.202. TAX RATE. Except as provided by Section

1 162.2025, the ~~[The]~~ diesel fuel tax rate is 20 cents for each net
2 gallon or fractional part on which the tax is imposed under Section
3 162.201.

4 SECTION 5. Subchapter C, Chapter 162, Tax Code, is amended
5 by adding Section 162.2025 to read as follows:

6 Sec. 162.2025. ANNUAL RATE CHANGE ACCORDING TO CONSUMER
7 PRICE INDEX. (a) In this section:

8 (1) "Consumer price index" means the consumer price
9 index, as published by the Bureau of Labor Statistics of the United
10 States Department of Labor, that measures the average changes in
11 prices of goods and services purchased by urban wage earners and
12 clerical workers' families and single workers living alone (CPI-W:
13 Seasonally Adjusted U.S. City Average--All Items).

14 (2) "Consumer price index percentage change" means the
15 percentage increase or decrease in the consumer price index of a
16 given state fiscal year from the consumer price index of the
17 preceding state fiscal year.

18 (b) On October 1 of each year, the rate of the diesel fuel
19 tax imposed under this subchapter is increased or decreased by a
20 percentage that is equal to the consumer price index percentage
21 change for the preceding fiscal year.

22 (c) Not later than September 1 of each year, the Legislative
23 Budget Board shall:

24 (1) compute the new tax rate as provided by this
25 section;

26 (2) give the new tax rate to the secretary of state for
27 publication in the Texas Register; and

1 (3) notify each license holder under this subchapter
2 of the applicable new tax rate.

3 SECTION 6. Section 162.203(a), Tax Code, is amended to read
4 as follows:

5 (a) A backup tax is imposed at the rate prescribed by
6 Sections [Section] 162.202 and 162.2025 on:

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

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

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

16 SECTION 7. If this Act takes effect September 1, 2005, the
17 Legislative Budget Board shall determine the new tax rate, give the
18 rate to the secretary of state, and notify each license holder, as
19 required by this Act, on September 1, 2005. The Legislative Budget
20 Board may adopt rules and procedures in anticipation of this Act
21 taking effect.

22 SECTION 8. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2005.