

Amend Floor Amendment No. 2 to **HB 3314** (Senate committee printing) as follows:

(1) On page 18 of the amendment, lines 25-26, strike "Subsection" and substitute "Subsections (c-2), (d-1), and".

(2) On page 18 of the amendment, between lines 26 and 27, insert the following:

(c-2) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid tax on diesel fuel;

(2) the diesel fuel is used in this state by moveable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by moveable specialized equipment used in oil field well servicing.

(d-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state by auxiliary power units or power take-off equipment on any motor vehicle. If the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund. If there is no separate metering device or other approved measuring method, the license holder may take the credit and the person who does not hold a license may claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment. The comptroller shall determine the percentage of the credit or refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator

or passengers is not a power take-off system, and a credit or refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose. A credit or refund may not be allowed for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling.

(3) On page 24 of the amendment, line 27, strike "or".

(4) On page 24 of the amendment, line 29, strike "." and substitute the following: "; or

(39) makes a tax-free sale of motor fuel on which the taxes imposed by this chapter have not been previously paid by the seller:

(A) to a person who is not licensed to purchase tax-free motor fuel under this chapter; or

(B) in a transaction or for a purpose that is not exempt under this chapter."

(5) On page 25 of the amendment, line 16, strike "or (38) [~~7~~ ~~or (39)~~]" and substitute "(38), or (39)".

(6) On page 27 of the amendment, line 12, strike "162.403(21)-(38)" and substitute "162.403(21)-(39)".

(7) On page 28 of the amendment, between lines 14 and 15, add the following new SECTION 49:

SECTION 49. Section 1(3), Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) "Motor fuel" has the meaning given that term by Section 162.001 [~~153.001~~], Tax Code.

(8) On page 28 of the amendment, line 15, strike "SECTION 49" and substitute "SECTION 50".

(9) On page 28 of the amendment, line 15, strike "50" between "through" and "of" and substitute "49".

(10) On page 28 of the amendment, line 22, strike "SECTION 49" and substitute "SECTION 50".

(11) On page 28 of the amendment, line 22, strike "50" between "through" and "this" and substitute "49 of".

(12) On page 28 of the amendment, line 28, strike "SECTION 51" and substitute "SECTION 52."

(13) On page 28 of the amendment, line 28, strike "50"

between "through" and "of" and substitute "51".

(14) On page 28 of the amendment, line 29, strike "and Section 51".

(15) On page 29 of the amendment, line 1, strike "and Section 51".