

Amend **HB 3314** as follows:

(1) Add the following new SECTIONS:

SECTION 10. Subsection (b), Section 101.009, Tax Code, is amended to read as follows:

(b) Cigarette tax revenue allocated under Section 154.603(b) [~~of this code~~] shall be allocated as provided by Section 154.603, subject to Section 154.6035 [~~of this code~~]. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F, Chapter 162 [~~of Chapter 153 of this code~~].

SECTION 11. Subsection (g), Section 111.006, Tax Code, is amended to read as follows:

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 162 [~~153~~] may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 162 [~~153~~];

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

SECTION 12. Subsection (d), Section 111.060, Tax Code, is amended to read as follows:

(d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211 or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 13. Subsection (d), Section 111.064, Tax Code, is amended to read as follows:

(d) This section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 14. Subsection (a), Section 111.107, Tax Code, is amended to read as follows:

(a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 162 [~~153~~], except Section 162.126(f) [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~], or 162.230(d) [~~153.224(d)~~].

SECTION 15. Section 151.308, Tax Code, is amended to read as follows:

Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following are exempted from the taxes imposed by this chapter:

- (1) oil as taxed by Chapter 202;
- (2) sulphur as taxed by Chapter 203;
- (3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162 [~~153~~];
- (4) cement as taxed by Chapter 181;
- (5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office as defined by Section 152.001(16);
- (6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183;
- (7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;
- (8) oil well service as taxed by Subchapter E, Chapter 191; and
- (9) insurance premiums subject to gross premiums taxes.

(b) Natural gas is exempted under Subsection (a)(3) only to the extent that the gas is taxed as a motor fuel under Chapter 162 [~~153~~].

SECTION 16. Subdivisions (9), (19), (20), (29), (31), (42), (43), and (55), Section 162.001, Tax Code, are amended 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, that produces 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 as fuel [~~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, or capable of use as fuel for the propulsion of a 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 of motor fuel at wholesale. A distributor's [and whose] activities may also include sales of motor fuel at retail.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, [~~or~~] used, or capable of use as [~~the~~] fuel for the propulsion of a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(31) "Gasoline blended fuel" means a mixture composed of gasoline and other liquids, including gasoline blend stocks, gasohol, ethanol, methanol, fuel grade alcohol, and resulting blends, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that is offered for sale, sold, [can be] used, or is capable of use as fuel for a gasoline-powered engine [~~gasoline in a motor vehicle~~].

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, and other products that are offered for sale, sold, [can be] used, or are capable of use as fuel for the propulsion of [~~to propel~~] a motor vehicle.

(43) "Motor fuel transporter" means a person who

transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, or any other motor fuel, except liquefied gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

(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 ~~[A]~~ shipping documents ~~[document issued by a bulk plant]~~ shall be typed or handwritten on a preprinted form or machine printed.

SECTION 17. 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 18. Subsections (a), (b), (d), and (e), Section 162.016, 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 19. Subsections (a) through (e), Section 162.101, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of gasoline from the terminal using the terminal rack, other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(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 is

liable for and 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 is liable for and 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 is liable for and 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.

(d) A tax is imposed on gasoline brought into this state in a motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of gasoline at the point gasoline blended fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of gasoline blended fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed gasoline used to make the blended fuel.

SECTION 20. Subsection (d), Section 162.103, 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 21. Subsections (a) and (f), Section 162.104, Tax Code, are amended to read as follows:

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

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold

or delivered to a person operating under a contract with the United States;

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

(3) 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 gasoline only to provide those services;

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

(A) for gasoline 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 gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline 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) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline 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) that is:

(A) aviation gasoline sold by a licensed supplier, permissive supplier, or distributor to another licensed supplier, permissive supplier, or distributor, provided that the aviation gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(B) aviation gasoline or gasoline sold by a supplier, permissive supplier, or distributor into a storage facility of a licensed aviation fuel dealer; or

(C) aviation gasoline or gasoline [delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline 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 aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment~~]; or

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

(f) The exemption provided by Subsection (a)(4)(A) does not apply to a sale by a distributor, unless:

(1) the sale is to a licensed exporter;

(2) the supplier collects the destination state tax from the distributor;

(3) the distributor collects the destination state tax from the exporter; and

(4) the contract for the sale is signed before the gasoline is removed from the terminal.

SECTION 22. Subsections (b) and (c), Section 162.112, Tax Code, are amended to read as follows:

(b) A licensed supplier, ~~[or]~~ permissive supplier, or distributor who sells gasoline tax-free to a person whose supplier's, ~~[or]~~ permissive supplier's, or aviation fuel dealer's license has been canceled or revoked under this chapter is liable for any tax due on gasoline 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 the supplier, ~~[or]~~ permissive supplier, or aviation fuel dealer after the effective date of the reinstatement may be made tax-free.

SECTION 23. Section 162.115, Tax Code, is amended by adding Subsection (n) to read as follows:

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

SECTION 24. Subsection (a), Section 162.116, Tax Code, is 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 and ~~[, 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.

SECTION 25. 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 ~~[,]~~ 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 26. Section 162.125, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of gasoline for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation

organized under Chapter 162, Utilities Code.

SECTION 27. Subsection (d), Section 162.128, 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 28. Subsections (a) through (e), Section 162.201, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of diesel fuel from the terminal using the terminal rack other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(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 is liable for and 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 is liable for and 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 is liable for and 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.

(d) A tax is imposed on diesel fuel brought into this state in the motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of diesel fuel at the

point blended diesel fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of blended diesel fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed diesel fuel used to make the blended fuel.

SECTION 29. Subsection (d), Section 162.203, 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 30. Subsections (a) and (f), Section 162.204, Tax Code, are 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) that is:

(A) aviation jet fuel sold by a licensed supplier, permissive supplier, or distributor to another licensed supplier, permissive supplier, or distributor, provided that the aviation jet fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(B) aviation jet fuel or diesel fuel sold by a supplier, permissive supplier, or distributor into a storage facility of a licensed aviation fuel dealer; or

(C) aviation jet fuel or diesel fuel ~~[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 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.

(f) The exemption provided by Subsection (a)(4)(A) does not apply to a sale by a distributor, unless:

(1) the sale is to a licensed exporter;

(2) the supplier collects the destination state tax from the distributor;

(3) the distributor collects the destination state tax from the exporter; and

(4) the contract for the sale is signed before the diesel fuel is removed from the terminal.

SECTION 31. 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 temporarily 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 until the purchaser provides to the supplier or distributor a completed signed statement.

(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 32. Subsections (b) and (c), Section 162.213, Tax Code, are amended to read as follows:

(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 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, or dyed diesel fuel bonded user after the effective date of the reinstatement may be made tax-free.

SECTION 33. Section 162.216, Tax Code, is amended by adding Subsection (o) to read as follows:

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

SECTION 34. Subsection (a), Section 162.217, Tax Code, is 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 and ~~[, 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.

SECTION 35. 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 ~~[7]~~ dyed diesel fuel sold to a purchaser under a signed statement ~~[7]~~ 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 36. Section 162.227, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of diesel fuel for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; or

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

SECTION 37. Subsection (d), Section 162.230, 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 38. Subsections (a) and (d), Section 162.402, Tax Code, are amended to read as follows:

(a) A person forfeits to the state a civil penalty of not less than \$25 and not more than \$200 if the person:

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

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

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

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

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

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

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

(8) transports gasoline or diesel fuel in any cargo

tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

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

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

(11) furnishes to a supplier a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

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

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

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

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

(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.

SECTION 39. Section 162.403, Tax Code, is amended to read as follows:

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on

the demand of a peace officer or the comptroller;

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

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

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

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

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

(7) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(8) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

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

(10) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;

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

(12) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no

Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(15) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(16) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

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

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

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

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

(20) ~~[(21)]~~ refuses to surrender a motor vehicle and

cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(21) [~~(22)~~] mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(22) [~~(23)~~] is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

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

(24) [~~(25)~~] engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

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

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

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

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

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

(30) [~~(31)~~] fails to remit any tax funds collected by a license holder, another user, or any other person required to hold a license under this chapter;

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

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyed diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(32) [~~(33)~~] makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

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

(34) [~~(35)~~] is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter or who accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(35) [~~(36)~~] transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(36) [~~(37)~~] imports, sells, uses, blends, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

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

(38) [~~(39)~~] evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter.

SECTION 40. Subsections (c) and (d), Section 162.404, Tax Code, are amended to read as follows:

(c) The prohibition under Section 162.403(31) [~~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(32) [~~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 41. Subsections (b) through (f), Section 162.405, Tax Code, are amended to read as follows:

(b) An offense under Section 162.403(9), (10), (11), (12), (13), (14), (15), (16), or (17) [~~or (18)~~] is a Class B misdemeanor.

(c) An offense under Section 162.403(18), (19), or [~~162.403(19)~~] (20) [~~or (21)~~] is a Class A misdemeanor.

(d) An offense under Section 162.403(7), (21), (22), (23), (24), (25), (26), (27), or (28) [~~or (29)~~] is a felony of the third degree.

(e) An offense under Section 162.403(29), (30) [~~162.403(30)~~], (31), (32), (33), (34), (35), (36), (37), or (38) [~~or (39)~~] is a felony of the second degree.

(f) Violations of three or more separate offenses under Sections 162.403(21) [~~162.403(22)~~] through (28) [~~(29)~~] committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree.

SECTION 42. 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 43. Subsections (a) and (d), Section 162.409, 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 44. 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 criminal offense provision of this chapter by a person constitutes another offense under the laws of this state, the state may elect the offense for which it will prosecute the person.

SECTION 45. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree

under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (5); or

(F) arson;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception; or

(C) a violation under Sections 162.403(21)-(38) [~~162.403(22)-(39)~~], Tax Code;

(4) five years from the date of the commission of the offense:

(A) theft, burglary, robbery;

(B) kidnapping;

(C) injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(D) abandoning or endangering a child; or

(E) insurance fraud;

(5) ten years from the 18th birthday of the victim of the offense:

(A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code; or

(B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or

(6) three years from the date of the commission of the offense: all other felonies.

SECTION 46. Subsections (b) and (d), Section 20.002, Transportation Code, are amended to read as follows:

(b) This section applies to a person, other than a political subdivision, who:

(1) owns, controls, operates, or manages a commercial motor vehicle; and

(2) is exempt from the state diesel fuel tax under

Section 162.204 [~~153.203~~], Tax Code.

(d) The fee imposed by this section is equal to 25 percent of the diesel fuel tax rate imposed under Section 162.202 [~~153.202(b)~~], Tax Code.

SECTION 47. Subsection (o), Section 26.3574, Water Code, is amended to read as follows:

(o) Chapters 101 and 111-113, and Sections 162.005 [~~153.006~~], 162.007 [~~153.007~~], and 162.111 [~~153.116(b)-(j)~~], Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

SECTION 48. Subdivision (34), Section 162.001, and Subsections (c) and (h), Section 162.016, Tax Code, are repealed.

SECTION 49. (a) The change in law made by Sections 10 through 50 of this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 50. The change in law made by Sections 10 through 50 this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(2) Strike SECTION 10 of the bill and substitute the following:

SECTION 51. Sections 10 through 50 of this Act take effect September 1, 2007. Sections 1 through 9 and Section 51 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Sections 1 through 9 and Section 51 of this Act take effect September 1, 2007.