

By: Williams

S.B. No. 1886

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. 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 2. 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

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

3 SECTION 3. Subsection (d), Section 111.060, Tax Code, is
4 amended to read 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. Subsection (d), Section 111.064, Tax Code, is
9 amended to read 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. Subsection (a), Section 111.107, Tax Code, is
14 amended to read 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. Subdivisions (9), (19), (20), (29), (31), (42),
3 (43), and (55), Section 162.001, Tax Code, are amended to read as
4 follows:

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

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

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

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

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

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

18 (43) "Motor fuel transporter" means a person who
19 transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, or
20 any other motor fuel, except liquefied gas, outside the bulk
21 transfer/terminal system by means of a transport vehicle, a
22 railroad tank car, or a marine vessel. The term does not include a
23 person who:

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

26 (B) exclusively transports gasoline, diesel
27 fuel, gasoline blended fuel, or any other motor fuel to which the

1 person retains ownership while the fuel is being transported by the
2 person.

3 (55) "Shipping document" means a delivery document
4 issued [~~by a terminal or bulk plant operator~~] in conjunction with
5 the sale, transfer, or transport [~~removal~~] of motor fuel [~~from the~~
6 ~~terminal or bulk plant~~]. A shipping document issued by a terminal
7 operator shall be machine printed. All other [~~A~~] shipping
8 documents [~~document issued by a bulk plant~~] shall be typed or
9 handwritten on a preprinted form or machine printed.

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

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

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

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

24 (1) the terminal control number of the terminal or
25 physical address of the bulk plant from which the motor fuel was
26 received;

27 (2) the name [~~and license number~~] of the purchaser;

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

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

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

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

8 (h) This section does not apply to motor fuel that is
9 delivered into the fuel supply tank of a motor vehicle.

10 SECTION 9. Subsections (a), (b), (d), and (e), Section
11 162.016, Tax Code, are amended to read as follows:

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

17 (1) the name and physical address of the terminal or
18 bulk plant from which the motor fuel was received for import or
19 export;

20 (2) the name [~~and federal employer identification~~
21 ~~number, or the social security number if the employer~~
22 ~~identification number is not available,~~] of the carrier
23 transporting the motor fuel;

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

25 (4) the type of motor fuel;

26 (5) the number of gallons:

27 (A) in temperature-adjusted gallons if purchased

1 from a terminal for export or import; or

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

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

7 (7) the name [~~, federal employer identification~~
8 ~~number, license number,~~] and physical address of the purchaser of
9 the motor fuel;

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

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

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

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

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

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

27 (2) provide a copy of the document to the comptroller

1 or any law enforcement officer not later than the 10th working day
2 after the date a request for the copy is received.

3 (e) An importer or exporter shall keep in the person's
4 possession the shipping document [~~issued by the terminal or bulk~~
5 ~~plant~~] when transporting motor fuel imported into this state or for
6 export from this state. The importer or exporter shall show the
7 document to the comptroller or a peace officer on request. The
8 comptroller may delegate authority to inspect the document to other
9 governmental agencies. The importer or exporter shall provide a
10 copy of the shipping document to the person that receives the fuel
11 when it is delivered.

12 SECTION 10. Subsections (a) through (e), Section 162.101,
13 Tax Code, are amended to read as follows:

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

19 (b) A tax is imposed at the time gasoline is imported into
20 this state, other than by a bulk transfer, for delivery to a
21 destination in this state. The supplier or permissive supplier is
22 liable for and shall collect the tax imposed by this subchapter from
23 the person who imports the gasoline into this state. If the seller
24 is not a supplier or permissive supplier, then the person who
25 imports the gasoline into this state is liable for and shall pay the
26 tax.

27 (c) A tax is imposed on the removal [~~sale or transfer~~] of

1 gasoline from [~~in~~] the bulk transfer/terminal system in this state
2 [~~by a supplier to a person who does not hold a supplier's license~~].
3 The supplier is liable for and shall collect the tax imposed by this
4 subchapter from the person who orders the removal from [~~sale or~~
5 ~~transfer in~~] the bulk transfer terminal system.

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

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

17 SECTION 11. Subsection (d), Section 162.103, Tax Code, is
18 amended to read as follows:

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

26 SECTION 12. Subsections (a) and (f), Section 162.104, Tax
27 Code, are amended to read as follows:

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

3 (1) sold to the United States for its exclusive use,
4 provided that the exemption does not apply with respect to fuel sold
5 or delivered to a person operating under a contract with the United
6 States;

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

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

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

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

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

24 (5) moved by truck or railcar between licensed
25 suppliers or licensed permissive suppliers and in which the
26 gasoline removed from the first terminal comes to rest in the second
27 terminal, provided that the removal from the second terminal rack

1 is subject to the tax imposed by this subchapter;

2 (6) that is:

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

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

11 (C) aviation gasoline or gasoline [~~delivered or~~
12 ~~sold into a storage facility of a licensed aviation fuel dealer from~~
13 ~~which gasoline will be delivered solely into the fuel supply tanks~~
14 ~~of aircraft or aircraft servicing equipment, or]~~ sold from one
15 licensed aviation fuel dealer to another licensed aviation fuel
16 dealer [~~who will deliver the aviation fuel exclusively into the~~
17 ~~fuel supply tanks of aircraft or aircraft servicing equipment]; or~~

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

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

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

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

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

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

3 SECTION 13. Subsections (b) and (c), Section 162.112, Tax
4 Code, are amended to read as follows:

5 (b) A licensed supplier, ~~[or]~~ permissive supplier, or
6 distributor who sells gasoline tax-free to a person whose
7 supplier's, ~~[or]~~ permissive supplier's, or aviation fuel dealer's
8 license has been canceled or revoked under this chapter is liable
9 for any tax due on gasoline sold after receiving notice of the
10 cancellation or revocation.

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

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

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

22 SECTION 15. Subsection (a), Section 162.116, Tax Code, is
23 amended to read as follows:

24 (a) The monthly return and supplements of each supplier and
25 permissive supplier shall contain for the period covered by the
26 return:

27 (1) ~~[the number of net gallons of gasoline received by~~

1 ~~the supplier or permissive supplier during the month, sorted by~~
2 ~~product code, seller, point of origin, destination state, carrier,~~
3 ~~and receipt date;~~

4 ~~(2)~~ the number of net gallons of gasoline removed at
5 a terminal rack during the month from the account of the supplier,
6 sorted by product code, person receiving the gasoline, terminal
7 code, and carrier;

8 (2) ~~(3)~~ the number of net gallons of gasoline
9 removed during the month for export, sorted by product code, person
10 receiving the gasoline, terminal code, destination state, and
11 carrier;

12 (3) ~~(4)~~ the number of net gallons of gasoline
13 removed during the month from a terminal located in another state
14 for conveyance to this state, as indicated on the shipping document
15 for the gasoline, sorted by product code, person receiving the
16 gasoline, terminal code, and carrier;

17 (4) ~~(5)~~ the number of net gallons of gasoline the
18 supplier or permissive supplier sold during the month in
19 transactions exempt under Section 162.104, sorted by product code
20 and ~~[, carrier,]~~ purchaser ~~[, and terminal code,~~

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

24 (5) ~~(7)~~ any other information required by the
25 comptroller.

26 SECTION 16. Section 162.118, Tax Code, is amended to read as
27 follows:

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

4 (1) the number of net gallons of gasoline received by
5 the distributor during the month, sorted by product code and~~[~~
6 ~~seller~~~~[, point of origin, destination state, carrier, and receipt~~
7 ~~date]~~;

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

11 (3) the number of net gallons of gasoline removed by
12 the distributor during the month for export, sorted by product
13 code, terminal code, bulk plant address, destination state, and
14 carrier;

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

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

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

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

26 (j) A license holder may take a credit on a return for the
27 tax included in the retail purchase price of gasoline for the period

1 in which the purchase occurred when made by one of the following
2 purchasers, if the purchase was made by acceptance of a credit card
3 not issued by the license holder, the credit card issuer did not
4 collect the tax from the purchaser, and the license holder
5 reimbursed the credit card issuer for the amount of tax included in
6 the retail purchase price:

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

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

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

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

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

19 SECTION 18. Subsection (d), Section 162.128, Tax Code, is
20 amended to read as follows:

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

1 by Chapter 111.

2 SECTION 19. Subsections (a) through (e), Section 162.201,
3 Tax Code, are amended to read as follows:

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

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

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

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

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

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

7 SECTION 20. Subsection (d), Section 162.203, Tax Code, is
8 amended to read as follows:

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

16 SECTION 21. Subsections (a) and (f), Section 162.204, Tax
17 Code, are amended to read as follows:

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

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

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

25 (3) diesel fuel sold to a commercial transportation
26 company that provides public school transportation services to a
27 school district under Section 34.008, Education Code, and that uses

1 the diesel fuel only to provide those services;

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

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

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

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

18 (6) that is:

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

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

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

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

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

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

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

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

25 (11) dyed diesel fuel delivered by a license holder
26 into the fuel supply tanks of railway engines, motorboats, or
27 refrigeration units or other stationary equipment powered by a

1 separate motor from a separate fuel supply tank;

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

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

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

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

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 diesel fuel is removed from the terminal.

24 SECTION 22. Section 162.206, Tax Code, is amended by
25 amending Subsection (c) and adding Subsections (c-1), (g-1), and
26 (k) to read as follows:

27 (c) A person may not make a tax-free purchase and a licensed

1 supplier or distributor may not make a tax-free sale to a purchaser
2 of any dyed diesel fuel under this section using a signed statement
3 for the first sale or purchase and for any subsequent sale or
4 purchase[+]

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

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

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

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

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

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

24 (g-1) For purposes of this section, the purchaser is
25 considered to have temporarily furnished the signed statement to
26 the licensed supplier or distributor if the supplier or distributor
27 verifies that the purchaser has an end user number issued by the

1 comptroller. The licensed supplier or distributor shall use the
2 comptroller's Internet website or other materials provided or
3 produced by the comptroller to verify this information until the
4 purchaser provides to the supplier or distributor a completed
5 signed statement.

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 23. Subsections (b) and (c), Section 162.213, Tax
21 Code, are 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 24. 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 25. Subsection (a), Section 162.217, Tax Code, is
14 amended to 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 and [~~, 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 26. 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 27. 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 28. Subsection (d), Section 162.230, Tax Code, is
17 amended to read as follows:

18 (d) A supplier, ~~[or]~~ permissive supplier, distributor,
19 importer, exporter, or blender that determines taxes were
20 erroneously reported and remitted or that paid more taxes than were
21 due to this state because of a mistake of fact or law may take a
22 credit on the monthly tax report on which the error has occurred and
23 tax payment made to the comptroller. The credit must be taken
24 before the expiration of the applicable period of limitation as
25 provided by Chapter 111.

26 SECTION 29. Subsections (a) and (d), Section 162.402, Tax
27 Code, are amended to read as follows:

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

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

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

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

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

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

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

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

26 (8) 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 of, or with the fuel supply tank
2 feeding the fuel injector or carburetor of, the motor vehicle
3 transporting the product;

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

7 (10) owns or operates a motor vehicle for which
8 reports 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 (11) furnishes to a supplier a signed statement for
12 purchasing diesel fuel tax-free and then uses the tax-free diesel
13 fuel to operate a diesel-powered motor vehicle on a public highway;

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

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

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

20 [~~15~~] purchases motor fuel for export, on which the tax
21 imposed by this chapter has not been paid, and subsequently diverts
22 or causes the motor fuel to be diverted to a destination in this
23 state or any other state or country other than the originally
24 designated state or country without first obtaining a diversion
25 number.

26 (d) A person [~~operating a bulk plant or terminal~~] who issues
27 a shipping document that does not conform with the requirements of

1 Section 162.016(a) is liable to this state for a civil penalty of
2 \$2,000 or five times the amount of the unpaid tax, whichever is
3 greater, for each occurrence.

4 SECTION 30. Section 162.403, Tax Code, is amended to read as
5 follows:

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

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

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

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

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

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

27 (6) owns or operates a motor vehicle for which reports

1 or mileage records are required by this chapter without an
2 operating odometer or other device in good working condition to
3 record accurately the miles traveled;

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

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

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

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

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

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

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

26 (14) refuses to permit the comptroller or the attorney
27 general to inspect or examine any plant, equipment, materials, or

1 premises where motor fuel is produced, processed, blended, stored,
2 sold, delivered, or used;

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

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

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

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

22 (18) [~~(19)~~] conceals motor fuel with the intent of
23 engaging in any conduct proscribed by this chapter or refuses to
24 make sales of motor fuel on the volume-corrected basis prescribed
25 by this chapter;

26 (19) [~~(20)~~] refuses, while transporting motor fuel,
27 to stop the motor vehicle the person is operating when called on to

1 do so by a person authorized to stop the motor vehicle;

2 (20) [~~(21)~~] refuses to surrender a motor vehicle and
3 cargo for impoundment after being ordered to do so by a person
4 authorized to impound the motor vehicle and cargo;

5 (21) [~~(22)~~] mutilates, destroys, or secretes a book or
6 record required by this chapter to be kept by a license holder,
7 other user, or person required to hold a license under this chapter;

8 (22) [~~(23)~~] is a license holder, other user, or other
9 person required to hold a license under this chapter, or the agent
10 or employee of one of those persons, and makes a false entry or
11 fails to make an entry in the books and records required under this
12 chapter to be made by the person or fails to retain a document as
13 required by this chapter;

14 (23) [~~(24)~~] transports in any manner motor fuel under
15 a false cargo manifest or shipping document, or transports in any
16 manner motor fuel to a location without delivering at the same time
17 a shipping document relating to that shipment;

18 (24) [~~(25)~~] engages in a motor fuel transaction that
19 requires that the person have a license under this chapter without
20 then and there holding the required license;

21 (25) [~~(26)~~] makes and delivers to the comptroller a
22 report required under this chapter to be made and delivered to the
23 comptroller, if the report contains false information;

24 (26) [~~(27)~~] forges, falsifies, or alters an invoice
25 prescribed by law;

26 (27) [~~(28)~~] makes any statement, knowing said
27 statement to be false, in a claim for a tax refund filed with the

1 comptroller;

2 (28) [~~(29)~~] furnishes to a supplier a signed statement
3 for purchasing diesel fuel tax-free and then uses the tax-free
4 diesel fuel to operate a diesel-powered motor vehicle on a public
5 highway;

6 (29) [~~(30)~~] holds an aviation fuel dealer's license
7 and makes a taxable sale or use of any gasoline or diesel fuel;

8 (30) [~~(31)~~] fails to remit any tax funds collected by
9 a license holder, another user, or any other person required to hold
10 a license under this chapter;

11 (31) [~~(32)~~] makes a sale of dyed diesel fuel tax-free
12 into a storage facility of a person who:

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

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

17 (32) [~~(33)~~] makes a sale of gasoline tax-free to any
18 person who is not licensed as an aviation fuel dealer;

19 (33) [~~(34)~~] is a dealer who purchases any motor fuel
20 tax-free when not authorized to make a tax-free purchase under this
21 chapter;

22 (34) [~~(35)~~] is a dealer who purchases motor fuel with
23 the intent to evade any tax imposed by this chapter or who accepts a
24 delivery of motor fuel by any means and does not at the same time
25 accept or receive a shipping document relating to the delivery;

26 (35) [~~(36)~~] transports motor fuel for which a cargo
27 manifest or shipping document is required to be carried without

1 possessing or exhibiting on demand by an officer authorized to make
2 the demand a cargo manifest or shipping document containing the
3 information required to be shown on the manifest or shipping
4 document;

5 (36) [~~(37)~~] imports, sells, uses, blends,
6 distributes, or stores motor fuel within this state on which the
7 taxes imposed by this chapter are owed but have not been first paid
8 to or reported by a license holder, another user, or any other
9 person required to hold a license under this chapter;

10 (37) [~~(38)~~] blends products together to produce a
11 blended fuel that is offered for sale, sold, or used and that
12 expands the volume of the original product to evade paying
13 applicable motor fuel taxes; or

14 (38) [~~(39)~~] evades or attempts to evade in any manner
15 a tax imposed on motor fuel by this chapter.

16 SECTION 31. Subsections (c) and (d), Section 162.404, Tax
17 Code, are amended to read as follows:

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

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

24 SECTION 32. Subsections (b) through (f), Section 162.405,
25 Tax Code, are amended to read as follows:

26 (b) An offense under Section 162.403(9), (10), (11), (12),
27 (13), (14), (15), (16), or (17) [~~or (18)~~] is a Class B misdemeanor.

1 (c) An offense under Section 162.403(18), (19), or
2 [~~162.403(19)~~], (20) [~~or (21)~~] is a Class A misdemeanor.

3 (d) An offense under Section 162.403(7), (21), (22), (23),
4 (24), (25), (26), (27), or (28) [~~or (29)~~] is a felony of the third
5 degree.

6 (e) An offense under Section 162.403(29), (30)
7 [~~162.403(30)~~], (31), (32), (33), (34), (35), (36), (37), or (38) [~~or~~
8 ~~(39)~~] is a felony of the second degree.

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

14 SECTION 33. The heading to Section 162.409, Tax Code, is
15 amended to read as follows:

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

18 SECTION 34. Subsections (a) and (d), Section 162.409, Tax
19 Code, are amended to read as follows:

- 20 (a) A person commits an offense if:
 - 21 (1) the person issues or passes a check or similar
 - 22 sight order for the payment of money knowing that the issuer does
 - 23 not have sufficient funds in or on deposit with the bank or other
 - 24 drawee for the payment in full of the check or order as well as all
 - 25 other checks or orders outstanding at the time of issuance;
 - 26 (2) the payee on the check or order is a licensed
 - 27 distributor, [or] licensed supplier, or permissive supplier; and

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

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

10 SECTION 35. Subchapter E, Chapter 162, Tax Code, is amended
11 by adding Section 162.410 to read as follows:

12 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
13 criminal offense provision of this chapter by a person constitutes
14 another offense under the laws of this state, the state may elect
15 the offense for which it will prosecute the person.

16 SECTION 36. Article 12.01, Code of Criminal Procedure, is
17 amended to read as follows:

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

21 (1) no limitation:

22 (A) murder and manslaughter;

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

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

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

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

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

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

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

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

19 (F) arson;

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

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

24 (B) securing execution of document by deception;
25 or

26 (C) a violation under Sections 162.403(21)-(38)
27 [~~162.403(22)-(39)~~], Tax Code;

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

3 (A) theft, burglary, robbery;

4 (B) kidnapping;

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

8 (D) abandoning or endangering a child; or

9 (E) insurance fraud;

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

12 (A) indecency with a child under Section
13 21.11(a)(1) or (2), Penal Code; or

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

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

19 SECTION 37. Subsections (b) and (d), Section 20.002,
20 Transportation Code, are amended to read as follows:

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

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

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

27 (d) The fee imposed by this section is equal to 25 percent of

1 the diesel fuel tax rate imposed under Section 162.202
2 [~~153.202(b)~~], Tax Code.

3 SECTION 38. Subsection (o), Section 26.3574, Water Code, is
4 amended to read as follows:

5 (o) Chapters 101 and 111-113, and Sections 162.005
6 [~~153.006~~], 162.007 [~~153.007~~], and 162.111 [~~153.116(b)-(j)~~], Tax
7 Code, apply to the administration, payment, collection, and
8 enforcement of fees under this section in the same manner that those
9 chapters apply to the administration, payment, collection, and
10 enforcement of taxes under Title 2, Tax Code.

11 SECTION 39. Subdivision (34), Section 162.001, and
12 Subsections (c) and (h), Section 162.016, Tax Code, are repealed.

13 SECTION 40. (a) The change in law made by this Act applies
14 only to an offense committed on or after the effective date of this
15 Act. For purposes of this section, an offense is committed before
16 the effective date of this Act if any element of the offense occurs
17 before that date.

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

21 SECTION 41. The change in law made by this Act does not
22 affect tax liability accruing before the effective date of this
23 Act. That liability continues in effect as if this Act had not been
24 enacted, and the former law is continued in effect for the
25 collection of taxes due and for civil and criminal enforcement of
26 the liability for those taxes.

27 SECTION 42. This Act takes effect September 1, 2007.