

By: Keffer

H.B. No. 3320

A BILL TO BE ENTITLED

AN ACT

relating to motor fuel taxes.

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

SECTION 1. Section 101.009(b), 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 2. Section 111.006(g), 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

1 official in a manner substantially equivalent to the official's
2 access to information under this subsection.

3 SECTION 3. Section 111.060(d), Tax Code, is amended to read
4 as follows:

5 (d) Subsection (c) does not apply to the taxes imposed by
6 Chapters 152 and 211 or under an agreement made under Section
7 162.003 [~~153.017~~].

8 SECTION 4. Section 111.064(d), Tax Code, is amended to read
9 as follows:

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

13 SECTION 5. Section 111.107(a), Tax Code, is amended to read
14 as follows:

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

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

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

26 (3) under Chapter 162 [~~153~~], except Section 162.126(f)
27 [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~],

1 or 162.230(d) [~~153.224(d)~~].

2 SECTION 6. Section 151.308, Tax Code, is amended to read as
3 follows:

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

6 (1) oil as taxed by Chapter 202;

7 (2) sulphur as taxed by Chapter 203;

8 (3) motor fuels and special fuels as defined, taxed,
9 or exempted by Chapter 162 [~~153~~];

10 (4) cement as taxed by Chapter 181;

11 (5) motor vehicles, trailers, and semitrailers as
12 defined, taxed, or exempted by Chapter 152, other than a mobile
13 office as defined by Section 152.001(16);

14 (6) mixed beverages, ice, or nonalcoholic beverages
15 and the preparation or service of these items if the receipts are
16 taxable by Chapter 183;

17 (7) alcoholic beverages when sold to the holder of a
18 private club registration permit or to the agent or employee of the
19 holder of a private club registration permit if the holder or agent
20 or employee is acting as the agent of the members of the club and if
21 the beverages are to be served on the premises of the club;

22 (8) oil well service as taxed by Subchapter E, Chapter
23 191; and

24 (9) insurance premiums subject to gross premiums
25 taxes.

26 (b) Natural gas is exempted under Subsection (a)(3) only to
27 the extent that the gas is taxed as a motor fuel under Chapter 162

1 [153].

2 SECTION 7. Sections 162.001(9), (19), (20), (29), (31),
3 (42), (43), and (55), Tax Code, are amended to read as follows:

4 (9) "Blending" means the mixing together of one or
5 more [~~petroleum~~] products with other products [~~another product~~],
6 regardless of the original character of the product blended, that
7 produces a product that is offered for sale, sold, or used as a
8 motor fuel or [~~if the product obtained by the blending~~] is capable
9 of use as fuel [~~in the generation of power~~] for the propulsion of a
10 motor vehicle. The term does not include mixing that occurs in the
11 process of refining by the original refiner of crude petroleum or
12 the commingling of products during transportation in a pipeline.

13 (19) "Diesel fuel" means kerosene or another liquid,
14 or a combination of liquids blended together, offered for sale,
15 sold, [~~that is suitable for or~~] used, or capable of use as fuel for
16 the propulsion of a diesel-powered engine [~~motor vehicles~~]. The
17 term includes products commonly referred to as kerosene, light
18 cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel
19 fuel, aviation jet fuel, biodiesel, distillate fuel, cutter stock,
20 or heating oil, but does not include gasoline, aviation gasoline,
21 or liquefied gas.

22 (20) "Distributor" means a person who [~~acquires motor~~
23 ~~fuel from a licensed supplier, permissive supplier, or another~~
24 ~~licensed distributor and who~~] makes sales of motor fuel at
25 wholesale. A distributor's [~~and whose~~] activities may also include
26 sales of motor fuel at retail.

27 (29) "Gasoline" means any liquid or combination of

1 liquids blended together, offered for sale, sold, [~~or~~] used, or
2 capable of use as [~~the~~] fuel for the propulsion of a
3 gasoline-powered engine. The term includes gasohol, aviation
4 gasoline, and blending agents, but does not include racing
5 gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

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

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

17 (43) "Motor fuel transporter" means a person who
18 transports gasoline, diesel fuel, [~~or~~] gasoline blended fuel, or
19 any other motor fuel, except liquefied gas, outside the bulk
20 transfer/terminal system by means of a transport vehicle, a
21 railroad tank car, or a marine vessel.

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

1 handwritten on a preprinted form or machine printed.

2 SECTION 8. Section 162.004, Tax Code, is amended by
3 amending Subsections (a) and (b) and adding Subsections (a-1) and
4 (h) to read as follows:

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

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

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

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

19 (2) the name and license number of the purchaser;

20 (3) the date the motor fuel was loaded;

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

23 (5) the destination state of the motor fuel, as
24 represented by the purchaser of the motor fuel or the purchaser's
25 agent; and

26 (6) a description of the product being transported.

27 (h) This section does not apply to motor fuel that is

1 delivered into the fuel supply tank of a motor vehicle.

2 SECTION 9. Sections 162.016(a), (b), (d), and (e), Tax
3 Code, are amended to read as follows:

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

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

12 (2) the name and federal employer identification
13 number, or the social security number if the employer
14 identification number is not available, of the carrier transporting
15 the motor fuel;

16 (3) the date the motor fuel was loaded;

17 (4) the type of motor fuel;

18 (5) the number of gallons:

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

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

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

26 (7) the name, federal employer identification number,
27 license number, and physical address of the purchaser of the motor

1 fuel;

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

6 (9) the destination state of each portion of a split
7 load of motor fuel if the motor fuel is to be delivered to more than
8 one state; and

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

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

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

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

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

22 (e) An importer or exporter shall keep in the person's
23 possession the shipping document ~~[issued by the terminal or bulk~~
24 ~~plant]~~ when transporting motor fuel imported into this state or for
25 export from this state. The importer or exporter shall show the
26 document to the comptroller or a peace officer on request. The
27 comptroller may delegate authority to inspect the document to other

1 governmental agencies. The importer or exporter shall provide a
2 copy of the shipping document to the person that receives the fuel
3 when it is delivered.

4 SECTION 10. Sections 162.101(a) through (e), Tax Code, are
5 amended to read as follows:

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

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

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

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

1 interstate trucker is liable for and shall pay the tax.

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

9 SECTION 11. Section 162.103(d), Tax Code, is amended to
10 read as follows:

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

18 SECTION 12. Sections 162.104(a) and (f), Tax Code, are
19 amended to read as follows:

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

22 (1) sold to the United States for its exclusive use,
23 provided that the exemption does not apply with respect to fuel sold
24 or delivered to a person operating under a contract with the United
25 States;

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

1 (3) sold to a commercial transportation company that
2 provides public school transportation services to a school district
3 under Section 34.008, Education Code, and that uses the gasoline
4 only to provide those services;

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

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

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

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

21 (6) that is:

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

27 (B) aviation gasoline or gasoline sold by a

1 supplier, permissive supplier, or distributor into a storage
2 facility of a licensed aviation fuel dealer; or

3 (C) aviation gasoline or gasoline sold from one
4 licensed aviation fuel dealer to another licensed aviation fuel
5 dealer [~~delivered or sold into a storage facility of a licensed~~
6 ~~aviation fuel dealer from which gasoline will be delivered solely~~
7 ~~into the fuel supply tanks of aircraft or aircraft servicing~~
8 ~~equipment, or sold from one licensed aviation fuel dealer to~~
9 ~~another licensed aviation fuel dealer who will deliver the aviation~~
10 ~~fuel exclusively into the fuel supply tanks of aircraft or aircraft~~
11 ~~servicing equipment]; or~~

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

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

17 (1) the sale is to a licensed exporter;

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

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

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

24 SECTION 13. Sections 162.112(b) and (c), Tax Code, are
25 amended to read as follows:

26 (b) A licensed supplier, ~~or~~ permissive supplier, or
27 distributor who sells gasoline tax-free to a person whose

1 supplier's, ~~[or]~~ permissive supplier's, or aviation fuel dealer's
2 license has been canceled or revoked under this chapter is liable
3 for any tax due on gasoline sold after receiving notice of the
4 cancellation or revocation.

5 (c) The comptroller shall notify all license holders under
6 this chapter when a canceled or revoked license is subsequently
7 reinstated and include in the notice the effective date of the
8 reinstatement. Sales to the supplier, ~~[or]~~ permissive supplier, or
9 aviation fuel dealer after the effective date of the reinstatement
10 may be made tax-free.

11 SECTION 14. Section 162.115, Tax Code, is amended by adding
12 Subsection (n) to read as follows:

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

16 SECTION 15. Section 162.116(a), Tax Code, is amended to
17 read as follows:

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

21 (1) ~~[the number of net gallons of gasoline received by~~
22 ~~the supplier or permissive supplier during the month, sorted by~~
23 ~~product code, seller, point of origin, destination state, carrier,~~
24 ~~and receipt date,~~

25 [~~2~~] the number of net gallons of gasoline removed at
26 a terminal rack during the month from the account of the supplier,
27 sorted by product code, person receiving the gasoline, terminal

1 code, and carrier;

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

6 (3) [~~(4)~~] the number of net gallons of gasoline
7 removed during the month from a terminal located in another state
8 for conveyance to this state, as indicated on the shipping document
9 for the gasoline, sorted by product code, person receiving the
10 gasoline, terminal code, and carrier;

11 (4) [~~(5)~~] the number of net gallons of gasoline the
12 supplier or permissive supplier sold during the month in
13 transactions exempt under Section 162.104, sorted by [~~product code,~~
14 ~~carrier,~~] purchaser[, ~~and terminal code,~~

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

18 (5) [~~(7)~~] any other information required by the
19 comptroller.

20 SECTION 16. Section 162.118, Tax Code, is amended to read as
21 follows:

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

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

1 ~~date~~];

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

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

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

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

17 (6) any other information required by the comptroller.

18 SECTION 17. Section 162.125, Tax Code, is amended by adding
19 Subsection (j) to read as follows:

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

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

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

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

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

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

13 SECTION 18. Section 162.126(e), Tax Code, is amended to
14 read as follows:

15 (e) This section does not apply to a sale of gasoline that is
16 delivered into the fuel supply tank of a motor vehicle or motorboat
17 and for which payment is made through the use and acceptance of a
18 credit card, other than a credit card issued by the distributor
19 filing the refund claim.

20 SECTION 19. Section 162.128(d), Tax Code, is amended to
21 read as follows:

22 (d) A supplier, ~~[or]~~ permissive supplier, distributor,
23 importer, exporter, or blender that determines taxes were
24 erroneously reported and remitted or that paid more taxes than were
25 due this state because of a mistake of fact or law may take a credit
26 on the monthly tax report on which the error has occurred and tax
27 payment made to the comptroller. The credit must be taken before

1 the expiration of the applicable period of limitation as provided
2 by Chapter 111.

3 SECTION 20. Sections 162.201(a) through (e), Tax Code, are
4 amended to read as follows:

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

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

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

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

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

8 SECTION 21. Section 162.203(d), Tax Code, is amended to
9 read as follows:

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

17 SECTION 22. Sections 162.204(a) and (f), Tax Code, are
18 amended to read as follows:

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

20 (1) diesel fuel sold to the United States for its
21 exclusive use, provided that the exemption does not apply to diesel
22 fuel sold or delivered to a person operating under a contract with
23 the United States;

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

26 (3) diesel fuel sold to a commercial transportation
27 company that provides public school transportation services to a

1 school district under Section 34.008, Education Code, and that uses
2 the diesel fuel only to provide those services;

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

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

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

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

19 (6) that is:

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

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

1 (C) aviation jet fuel or diesel fuel sold from
2 one licensed aviation fuel dealer to another licensed aviation fuel
3 dealer [~~diesel fuel delivered or sold into a storage facility of a~~
4 ~~licensed aviation fuel dealer from which the diesel fuel will be~~
5 ~~delivered solely into the fuel supply tanks of aircraft or aircraft~~
6 ~~servicing equipment, or sold from one licensed aviation fuel dealer~~
7 ~~to another licensed aviation fuel dealer who will deliver the~~
8 ~~diesel fuel exclusively into the fuel supply tanks of aircraft or~~
9 ~~aircraft servicing equipment~~];

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

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

18 (9) the volume of water, fuel ethanol, biodiesel, or
19 mixtures thereof that are blended together with taxable diesel fuel
20 when the finished product sold or used is clearly identified on the
21 retail pump, storage tank, and sales invoice as a combination of
22 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
23 thereof;

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

27 (11) dyed diesel fuel delivered by a license holder

1 into the fuel supply tanks of railway engines, motorboats, or
2 refrigeration units or other stationary equipment powered by a
3 separate motor from a separate fuel supply tank;

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

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

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

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

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

19 (1) the sale is to a licensed exporter;

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

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

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

26 SECTION 23. Section 162.206, Tax Code, is amended by
27 amending Subsection (c) and adding Subsections (c-1), (g-1), and

1 (k) to read as follows:

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

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

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

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

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

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

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

26 (g-1) For purposes of this section, the purchaser is
27 considered to have furnished the signed statement to the licensed

1 supplier or distributor if the supplier or distributor verifies
2 that the purchaser has an end user number issued by the comptroller.
3 The licensed supplier or distributor shall use the comptroller's
4 Internet website or other materials provided or produced by the
5 comptroller to verify this information.

6 (k) Properly completed signed statements should be in the
7 possession of the licensed supplier or distributor at the time the
8 sale of dyed diesel fuel occurs. If the licensed supplier or
9 distributor is not in possession of the signed statements within 60
10 days after the date written notice requiring possession of them is
11 given to the licensed supplier or distributor by the comptroller,
12 exempt sales claimed by the licensed supplier or distributor that
13 require delivery of the signed statements shall be disallowed. If
14 the licensed supplier or distributor delivers the signed statements
15 to the comptroller within the 60-day period, the comptroller may
16 verify the reason or basis for the signed statements before
17 allowing the exempt sales. An exempt sale may not be granted on the
18 basis of signed statements delivered to the comptroller after the
19 60-day period.

20 SECTION 24. Sections 162.213(b) and (c), Tax Code, are
21 amended to read as follows:

22 (b) A licensed supplier or permissive supplier who sells
23 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or
24 aviation fuel dealer whose license has been canceled or revoked
25 under this chapter, or who sells dyed diesel fuel to a distributor
26 or dyed diesel fuel bonded user whose license has been canceled or
27 revoked under this chapter, is liable for any tax due on diesel fuel

1 sold after receiving notice of the cancellation or revocation.

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

8 SECTION 25. Section 162.216, Tax Code, is amended by adding
9 Subsection (o) to read as follows:

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

13 SECTION 26. Section 162.217(a), Tax Code, is amended to
14 read as follows:

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

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

22 [~~2~~] the number of net gallons of diesel fuel removed
23 at a terminal rack during the month from the account of the
24 supplier, sorted by product code, person receiving the diesel fuel,
25 terminal code, and carrier;

26 (2) [~~3~~] the number of net gallons of diesel fuel
27 removed during the month for export, sorted by product code, person

1 receiving the diesel fuel, terminal code, destination state, and
2 carrier;

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

8 (4) [~~(5)~~] the number of net gallons of diesel fuel the
9 supplier or permissive supplier sold during the month in
10 transactions exempt under Section 162.204, sorted by [~~product code,~~
11 ~~carrier,~~] purchaser[, ~~and terminal code,~~

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

15 (5) [~~(7)~~] any other information required by the
16 comptroller.

17 SECTION 27. Section 162.219, Tax Code, is amended to read as
18 follows:

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

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

26 (2) the number of net gallons of diesel fuel removed at
27 a terminal rack by the distributor during the month, sorted by

1 product code, seller, and terminal code [~~7~~ and carrier];

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

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

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

15 (6) the number of net gallons of [~~7~~] dyed diesel fuel
16 sold to a purchaser under a signed statement [~~7~~] or dyed diesel fuel
17 sold to a dyed diesel fuel bonded user, sorted by product code and
18 by the entity receiving the diesel fuel; and

19 (7) [~~6~~] any other information required by the
20 comptroller.

21 SECTION 28. Section 162.227, Tax Code, is amended by adding
22 Subsection (j) to read as follows:

23 (j) A license holder may take a credit on a return for the
24 tax included in the retail purchase price of diesel fuel for the
25 period in which the purchase occurred when made by one of the
26 following purchasers, if the purchase was made by acceptance of a
27 credit card not issued by the license holder, the credit card issuer

1 did not collect the tax from the purchaser, and the license holder
2 reimbursed the credit card issuer for the amount of tax included in
3 the retail purchase price:

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

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

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

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

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

16 SECTION 29. Section 162.228(e), Tax Code, is amended to
17 read as follows:

18 (e) This section does not apply to a sale of diesel fuel that
19 is delivered into the fuel supply tank of a motor vehicle or
20 motorboat and for which payment is made through the use and
21 acceptance of a credit card, other than a credit card issued by the
22 distributor filing the refund claim.

23 SECTION 30. Section 162.230(d), Tax Code, is amended to
24 read as follows:

25 (d) A supplier, ~~[or]~~ permissive supplier, distributor,
26 importer, exporter, or blender that determines taxes were
27 erroneously reported and remitted or that paid more taxes than were

1 due to this state because of a mistake of fact or law may take a
2 credit on the monthly tax report on which the error has occurred and
3 tax payment made to the comptroller. The credit must be taken
4 before the expiration of the applicable period of limitation as
5 provided by Chapter 111.

6 SECTION 31. Sections 162.402(a) and (d), Tax Code, are
7 amended to read as follows:

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

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

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

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

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

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

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

1 license plates;

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

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

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

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

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

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

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

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

27 [~~15~~] purchases motor fuel for export, on which the tax

1 imposed by this chapter has not been paid, and subsequently diverts
2 or causes the motor fuel to be diverted to a destination in this
3 state or any other state or country other than the originally
4 designated state or country without first obtaining a diversion
5 number.

6 (d) A person [~~operating a bulk plant or terminal~~] who issues
7 a shipping document that does not conform with the requirements of
8 Section 162.016(a) is liable to this state for a civil penalty of
9 \$2,000 or five times the amount of the unpaid tax, whichever is
10 greater, for each occurrence.

11 SECTION 32. Section 162.403, Tax Code, is amended to read as
12 follows:

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

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

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

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

26 (4) transports gasoline or diesel fuel in any cargo
27 tank that has a connection by pipe, tube, valve, or otherwise with

1 the fuel injector or carburetor or with the fuel supply tank feeding
2 the fuel injector or carburetor of the motor vehicle transporting
3 the product;

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

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

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

13 (8) uses dyed diesel fuel for the operation of a motor
14 vehicle on a public highway except as allowed under Section
15 162.235;

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

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

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

25 (12) makes a delivery of liquefied gas into the fuel
26 supply tank of a motor vehicle bearing Texas license plates and no
27 Texas liquefied gas tax decal, unless licensed under a multistate

1 fuels tax agreement;

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

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

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

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

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

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

1 number;

2 (18) [~~(19)~~] conceals motor fuel with the intent of
3 engaging in any conduct proscribed by this chapter or refuses to
4 make sales of motor fuel on the volume-corrected basis prescribed
5 by this chapter;

6 (19) [~~(20)~~] refuses, while transporting motor fuel,
7 to stop the motor vehicle the person is operating when called on to
8 do so by a person authorized to stop the motor vehicle;

9 (20) [~~(21)~~] refuses to surrender a motor vehicle and
10 cargo for impoundment after being ordered to do so by a person
11 authorized to impound the motor vehicle and cargo;

12 (21) [~~(22)~~] mutilates, destroys, or secretes a book or
13 record required by this chapter to be kept by a license holder,
14 other user, or person required to hold a license under this chapter;

15 (22) [~~(23)~~] is a license holder, other user, or other
16 person required to hold a license under this chapter, or the agent
17 or employee of one of those persons, and makes a false entry or
18 fails to make an entry in the books and records required under this
19 chapter to be made by the person or fails to retain a document as
20 required by this chapter;

21 (23) [~~(24)~~] transports in any manner motor fuel under
22 a false cargo manifest or shipping document, or transports in any
23 manner motor fuel to a location without delivering at the same time
24 a shipping document relating to that shipment;

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

1 (25) [~~(26)~~] makes and delivers to the comptroller a
2 report required under this chapter to be made and delivered to the
3 comptroller, if the report contains false information;

4 (26) [~~(27)~~] forges, falsifies, or alters an invoice
5 prescribed by law;

6 (27) [~~(28)~~] makes any statement, knowing said
7 statement to be false, in a claim for a tax refund filed with the
8 comptroller;

9 (28) [~~(29)~~] furnishes to a supplier a signed statement
10 for purchasing diesel fuel tax-free and then uses the tax-free
11 diesel fuel to operate a diesel-powered motor vehicle on a public
12 highway;

13 (29) [~~(30)~~] holds an aviation fuel dealer's license
14 and makes a taxable sale or use of any gasoline or diesel fuel;

15 (30) [~~(31)~~] fails to remit any tax funds collected by
16 a license holder, another user, or any other person required to hold
17 a license under this chapter;

18 (31) [~~(32)~~] makes a sale of dyed diesel fuel tax-free
19 into a storage facility of a person who:

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

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

24 (32) [~~(33)~~] makes a sale of gasoline tax-free to any
25 person who is not licensed as an aviation fuel dealer;

26 (33) [~~(34)~~] is a dealer who purchases any motor fuel
27 tax-free when not authorized to make a tax-free purchase under this

1 chapter;

2 (34) [~~(35)~~] is a dealer who purchases motor fuel with
3 the intent to evade any tax imposed by this chapter or who accepts a
4 delivery of motor fuel by any means and does not at the same time
5 accept or receive a shipping document relating to the delivery;

6 (35) [~~(36)~~] transports motor fuel for which a cargo
7 manifest or shipping document is required to be carried without
8 possessing or exhibiting on demand by an officer authorized to make
9 the demand a cargo manifest or shipping document containing the
10 information required to be shown on the manifest or shipping
11 document;

12 (36) [~~(37)~~] imports, sells, uses, blends,
13 distributes, or stores motor fuel within this state on which the
14 taxes imposed by this chapter are owed but have not been first paid
15 to or reported by a license holder, another user, or any other
16 person required to hold a license under this chapter;

17 (37) [~~(38)~~] blends products together to produce a
18 blended fuel that is offered for sale, sold, or used and that
19 expands the volume of the original product to evade paying
20 applicable motor fuel taxes; or

21 (38) [~~(39)~~] evades or attempts to evade in any manner
22 a tax imposed on motor fuel by this chapter.

23 SECTION 33. Sections 162.404(c) and (d), Tax Code, are
24 amended to read as follows:

25 (c) The prohibition under Section 162.403(31) [~~162.403(32)~~]
26 does not apply to the tax-free sale or distribution of diesel fuel
27 authorized by Section 162.204(a)(1) [~~162.204(1)~~], (2), or (3).

1 (d) The prohibition under Section 162.403(32) [~~162.403(33)~~]
2 does not apply to the tax-free sale or distribution of gasoline
3 under Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

4 SECTION 34. Sections 162.405(b) through (f), Tax Code, are
5 amended to read as follows:

6 (b) An offense under Section 162.403(9), (10), (11), (12),
7 (13), (14), (15), (16), or (17) [~~or (18)~~] is a Class B misdemeanor.

8 (c) An offense under Section 162.403(18), (19), or
9 [~~162.403(19)~~] (20) [~~or (21)~~] is a Class A misdemeanor.

10 (d) An offense under Section 162.403(7), (21), (22), (23),
11 (24), (25), (26), (27), or (28) [~~or (29)~~] is a felony of the third
12 degree.

13 (e) An offense under Section 162.403(29), (30)
14 [~~162.403(30)~~], (31), (32), (33), (34), (35), (36), (37), or (38) [~~or (39)~~]
15 is a felony of the second degree.

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

21 SECTION 35. The heading to Section 162.409, Tax Code, is
22 amended to read as follows:

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

25 SECTION 36. Sections 162.409(a) and (d), Tax Code, are
26 amended to read as follows:

27 (a) A person commits an offense if:

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

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

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

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

17 SECTION 37. Subchapter E, Chapter 162, Tax Code, is amended
18 by adding Section 162.410 to read as follows:

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

23 SECTION 38. Article 12.01, Code of Criminal Procedure, is
24 amended to read as follows:

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

1 (1) no limitation:

2 (A) murder and manslaughter;

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

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

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

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

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

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

21 (D) injury to a child, elderly individual, or
22 disabled individual punishable as a felony of the first degree
23 under Section 22.04, Penal Code;

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

26 (F) arson;

27 (3) seven years from the date of the commission of the

1 offense:

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

4 (B) securing execution of document by deception;
5 or

6 (C) a violation under Sections 162.403(21)-(38)
7 [~~162.403(22)-(39)~~], Tax Code;

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

10 (A) theft, burglary, robbery;

11 (B) kidnapping;

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

15 (D) abandoning or endangering a child; or

16 (E) insurance fraud;

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

19 (A) indecency with a child under Section
20 21.11(a)(1) or (2), Penal Code; or

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

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

26 SECTION 39. Sections 20.002(b) and (d), Transportation
27 Code, are amended to read as follows:

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

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

5 (2) is exempt from the state diesel fuel tax under
6 Section 162.204 [~~153.203~~], Tax Code.

7 (d) The fee imposed by this section is equal to 25 percent of
8 the diesel fuel tax rate imposed under Section 162.202
9 [~~153.202(b)~~], Tax Code.

10 SECTION 40. Section 26.3574(o), Water Code, is amended to
11 read as follows:

12 (o) Chapters 101 and 111-113, and Sections 162.005
13 [~~153.006~~], 162.007 [~~153.007~~], and 162.111 [~~153.116(b)-(j)~~], Tax
14 Code, apply to the administration, payment, collection, and
15 enforcement of fees under this section in the same manner that those
16 chapters apply to the administration, payment, collection, and
17 enforcement of taxes under Title 2, Tax Code.

18 SECTION 41. Sections 162.001(34) and 162.016(c) and (h),
19 Tax Code, are repealed.

20 SECTION 42. (a) The change in law made by this Act applies
21 only to an offense committed on or after the effective date of this
22 Act. For purposes of this section, an offense is committed before
23 the effective date of this Act if any element of the offense occurs
24 before that date.

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

1 SECTION 43. The change in law made by this Act does not
2 affect tax liability accruing before the effective date of this
3 Act. That liability continues in effect as if this Act had not been
4 enacted, and the former law is continued in effect for the
5 collection of taxes due and for civil and criminal enforcement of
6 the liability for those taxes.

7 SECTION 44. This Act takes effect September 1, 2007.