

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Keffer

H.B. No. 3314

A BILL TO BE ENTITLED

AN ACT

relating to administration, collection, and enforcement of state taxes; providing penalties.

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

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0102 to read as follows:

Sec. 111.0102. SUIT CHALLENGING COLLECTION ACTION. Venue for and jurisdiction of a suit that challenges or is for the purpose of avoiding a comptroller collection action or state tax lien in any manner is exclusively conferred on the district courts of Travis County.

SECTION 2. Section 111.016, Tax Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) A person is presumed to have received or collected a tax or money represented to be a tax for the purpose of this section if the person files, or causes to be filed, a tax return or report with the comptroller showing tax due. A person, including a person who is on the accrual method of accounting, may rebut this presumption by providing satisfactory documentation to the comptroller that the tax on a transaction or series of transactions was not collected. The documentation is subject to verification by the comptroller.

(b-1) Notwithstanding any other provision of this title, if the tax liability of a corporation, association, limited liability

1 company, limited partnership, or other legal entity with which the  
2 responsible individual was employed or associated has either not  
3 become final, is subject to tolling of limitations under Section  
4 111.207, or is the subject of a federal bankruptcy proceeding, the  
5 statute of limitations relating to the period during which the  
6 individual may be personally assessed by the comptroller is stayed  
7 until the first anniversary of the date the liability becomes final  
8 or the date the bankruptcy proceeding is closed or dismissed.

9 SECTION 3. Section 111.017, Tax Code, is amended to read as  
10 follows:

11 Sec. 111.017. SEIZURE AND SALE OF PROPERTY. (a) Before the  
12 expiration of three years after a person becomes delinquent in the  
13 payment of any amount under this title, the comptroller may seize  
14 and sell at public auction real and personal property of the person.  
15 A seizure made to collect the tax is limited only to property of the  
16 person that is not exempt from execution. Service or delivery of a  
17 notice of seizure under this section affecting property held by a  
18 financial institution in the name of or on behalf of a delinquent  
19 who is a customer of the financial institution is governed by  
20 Section 59.008, Finance Code.

21 (b) A person commits an offense if the person obstructs,  
22 hinders, impedes, or interferes with the comptroller's seizure of  
23 the property of a delinquent taxpayer in the following ways:

24 (1) trespassing on the property of a business or a  
25 business location that has been seized by the comptroller without  
26 the permission of the comptroller or the comptroller's agents;

27 (2) removing or breaking a lock on a business or

1 business location that has been seized by the comptroller without  
2 the permission of the comptroller or the comptroller's agents;

3 (3) removing or causing to be removed any inventory,  
4 equipment, or other property from a business or business location  
5 seized by the comptroller without the permission of the comptroller  
6 or the comptroller's agents;

7 (4) damaging, destroying, or defacing any inventory,  
8 equipment, or property or the business location of a delinquent  
9 taxpayer while it is under seizure by the comptroller; or

10 (5) knowingly obstructing, hindering, or impeding the  
11 comptroller or the comptroller's agents in the seizure or securing  
12 of a delinquent taxpayer's property, including the taxpayer's  
13 business location, inventory, or equipment, under this section.

14 (c) An offense under Subsection (b) is a Class A  
15 misdemeanor.

16 SECTION 4. Section 111.021, Tax Code, is amended by  
17 amending Subsection (d) and adding Subsection (f-1) to read as  
18 follows:

19 (d) On receipt of a notice given under this section, the  
20 person receiving the notice:

21 (1) within 20 days after receiving the notice shall  
22 advise the comptroller of each such asset belonging to the  
23 delinquent or person to whom an unpaid determination applies that  
24 is possessed or controlled by the person receiving the notice and of  
25 each debt owed by the person receiving the notice to the delinquent  
26 person or person to whom an unpaid determination applies; ~~and~~

27 (2) may not transfer or dispose of the asset or debt

1 possessed, controlled, or owed by the person at the time the person  
2 received the notice for a period of 60 days after receipt of the  
3 notice, unless the comptroller consents to an earlier disposal; and

4 (3) may not avoid or attempt to avoid compliance with  
5 this section by filing an interpleader action in court and  
6 depositing the delinquent's or person's funds or other assets into  
7 the registry of the court.

8 (f-1) A person who fails or refuses to comply with this  
9 section after receiving a notice of freeze or levy is liable for a  
10 penalty in an amount equal to 50 percent of the amount sought to be  
11 frozen or levied. This penalty is in addition to the liability  
12 imposed under Subsection (f). The penalty may be assessed and  
13 collected by the comptroller using any remedy available to collect  
14 other amounts under this title.

15 SECTION 5. Subchapter B, Chapter 111, Tax Code, is amended  
16 by adding Section 111.0511 to read as follows:

17 Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS TO  
18 COMPTROLLER PROHIBITED. (a) In this section, "taxes" includes the  
19 tax and any penalties and interest relating to a tax liability.

20 (b) Unless the restriction or condition is authorized by  
21 this title, a restriction or condition placed on a check or other  
22 money instrument in payment of taxes by the maker that purports to  
23 limit the amount of taxes owed or place a condition on its  
24 acceptance or negotiation is void.

25 SECTION 6. Subchapter B, Chapter 111, Tax Code, is amended  
26 by adding Section 111.0611 to read as follows:

27 Sec. 111.0611. PERSONAL LIABILITY FOR FRAUDULENT TAX

1 EVASION. (a) An officer, manager, or director of a corporation,  
2 association, or limited liability company, a partner of a general  
3 partnership, or a managing general partner of a limited partnership  
4 or limited liability partnership who, as an officer, manager,  
5 director, or partner, took an action or participated in a  
6 fraudulent scheme or fraudulent plan to evade the payment of taxes  
7 due under Title 2 or 3 is personally liable for the taxes and any  
8 penalty and interest due. The personal liability of an individual  
9 includes liability for the additional 50 percent fraud penalty  
10 provided by Section 111.061(b). The comptroller shall assess  
11 individuals liable under this section in the same manner as other  
12 persons or entities may be assessed under this chapter.

13 (b) For purposes of this section, actions that may indicate  
14 the existence of a fraudulent scheme or a fraudulent plan to evade  
15 the payment of taxes include:

16 (1) filing, or causing to be filed, a false or  
17 fraudulent tax return or report with the comptroller on behalf of  
18 the business entity;

19 (2) intentionally failing to file a tax return,  
20 report, or other required document with the comptroller when the  
21 business entity is under a legal obligation to file;

22 (3) filing, or causing to be filed, a tax return or  
23 report with the comptroller on behalf of the business entity that  
24 contains an intentionally false statement that results in the  
25 amount of the tax due exceeding the amount of tax reported by 25  
26 percent or more; and

27 (4) altering, destroying, or concealing any record,

1 document, or thing, presenting to the comptroller any altered or  
2 fraudulent record, document, or thing, or otherwise engaging in  
3 fraudulent conduct with the intent to affect the course or outcome  
4 of a comptroller audit or investigation, a redetermination hearing,  
5 or another proceeding involving the comptroller.

6 (c) To the extent the comptroller can verify and secure  
7 sufficient unencumbered assets of the corporation, association, or  
8 partnership to satisfy the liability, an individual's personal  
9 liability under Subsection (a) is limited to the amount by which the  
10 total tax, penalty, and interest due under this section exceeds  
11 those assets.

12 SECTION 7. Section 113.106, Tax Code, is amended by adding  
13 Subsections (e) and (f) to read as follows:

14 (e) A person must bring suit to determine the validity of a  
15 state tax lien not later than the 10th anniversary of the date the  
16 lien was filed. If more than one state tax lien has been filed  
17 relating to the same tax liability, the 10-year limitation period  
18 provided by this subsection is calculated from the date of the  
19 filing of the first lien relating to the liability.

20 (f) A taxpayer is presumed to have received proper notice of  
21 the taxpayer's tax liability if the notice is delivered to the  
22 taxpayer's last address of record with the comptroller. The  
23 taxpayer may rebut the presumption by presenting substantive  
24 evidence that demonstrates that notice of the tax liability was not  
25 received. If the taxpayer rebuts the presumption of receipt of  
26 proper notice with evidence the comptroller considers  
27 satisfactory, the period of limitations for filing suit provided by

1 Subsection (e) does not apply.

2 SECTION 8. Subchapter C, Chapter 152, Tax Code, is amended  
3 by adding Section 152.0472 to read as follows:

4 Sec. 152.0472. DETERMINATION OF WHETHER LOAN IS FACTORED,  
5 ASSIGNED, OR TRANSFERRED. (a) A seller is not considered to have  
6 factored, assigned, or transferred a loan under Section 152.047(g)  
7 if:

8 (1) a loan through a seller is pledged as security for  
9 the sale of bonds:

10 (A) to a qualified institutional buyer, as that  
11 term is defined by 17 C.F.R. Section 230.144A, that is not  
12 affiliated to the seller;

13 (B) to an institutional accredited investor, as  
14 that term is defined by 17 C.F.R. Section 230.501(a)(1), (2), (3),  
15 or (7), that is not affiliated to the seller; or

16 (C) in a public offering;

17 (2) the right to receive payments and the risk of loss  
18 on nonpayment remains with the seller or an affiliated collection  
19 entity acting as agent of the seller; and

20 (3) bondholders receive only interest and principal.

21 (b) Notwithstanding Subsection (a), the seller may elect to  
22 pay all unpaid tax imposed under this chapter on the total  
23 consideration. A seller that makes this election is entitled to a  
24 credit or reimbursement for the taxes paid under this chapter on the  
25 remaining unpaid balance of the contract for which the seller has  
26 not received payment or has not otherwise collected the tax due.  
27 The seller shall take the tax credit or reimbursement on the

1 seller's seller-finance return. The tax credit or reimbursement  
2 does not accrue interest.

3 SECTION 9. Section 183.053(b), Tax Code, is amended to read  
4 as follows:

5 (b) The total of bonds, certificates of deposit, letters of  
6 credit, or other security determined to be sufficient by the  
7 comptroller of a permittee subject to the tax imposed by this  
8 chapter shall be in an amount that the comptroller determines to be  
9 sufficient to protect the fiscal interests of the state. The  
10 comptroller may not set the amount of security at less than \$1,000  
11 or more than the greater of \$100,000 or four times the amount of the  
12 permittee's average monthly tax liability [~~\$50,000~~].

13 SECTION 10. This Act takes effect immediately if it  
14 receives a vote of two-thirds of all the members elected to each  
15 house, as provided by Section 39, Article III, Texas Constitution.  
16 If this Act does not receive the vote necessary for immediate  
17 effect, this Act takes effect September 1, 2007.



ADOPTED

MAY 23 2007

*Loretta Spaw*  
Secretary of the Senate

*Robert Duncan*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend H.B. No. 3314 (senate committee printing) in SECTION 6  
2 of the bill, in added Section 111.0611(b)(1), Tax Code (page 2, line  
3 63), by striking "false or".

1 FLOOR AMENDMENT NO. 2

BY: William Williams

2  
3 Amend C.S.H.B. No. 3314 as follows:

4 **ADOPTED**

5 (1) Add the following new SECTIONS:

MAY 23 2007

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

*Lataj Drew*  
Secretary of the Senate

8 (b) Cigarette tax revenue allocated under Section 154.603(b) [~~of this code~~] shall  
9 be allocated as provided by Section 154.603, subject to Section 154.6035 [~~of this code~~].

10 Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F,  
11 Chapter 162 [~~of Chapter 153 of this code~~].

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

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

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

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

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

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

27 (d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211  
28 or under an agreement made under Section 162.003 [~~153-017~~].

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

31 (d) This section does not apply to an amount paid to the comptroller under Title  
32 6, Property Code, or under an agreement made under Section 162.003 [~~153-017~~].

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

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

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

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

12 (3) under Chapter 162 [~~153~~], except Section 162.126(f) [~~153.1195(e)~~],  
13 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~], or 162.230(d) [~~153.224(d)~~].

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

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

17 (1) oil as taxed by Chapter 202;

18 (2) sulphur as taxed by Chapter 203;

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

21 (4) cement as taxed by Chapter 181;

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

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

26 (7) alcoholic beverages when sold to the holder of a private club  
27 registration permit or to the agent or employee of the holder of a private club registration  
28 permit if the holder or agent or employee is acting as the agent of the members of the  
29 club and if the beverages are to be served on the premises of the club;

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

31 (9) insurance premiums subject to gross premiums taxes.

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

3 SECTION 16. Subdivisions (9), (19), (20), (29), (31), (42), (43), and (55),  
4 Section 162.001, Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

13 (55) "Shipping document" means a delivery document issued ~~[by a~~  
14 ~~terminal or bulk plant operator]~~ in conjunction with the sale, transfer, or transport  
15 [removal] of motor fuel ~~[from the terminal or bulk plant]~~. A shipping document issued  
16 by a terminal operator shall be machine printed. All other [A] shipping documents  
17 [document issued by a bulk plant] shall be typed or handwritten on a preprinted form or  
18 machine printed.

19 SECTION 17. Section 162.004, Tax Code, is amended by amending Subsections  
20 (a) and (b) and adding Subsections (a-1) and (h) to read as follows:

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

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

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

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

- 1 (2) the name [~~and license number~~] of the purchaser;
- 2 (3) the date the motor fuel was loaded;
- 3 (4) the net gallons loaded, or the gross gallons loaded if the fuel was
- 4 purchased from a bulk plant;
- 5 (5) the destination state of the motor fuel, as represented by the purchaser
- 6 of the motor fuel or the purchaser's agent; and
- 7 (6) a description of the product being transported.

8 (h) This section does not apply to motor fuel that is delivered into the fuel supply

9 tank of a motor vehicle.

10 SECTION 18. Subsections (a), (b), (d), and (e), Section 162.016, Tax Code, are

11 amended to read as follows:

12 (a) A person may not import motor fuel to a destination in this state or export

13 motor fuel to a destination outside this state by any means unless the person possesses a

14 shipping document for that fuel [~~created by the terminal or bulk plant at which the fuel~~

15 ~~was received~~]. The shipping document must include:

16 (1) the name and physical address of the terminal or bulk plant from

17 which the motor fuel was received for import or export;

18 (2) the name [~~and federal employer identification number, or the social~~

19 ~~security number if the employer identification number is not available,~~] of the carrier

20 transporting the motor fuel;

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

22 (4) the type of motor fuel;

23 (5) the number of gallons:

24 (A) in temperature-adjusted gallons if purchased from a terminal

25 for export or import; or

26 (B) in temperature-adjusted gallons or in gross gallons if

27 purchased from a bulk plant;

28 (6) the destination of the motor fuel as represented by the purchaser of the

29 motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one

30 state;

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

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

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

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

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

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

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

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

19 (e) An importer or exporter shall keep in the person's possession the shipping  
20 document ~~[issued by the terminal or bulk plant]~~ when transporting motor fuel imported  
21 into this state or for export from this state. The importer or exporter shall show the  
22 document to the comptroller or a peace officer on request. The comptroller may delegate  
23 authority to inspect the document to other governmental agencies. The importer or  
24 exporter shall provide a copy of the shipping document to the person that receives the  
25 fuel when it is delivered.

26 SECTION 19. Subsections (a) through (e), Section 162.101, Tax Code, are  
27 amended to read as follows:

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

1 (b) A tax is imposed at the time gasoline is imported into this state, other than by  
2 a bulk transfer, for delivery to a destination in this state. The supplier or permissive  
3 supplier is liable for and shall collect the tax imposed by this subchapter from the person  
4 who imports the gasoline into this state. If the seller is not a supplier or permissive  
5 supplier, then the person who imports the gasoline into this state is liable for and shall  
6 pay the tax.

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

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

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

21 SECTION 20. Subsection (d), Section 162.103, Tax Code, is amended to read as  
22 follows:

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

28 SECTION 21. Subsections (a) and (f), Section 162.104, Tax Code, are amended  
29 to read as follows:

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



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

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

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

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

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

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

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

22 (6) that is:

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

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

29 (C) aviation gasoline or gasoline [delivered or sold into a storage  
30 facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into  
31 the fuel supply tanks of aircraft or aircraft servicing equipment, or] sold from one

1 licensed aviation fuel dealer to another licensed aviation fuel dealer [~~who will deliver the~~  
2 ~~aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing~~  
3 ~~equipment~~]; or

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

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

- 8 (1) the sale is to a licensed exporter;
- 9 (2) the supplier collects the destination state tax from the distributor;
- 10 (3) the distributor collects the destination state tax from the exporter; and
- 11 (4) the contract for the sale is signed before the gasoline is removed from  
12 the terminal.

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

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

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

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

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

27 SECTION 24. Subsection (a), Section 162.116, Tax Code, is amended to read as  
28 follows:

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

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

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

7 (2) [(3)] the number of net gallons of gasoline removed during the month  
8 for export, sorted by product code, person receiving the gasoline, terminal code,  
9 destination state, and carrier;

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

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

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

20 (5) [(7)] any other information required by the comptroller.

21 SECTION 25. Section 162.118, Tax Code, is amended to read as follows:

22 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN.

23 The monthly return and supplements of each distributor shall contain for the period  
24 covered by the return:

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

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

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

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

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

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

12 SECTION 26. Section 162.125, Tax Code, is amended by adding Subsection (j)  
13 to read as follows:

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

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

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

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

25 (4) a nonprofit electric cooperative corporation organized under Chapter  
26 161, Utilities Code; and

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

29 SECTION 27. Subsection (d), Section 162.128, Tax Code, is amended to read as  
30 follows:

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

7 SECTION 28. Subsections (a) through (e), Section 162.201, Tax Code, are  
8 amended to read as follows:

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

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

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

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

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

1 SECTION 29. Subsection (d), Section 162.203, Tax Code, is amended to read as  
2 follows:

3 (d) A person who sells diesel fuel in this state, other than by a bulk transfer, on  
4 which tax has not been paid for any purpose other than a purpose exempt under Section  
5 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel  
6 fuel in addition to the selling price and is liable to this state for the taxes imposed  
7 ~~[collected at the time and]~~ in the manner provided by this chapter.

8 SECTION 30. Subsections (a) and (f), Section 162.204, Tax Code, are amended  
9 to read as follows:

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

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

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

16 (3) diesel fuel sold to a commercial transportation company that provides  
17 public school transportation services to a school district under Section 34.008, Education  
18 Code, and that uses the diesel fuel only to provide those services;

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

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

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

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

1 (6) that is:

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

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

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

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

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

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

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

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

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

1 (13) diesel fuel used by a person, other than a political subdivision, who  
2 owns, controls, operates, or manages a commercial motor vehicle as defined by Section  
3 548.001, Transportation Code, if the fuel:

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

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

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

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

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

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

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

15 SECTION 31. Section 162.206, Tax Code, is amended by amending Subsection  
16 (c) and adding Subsections (c-1), (g-1), and (k) to read as follows:

17 (c) A person may not make a tax-free purchase and a licensed supplier or  
18 distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this  
19 section using a signed statement for the first sale or purchase and for any subsequent sale  
20 or purchase;

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

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

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

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



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

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

7           (g-1) For purposes of this section, the purchaser is considered to have temporarily  
8 furnished the signed statement to the licensed supplier or distributor if the supplier or  
9 distributor verifies that the purchaser has an end user number issued by the comptroller.  
10 The licensed supplier or distributor shall use the comptroller's Internet website or other  
11 materials provided or produced by the comptroller to verify this information until the  
12 purchaser provides to the supplier or distributor a completed signed statement.

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

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

25           (b) A licensed supplier or permissive supplier who sells diesel fuel tax-free to a  
26 supplier, ~~or~~ permissive supplier, or aviation fuel dealer whose license has been canceled  
27 or revoked under this chapter, or who sells dyed diesel fuel to a distributor or dyed diesel  
28 fuel bonded user whose license has been canceled or revoked under this chapter, is liable  
29 for any tax due on diesel fuel sold after receiving notice of the cancellation or revocation.

30           (c) The comptroller shall notify all license holders under this chapter when a  
31 canceled or revoked license is subsequently reinstated and include in the notice the

1 effective date of the reinstatement. Sales to a supplier, permissive supplier, distributor,  
2 aviation fuel dealer, or dyed diesel fuel bonded user after the effective date of the  
3 reinstatement may be made tax-free.

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

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

8 SECTION 34. Subsection (a), Section 162.217, Tax Code, is amended to read as  
9 follows:

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

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

15 ~~(2)~~ the number of net gallons of diesel fuel removed at a terminal rack  
16 during the month from the account of the supplier, sorted by product code, person  
17 receiving the diesel fuel, terminal code, and carrier;

18 ~~(2)~~ ~~(3)~~ the number of net gallons of diesel fuel removed during the  
19 month for export, sorted by product code, person receiving the diesel fuel, terminal code,  
20 destination state, and carrier;

21 ~~(3)~~ ~~(4)~~ the number of net gallons of diesel fuel removed during the  
22 month from a terminal located in another state for conveyance to this state, as indicated  
23 on the shipping document for the diesel fuel, sorted by product code, person receiving the  
24 diesel fuel, terminal code, and carrier;

25 ~~(4)~~ ~~(5)~~ the number of net gallons of diesel fuel the supplier or  
26 permissive supplier sold during the month in transactions exempt under Section 162.204,  
27 sorted by product code and~~[, carrier,] purchaser~~~~[, and terminal code;~~

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

31 ~~(5)~~ ~~(7)~~ any other information required by the comptroller.

1 SECTION 35. Section 162.219, Tax Code, is amended to read as follows:

2 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN.

3 The monthly return and supplements of each distributor shall contain for the period  
4 covered by the return:

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

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

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

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

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

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

24 (7) [(6)] any other information required by the comptroller.

25 SECTION 36. Section 162.227, Tax Code, is amended by adding Subsection (j)  
26 to read as follows:

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

1 purchaser, and the license holder reimbursed the credit card issuer for the amount of tax  
2 included in the retail purchase price:

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

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

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

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

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

12 SECTION 37. Subsection (d), Section 162.230, Tax Code, is amended to read as  
13 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~(18)~~ ~~(19)~~ conceals motor fuel with the intent of engaging in any conduct  
30 proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected  
31 basis prescribed by this chapter;

1           (19) [(20)] refuses, while transporting motor fuel, to stop the motor  
2 vehicle the person is operating when called on to do so by a person authorized to stop the  
3 motor vehicle;

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

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

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

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

17          (24) [(25)] engages in a motor fuel transaction that requires that the  
18 person have a license under this chapter without then and there holding the required  
19 license;

20          (25) [(26)] makes and delivers to the comptroller a report required under  
21 this chapter to be made and delivered to the comptroller, if the report contains false  
22 information;

23          (26) [(27)] forges, falsifies, or alters an invoice prescribed by law;

24          (27) [(28)] makes any statement, knowing said statement to be false, in a  
25 claim for a tax refund filed with the comptroller;

26          (28) [(29)] furnishes to a supplier a signed statement for purchasing diesel  
27 fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor  
28 vehicle on a public highway;

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



1           (30) [(31)] fails to remit any tax funds collected by a license holder,  
2 another user, or any other person required to hold a license under this chapter;

3           (31) [(32)] makes a sale of dyed diesel fuel tax-free into a storage facility  
4 of a person who:

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

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

9           (32) [(33)] makes a sale of gasoline tax-free to any person who is not  
10 licensed as an aviation fuel dealer;

11           (33) [(34)] is a dealer who purchases any motor fuel tax-free when not  
12 authorized to make a tax-free purchase under this chapter;

13           (34) [(35)] is a dealer who purchases motor fuel with the intent to evade  
14 any tax imposed by this chapter or who accepts a delivery of motor fuel by any means  
15 and does not at the same time accept or receive a shipping document relating to the  
16 delivery;

17           (35) [(36)] transports motor fuel for which a cargo manifest or shipping  
18 document is required to be carried without possessing or exhibiting on demand by an  
19 officer authorized to make the demand a cargo manifest or shipping document containing  
20 the information required to be shown on the manifest or shipping document;

21           (36) [(37)] imports, sells, uses, blends, distributes, or stores motor fuel  
22 within this state on which the taxes imposed by this chapter are owed but have not been  
23 first paid to or reported by a license holder, another user, or any other person required to  
24 hold a license under this chapter;

25           (37) [(38)] blends products together to produce a blended fuel that is  
26 offered for sale, sold, or used and that expands the volume of the original product to  
27 evade paying applicable motor fuel taxes; or

28           (38) [(39)] evades or attempts to evade in any manner a tax imposed on  
29 motor fuel by this chapter.

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

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

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

7 SECTION 41. Subsections (b) through (f), Section 162.405, Tax Code, are  
8 amended to read as follows:

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

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

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

15 (e) An offense under Section 162.403(29), (30) [~~162.403(30)~~], (31), (32), (33),  
16 (34), (35), (36), (37), or (38) [~~or (39)~~] is a felony of the second degree.

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

21 SECTION 42. The heading to Section 162.409, Tax Code, is amended to read as  
22 follows:

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

25 SECTION 43. Subsections (a) and (d), Section 162.409, Tax Code, are amended  
26 to read as follows:

27 (a) A person commits an offense if:

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

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

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

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

11 SECTION 44. Subchapter E, Chapter 162, Tax Code, is amended by adding  
12 Section 162.410 to read as follows:

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

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

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

20 (1) no limitation:

21 (A) murder and manslaughter;

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

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

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

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

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

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

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

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

7 (F) arson;

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

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

11 (B) securing execution of document by deception; or

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

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

15 (A) theft, burglary, robbery;

16 (B) kidnapping;

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

19 (D) abandoning or endangering a child; or

20 (E) insurance fraud;

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

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

24 (B) except as provided by Subdivision (1), sexual assault under  
25 Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section  
26 22.021(a)(1)(B), Penal Code; or

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

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

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

1 (1) owns, controls, operates, or manages a commercial motor vehicle; and  
2 (2) is exempt from the state diesel fuel tax under Section 162.204  
3 [~~153.203~~], Tax Code.

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

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

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

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

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

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

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

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

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

- 1 for immediate effect, Sections 1 through 9 and Section 51 of this Act take effect
- 2 September 1, 2007.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 23 2007 BY: William

*Lately Saw*  
Secretary of the Senate

1 Amend Floor Amendment No. 2 by Williams to C.S.H.B. 3314  
2 (Senate Committee Printing) as follows:

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

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

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

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

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

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

18 (d-1) A license holder may take a credit on a return for  
19 the period in which the purchase occurred, and a person who does  
20 not hold a license may file a refund claim with the comptroller,  
21 if the license holder or person paid tax on diesel fuel and the  
22 diesel fuel is used in this state by auxiliary power units or  
23 power take-off equipment on any motor vehicle. If the quantity  
24 of that diesel fuel can be accurately measured while the motor  
25 vehicle is stationary by any metering or other measuring device  
26 or method designed to measure the fuel separately from fuel used  
27 to propel the motor vehicle, the comptroller may approve and  
28 adopt the use of the device as a basis for determining the  
29 quantity of diesel fuel consumed in those operations for a tax

1 credit or tax refund. If there is no separate metering device or  
2 other approved measuring method, the license holder may take the  
3 credit and the person who does not hold a license may claim the  
4 refund on a percentage of the diesel fuel consumed by each motor  
5 vehicle equipped with an auxiliary power unit or power take-off  
6 equipment. The comptroller shall determine the percentage of the  
7 credit or refund. The climate-control air conditioning or  
8 heating system of a motor vehicle that has a primary purpose of  
9 providing for the convenience or comfort of the operator or  
10 passengers is not a power take-off system, and a credit or  
11 refund may not be allowed for the tax paid on any portion of the  
12 diesel fuel that is used for that purpose. A credit or refund  
13 may not be allowed for the diesel fuel tax paid on that portion  
14 of the diesel fuel that is used for idling.

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

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

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

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

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

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

27 (6) On page 27 of the amendment, line 12, strike  
28 "162.403(21)-(38)" and substitute "162.403(21)-(39)".

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

31 SECTION 49. Section 1(3), Chapter 1033, Acts of the 71st



1 Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas  
2 Civil Statutes), is amended to read as follows:

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

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

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

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

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

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

15 (13) On page 28 of the amendment, line 28, strike "50"  
16 between "through" and "of" and substitute "51".

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

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

**ADOPTED**

BY:

*Vandell*

MAY 23 2007

1 Amend H.B. No. 3314 by adding the following appropriately  
2 numbered SECTIONS and renumbering subsequent SECTIONS  
3 accordingly:

*Letty Spaw*  
Secretary of the Senate

4 SECTION \_\_. Section 162.104(a), Tax Code, is amended to  
5 read as follows:

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

8 (1) sold to the United States for its exclusive use,  
9 provided that the exemption does not apply with respect to fuel  
10 sold or delivered to a person operating under a contract with  
11 the United States;

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

14 (3) sold to a commercial transportation company or a  
15 metropolitan rapid transit authority operating under Chapter  
16 451, Transportation Code, that provides public school  
17 transportation services to a school district under Section  
18 34.008, Education Code, and that uses the gasoline only to  
19 provide those services;

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

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

26 (B) for gasoline in a situation described by  
27 Subsection (e), the bill of lading indicates the destination  
28 state, the gasoline is subsequently exported, and the exporter

1 is licensed in the destination state to pay that state's tax and  
2 has an exporter's license issued under this subchapter;

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

8 (6) delivered or sold into a storage facility of a  
9 licensed aviation fuel dealer from which gasoline will be  
10 delivered solely into the fuel supply tanks of aircraft or  
11 aircraft servicing equipment, or sold from one licensed aviation  
12 fuel dealer to another licensed aviation fuel dealer who will  
13 deliver the aviation fuel exclusively into the fuel supply tanks  
14 of aircraft or aircraft servicing equipment; or

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

18 SECTION \_\_. Section 162.125(a), Tax Code, is amended to  
19 read as follows:

20 (a) A license holder may take a credit on a return for the  
21 period in which the sale occurred if the license holder paid tax  
22 on the purchase of gasoline and subsequently resells the  
23 gasoline without collecting the tax to:

24 (1) the United States government for its exclusive  
25 use, provided that a credit is not allowed for gasoline used by  
26 a person operating under contract with the United States;

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

29 (3) an exporter licensed under this subchapter if the  
30 seller is a licensed supplier or distributor and the exporter  
31 subsequently exports the gasoline to another state;

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1 (4) a licensed aviation fuel dealer if the seller is  
2 a licensed distributor; or

3 (5) a commercial transportation company or a  
4 metropolitan rapid transit authority operating under Chapter  
5 451, Transportation Code, that provides public school  
6 transportation services to a school district under Section  
7 34.008, Education Code, and that uses the gasoline exclusively  
8 to provide those services.

9 SECTION \_\_. Subchapter B, Chapter 162, Tax Code, is  
10 amended by adding Section 162.1275 to read as follows:

11 Sec. 162.1275. REFUND FOR CERTAIN METROPOLITAN RAPID  
12 TRANSIT AUTHORITIES. (a) Except as otherwise provided by this  
13 section, a metropolitan rapid transit authority operating under  
14 Chapter 451, Transportation Code, that is a party to a contract  
15 governed by Section 34.008, Education Code, is entitled to a  
16 refund of taxes paid under this subchapter for gasoline used to  
17 provide services under the contract and may file a refund claim  
18 with the comptroller for the amount of those taxes.

19 (b) The refund claim under Subsection (a) must contain  
20 information regarding:

21 (1) vehicle mileage;

22 (2) hours of service provided;

23 (3) fuel consumed;

24 (4) the total number of student passengers per route;

25 and

26 (5) the total number of non-student passengers per  
27 route.

28 (c) If in any month of a school year the number of non-  
29 student passengers is greater than five percent of the total  
30 passengers for any single route under a contract governed by  
31 Section 34.008, Education Code, the metropolitan rapid transit

1 authority is not entitled to a refund of taxes paid under this  
2 subchapter for the route for that month.

3 (d) A metropolitan rapid transit authority that requests a  
4 refund under this section shall maintain all supporting  
5 documentation relating to the refund until the sixth anniversary  
6 of the date of the request.

7 SECTION \_\_. Section 162.204(a), Tax Code, is amended to  
8 read as follows:

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

10 (1) diesel fuel sold to the United States for its  
11 exclusive use, provided that the exemption does not apply to  
12 diesel fuel sold or delivered to a person operating under a  
13 contract with the United States;

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

16 (3) diesel fuel sold to a commercial transportation  
17 company or a metropolitan rapid transit authority operating  
18 under Chapter 451, Transportation Code, that provides public  
19 school transportation services to a school district under  
20 Section 34.008, Education Code, and that uses the diesel fuel  
21 only to provide those services;

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

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

28 (B) for diesel fuel in a situation described by  
29 Subsection (e), the bill of lading indicates the destination  
30 state, the diesel fuel is subsequently exported, and the  
31 exporter is licensed in the destination state to pay that

1 state's tax and has an exporter's license issued under this  
2 subchapter;

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

8 (6) diesel fuel delivered or sold into a storage  
9 facility of a licensed aviation fuel dealer from which the  
10 diesel fuel will be delivered solely into the fuel supply tanks  
11 of aircraft or aircraft servicing equipment, or sold from one  
12 licensed aviation fuel dealer to another licensed aviation fuel  
13 dealer who will deliver the diesel fuel exclusively into the  
14 fuel supply tanks of aircraft or aircraft servicing equipment;

15 (7) diesel fuel exported to a foreign country if the  
16 bill of lading indicates the foreign destination and the fuel is  
17 actually exported to the foreign country;

18 (8) dyed diesel fuel sold or delivered by a supplier  
19 to another supplier and dyed diesel fuel sold or delivered by a  
20 supplier or distributor into the bulk storage facility of a dyed  
21 diesel fuel bonded user or to a purchaser who provides a signed  
22 statement as provided by Section 162.206;

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

29 (10) dyed diesel fuel sold by a supplier or  
30 permissive supplier to a distributor, or by a distributor to  
31 another distributor;

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1 (11) dyed diesel fuel delivered by a license holder  
2 into the fuel supply tanks of railway engines, motorboats, or  
3 refrigeration units or other stationary equipment powered by a  
4 separate motor from a separate fuel supply tank;

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

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

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

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

18 SECTION \_\_. Section 162.227(a), Tax Code, is amended to  
19 read as follows:

20 (a) A license holder may take a credit on a return for the  
21 period in which the sale occurred if the license holder paid tax  
22 on the purchase of diesel fuel and subsequently resells the  
23 diesel fuel without collecting the tax to:

24 (1) the United States government for its exclusive  
25 use, provided that a credit is not allowed for gasoline used by  
26 a person operating under a contract with the United States;

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

29 (3) an exporter licensed under this subchapter if the  
30 seller is a licensed supplier or distributor and the exporter  
31 subsequently exports the diesel fuel to another state;

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1 (4) a licensed aviation fuel dealer if the seller is  
2 a licensed distributor; or

3 (5) a commercial transportation company or a  
4 metropolitan rapid transit authority operating under Chapter  
5 451, Transportation Code, that provides public school  
6 transportation services to a school district under Section  
7 34.008, Education Code, and that uses the diesel fuel  
8 exclusively to provide those services.

9 SECTION \_\_. Subchapter C, Chapter 162, Tax Code, is  
10 amended by adding Section 162.2275 to read as follows:

11 Sec. 162.2275. REFUND FOR CERTAIN METROPOLITAN RAPID  
12 TRANSIT AUTHORITIES. (a) Except as otherwise provided by this  
13 section, a metropolitan rapid transit authority operating under  
14 Chapter 451, Transportation Code, that is a party to a contract  
15 governed by Section 34.008, Education Code, is entitled to a  
16 refund of taxes paid under this subchapter for diesel fuel used  
17 to provide services under the contract and may file a refund  
18 claim with the comptroller for the amount of those taxes.

19 (b) The refund claim under Subsection (a) must contain  
20 information regarding:

21 (1) vehicle mileage;

22 (2) hours of service provided;

23 (3) fuel consumed;

24 (4) the total number of student passengers per route;

25 and

26 (5) the total number of non-student passengers per  
27 route.

28 (c) If in any month of a school year the number of non-  
29 student passengers is greater than five percent of the total  
30 passengers for any single route under a contract governed by  
31 Section 34.008, Education Code, the metropolitan rapid transit



1 authority is not entitled to a refund of taxes paid under this  
2 subchapter for the route for that month.

3 (d) A metropolitan rapid transit authority that requests a  
4 refund under this section shall maintain all supporting  
5 documentation relating to the refund until the sixth anniversary  
6 of the date of the request.

7 SECTION \_\_. Section 162.3021(b), Tax Code, is amended to  
8 read as follows:

9 (b) Subject to Section 162.3022, the [The] tax imposed by  
10 this subchapter does not apply to the sale of liquefied  
11 petroleum gas to a commercial transportation company or a  
12 metropolitan rapid transit authority operating under Chapter  
13 451, Transportation Code, that uses the gas exclusively to  
14 provide public school transportation services to a school  
15 district under Section 34.008, Education Code, or to the use of  
16 liquefied petroleum gas by that company for that purpose. A  
17 motor vehicle that uses liquefied petroleum gas and that is  
18 owned by a commercial transportation company or a metropolitan  
19 rapid transit authority operating under Chapter 451,  
20 Transportation Code, and used exclusively to provide public  
21 school transportation services to a school district under  
22 Section 34.008, Education Code, is not required to have a  
23 liquefied gas tax decal or a special use liquefied gas tax  
24 decal.

25 SECTION \_\_. Subchapter D, Chapter 162, Tax Code, is  
26 amended by adding Section 162.3022 to read as follows:

27 Sec. 162.3022. EXCLUSIVE USE FOR CERTAIN METROPOLITAN  
28 RAPID TRANSIT AUTHORITIES. (a) This section applies to a  
29 metropolitan rapid transit authority operating under Chapter  
30 451, Transportation Code, that is a party to a contract governed  
31 by Section 34.008, Education Code, that is not required under

1 Section 162.3021 to have a liquefied gas tax decal or a special  
2 use liquefied gas tax decal for liquefied gas used to provide  
3 services under the contract.

4 (b) If in any month of a school year the number of non-  
5 student passengers is greater than five percent of the total  
6 passengers for any single route under a contract governed by  
7 Section 34.008, Education Code, the metropolitan rapid transit  
8 authority is liable for the tax under this subchapter in an  
9 amount that is prorated for that month.

10 (c) The metropolitan rapid transit authority shall  
11 maintain the following supporting documentation relating to the  
12 services provided under the contract until the sixth anniversary  
13 of the date of the services provided:

14 (1) vehicle mileage;

15 (2) hours of service provided;

16 (3) fuel consumed;

17 (4) the total number of student passengers per route;

18 and

19 (5) the total number of non-student passengers per

20 route.

21 (d) The comptroller may adopt rules to implement this  
22 section.

23 SECTION \_\_. The changes in law made by this Act to Chapter  
24 162, Tax Code, do not affect taxes imposed before the effective  
25 date of this Act, and the law in effect before the effective  
26 date of this Act is continued in effect for purposes of the  
27 liability for and collection of those taxes.

28 SECTION \_\_. Notwithstanding any other provision of this  
29 Act, the Sections of this Act amending Chapter 162, Tax Code,  
30 take effect July 1, 2007, if this Act receives a vote of two-  
31 thirds of all the members elected to each house, as provided by

1 Section 39, Article III, Texas Constitution. If this Act does  
2 not receive the vote necessary for effect on that date, those  
3 Sections take effect October 1, 2007.

MAY 23 2007

BY: Calvin

1 Amend H.B. No. 3314 (Senate ~~Committee~~ printing) as follows:

2 (1) Add the following SECTION to the bill,  
3 appropriately numbered, and renumber subsequent SECTIONS  
4 accordingly:

5 SECTION \_\_\_\_ . Section 502.185, Transportation Code, is  
6 amended to read as follows:

7 Sec. 502.185. REFUSAL TO REGISTER CERTAIN VEHICLES  
8 [~~VEHICLE IN CERTAIN COUNTIES~~]. (a) A county may enter into a  
9 contract with [assessor-collector or] the department under which  
10 the department shall [may] refuse to register a motor vehicle if  
11 the assessor-collector for that county notifies [or] the  
12 department [receives information] that the owner of the vehicle  
13 owes the county money for a fine, fee, or tax that is past due.

14 (b) The [A county may contract with the] department shall  
15 refuse to register a motor vehicle if the department has  
16 received from the assessor-collector for a county that has  
17 entered into a contract with [to provide information to] the  
18 department [necessary to make a determination] under Subsection  
19 (a) notice that the owner of the vehicle owes the county money  
20 for a fine, fee, or tax that is past due. To be valid, the  
21 notice must include:

22 (1) the name of the owner and the license number or  
23 vehicle identification number of the vehicle;

24 (2) the amount of each fine, fee, or tax that is past  
25 due;

26 (3) the name of the entity to which each fine, fee,  
27 or tax is due; and

28 (4) the address of the office where payment of each

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1 fine, fee, or tax can be made or sent and the telephone number  
2 for that office.

3 (c) On receipt of notice that complies with Subsection  
4 (b), the department shall notify the owner of the vehicle, in  
5 writing, of the department's refusal under this section to  
6 register the vehicle. The department shall include with the  
7 notice to the owner a copy of the notice received from the  
8 county assessor-collector under Subsection (b) or a statement  
9 that includes the information listed in Subsections (b)(1)-(4).  
10 The notice must state that the department will continue to  
11 refuse to register the vehicle until the owner pays or otherwise  
12 discharges each fine, fee, or tax due the county.

13 (d) A county assessor-collector who ~~[that]~~ has sent a  
14 notice to the department ~~[contract]~~ under Subsection (b) shall  
15 notify the department not later than the third business day  
16 after the date the person ~~[regarding a person for whom the~~  
17 ~~county assessor collector or the department has refused to~~  
18 ~~register a motor vehicle on]:~~

19 (1) makes ~~[the person's]~~ payment or other means of  
20 discharge of the past due fine, fee, or tax; or

21 (2) perfects ~~[perfection of]~~ an appeal of the case  
22 contesting payment of the fine, fee, or tax.

23 (e) ~~[+d)]~~ After notice is received under Subsection (d),  
24 ~~[(e), the county assessor collector or]~~ the department may not  
25 refuse to register the motor vehicle under Subsection (b) ~~[(a)]~~.

26 (f) The department may enter into a ~~[(e) A]~~ contract with  
27 a private vendor to implement this section ~~[under Subsection (b)~~  
28 ~~must be entered into in accordance with Chapter 791, Government~~  
29 ~~Code, and is subject to the ability of the parties to provide or~~  
30 ~~pay for the services required under the contract].~~

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1        (g) [~~(f)~~] A county that has entered into a contract under  
2 Subsection (a) [~~(b)~~] may impose an additional fee on [~~to~~] a  
3 person paying a fine, fee, or tax to the county after the date  
4 the county assessor-collector sends notice to the department  
5 under Subsection (b) [~~it is past due~~]. The amount of the  
6 additional fee must be reasonable. Each additional fee  
7 collected by a county shall be sent to the department for  
8 deposit to the credit of the state highway fund and [~~may be~~]  
9 used only to reimburse the department for its expenses for  
10 providing services under the contract.

11        (h) [~~(g)~~] In this section:

12            (1) a fine, fee, or tax is considered past due if it  
13 is unpaid 90 or more days after the date it is due; and

14            (2) registration of a motor vehicle includes renewal  
15 of the registration of the vehicle.

16        (i) [~~(h)~~] This section does not apply to the registration  
17 of a motor vehicle under Section 501.0234.

18            (2) In SECTION 10 of the bill, the effective date  
19 provision (on page 4, line 3), strike "This" and substitute "(a)  
20 Except as provided by Subsection (b) of this section, this".

21            (3) At the end of SECTION 10 of the bill, the  
22 effective date provision (on page 4, immediately below line 7),  
23 add the following:

24            (b) The SECTION of this Act that amends Section 502.185,  
25 Transportation Code, takes effect September 1, 2010. An  
26 existing contract entered into by a county and the Texas  
27 Department of Transportation under Section 502.185,  
28 Transportation Code, as that section existed immediately before  
29 September 1, 2010, automatically terminates on that date.

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**ADOPTED**

FLOOR AMENDMENT NO. 6

MAY 23 2007

BY:

*Larry Spaw*  
Secretary of the Senate

*[Signature]*

1 Amend H.B. No. 3314 (senate committee printing) by adding  
2 the following appropriately numbered SECTION to read as follows  
3 and renumbering subsequent SECTIONS accordingly:

4 SECTION \_\_. (a) Subsection (b), Section 202.061, Tax Code,  
5 is amended to read as follows:

6 (b) The taxpayer responsible for the payment of severance  
7 taxes on the production from a marginal well in this state on  
8 which enhanced efficiency equipment is installed and used is  
9 entitled to a credit in an amount equal to 10 percent of the  
10 cost of the equipment, provided that:

11 (1) the cumulative total of all severance tax credits  
12 authorized by this section may not exceed \$1,000 for any  
13 marginal well;

14 (2) the enhanced efficiency equipment installed in a  
15 qualifying marginal well must have been purchased and installed  
16 not earlier than September 1, 2005, or later than September 1,  
17 2013 [~~2009~~];

18 (3) the taxpayer must file an application with the  
19 comptroller for the credit and must demonstrate to the  
20 comptroller that the enhanced efficiency equipment has been  
21 purchased and installed in the marginal well within the period  
22 prescribed by Subdivision (2);

23 (4) the number of applications the comptroller may  
24 approve each state fiscal year may not exceed a number equal to  
25 one percent of the producing marginal wells in this state on  
26 September 1 of that state fiscal year, as determined by the  
27 comptroller; and

28 (5) the manufacturer of the enhanced efficiency

1 equipment must obtain an evaluation of the product under  
2 Subsection (a).

3 (b) Notwithstanding any other provision of this Act, this  
4 section takes effect September 1, 2007.

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**ADOPTED**

MAY 23 2007

1 Amend H.B. No. 3314 by adding an appropriately numbered  
2 SECTION to the bill to read as follow, and renumbering  
3 subsequent SECTIONS accordingly:

4 SECTION \_\_. Subsections (b) and (d), Section 222.003,  
5 Transportation Code, are amended to read as follows:

6 (b) The aggregate principal amount of the bonds and other  
7 public securities that are issued may not exceed \$6 [~~\$3~~]  
8 billion. The commission may only issue bonds or other public  
9 securities in an aggregate principal amount of not more than  
10 \$1.5 [~~\$1~~] billion each year.

11 (d) Of the aggregate principal amount of bonds and other  
12 public securities that may be issued under this section, the  
13 commission shall issue bonds or other public securities in an  
14 aggregate principal amount of \$1.2 billion [~~\$600 million~~] to  
15 fund projects that reduce accidents or correct or improve  
16 hazardous locations on the state highway system. The commission  
17 by rule shall prescribe criteria for selecting projects eligible  
18 for funding under this section. In establishing criteria for  
19 the projects, the commission shall consider accident data,  
20 traffic volume, pavement geometry, and other conditions that can  
21 create or exacerbate hazardous roadway conditions.

# ADOPTED

FLOOR AMENDMENT NO. 8

MAY 23 2007

BY: Ellis

*Atty Gen*  
Secretary of the Senate

1 Amend H.B. 3314 to add new Section \_\_\_\_ as follows:

2 SECTION \_\_\_\_ . Section 151.326, Tax Code, is amended as  
3 follows:

4 Section 151.326. Clothing and Footwear for Limited Period.

5 (a) The sale of an article of clothing or footwear designed to  
6 be worn on or about the human body is exempted from the taxes  
7 imposed by this chapter if:

8 (1) the sales price of the article is less than \$100, and

9 (2) the sale takes place during a period beginning at  
10 12:01 a.m. on the ~~first~~ third Friday in August and ending at 12  
11 midnight on the following Sunday.

12 (b) This section does not apply to:

13 (1) Any special clothing or footwear that is primarily  
14 designed for athletic activity or protective use and that is not  
15 normally worn except when used for the athletic activity or  
16 protective use it is for which it is designed;

17 (2) accessories, including jewelry, handbags, luggage,  
18 umbrellas, wallets, watches, and similar items carried on or  
19 about the human body, without regard to whether worn on the body  
20 in a manner characteristic of clothing; and

21 (3) the rental of clothing or footwear.

22 (c) The sale of a school backpack made for a sales price less  
23 than \$100 during the period described in this Section is  
24 exempted from the taxes imposed by this chapter if the backpack  
25 is purchased for use by a student in a public or private  
26 elementary or secondary school. A retailer is not required to  
27 obtain an exemption certificate stating that school backpacks  
28 are purchased for use by students in a public of private  
29 elementary or secondary school unless the backpacks are  
30 purchased in a quantity that indicates that the backpacks are

1 not purchased for use by students in a public or private  
2 elementary or secondary school.

3 (d) This section takes effect immediately if it receives a vote  
4 of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If  
6 this Act does not receive the vote necessary for immediate  
7 effect of this section, this section shall take effect on the  
8 effective date provided for in this Act.

9

# ADOPTED

FLOOR AMENDMENT NO. 9

MAY 23 2007

*Atty Gen*  
Secretary of the Senate

BY: *Williams*  
(Williams)

1 Amend H.B. 3314 by adding the following sections:

2 SECTION \_\_. Subchapter A, Chapter 222, Transportation Code, is  
3 amended by adding Section 222.004 to read as follows:

4 Sec. 222.004. ISSUANCE OF GENERAL OBLIGATION BONDS FOR  
5 HIGHWAY IMPROVEMENT PROJECTS. (a) The commission may issue  
6 general obligation bonds to fund state highway improvement  
7 projects.

8 (b) The aggregate principal amount of the bonds that are  
9 issued may not exceed \$5 billion.

10 (c) The proceeds of bonds issued under this section may not  
11 be used for any purpose other than the payment of any costs  
12 related to the bonds and the purposes for which revenues are  
13 dedicated under Section 7-a, Article VIII, Texas Constitution.

14 (d) The commission may enter into credit agreements, as  
15 defined by Chapter 1371, Government Code, relating to the bonds  
16 authorized by this section. The agreements may be secured by  
17 and payable from the same sources as the bonds.

18 (e) All laws affecting the issuance of bonds and other  
19 public securities by governmental entities, including Chapters  
20 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply  
21 to the issuing of bonds and the entering into of credit  
22 agreements under this section.

23 (f) The proceeds of bonds issued under this section may be  
24 used to:

25 (1) finance other funds relating to the bonds,  
26 including debt service reserve and contingency; and

27 (2) pay the cost or expense of the issuance of the  
28 bonds.

29 (g) Bonds issued under this section may be sold in such

1 manner and subject to such terms and provisions as set forth in  
2 the order authorizing their issuance, and such bonds must mature  
3 not later than 30 years after their dates of issuance, subject  
4 to any refundings or renewals.

5 (h) The comptroller shall pay the principal of the bonds as  
6 they mature and the interest as it becomes payable, and shall  
7 pay any cost related to the bonds that become due, including  
8 payments under credit agreements.

9

10 SECTION \_\_. Section 222.004, Transportation Code, as added by  
11 this Act, takes effect on the date on which the constitutional  
12 amendment proposed by S.J.R. No. 64, 80th Legislature, Regular  
13 Session, 2007, takes effect. If that amendment is not approved  
14 by the voters, that section does not take effect.

ADOPTED

BY: Wentworth

MAY 23 2007

FLOOR AMENDMENT NO. 10

Atty Gen  
Secretary of the Senate

1 Amend H.B. No. 3314 by adding the following SECTION to  
2 the bill, appropriately numbered, and renumbering subsequent  
3 SECTIONS accordingly:

4 SECTION \_\_. (a) Section 11.184, Tax Code, is amended by  
5 amending Subsection (c) and adding Subsections (l), (m), and (n)  
6 to read as follows:

7 (c) A [~~If approved under Subsection (b), a~~] qualified  
8 charitable organization is entitled to an exemption from  
9 taxation of:

10 (1) the buildings and other real property and the  
11 tangible personal property that:

- 12 (A) are owned by the organization; and
- 13 (B) except as permitted by Subsection (d), are
- 14 used exclusively by the organization and other organizations
- 15 eligible for an exemption from taxation under this section or
- 16 Section 11.18; and

17 (2) the real property owned by the organization  
18 consisting of:

- 19 (A) an incomplete improvement that:
  - 20 (i) is under active construction or other
  - 21 physical preparation; and
  - 22 (ii) is designed and intended to be used
  - 23 exclusively by the organization and other organizations eligible
  - 24 for an exemption from taxation under this section or Section
  - 25 11.18; and

26 (B) the land on which the incomplete improvement  
27 is located that will be reasonably necessary for the use of the  
28 improvement by the organization and other organizations eligible

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1 for an exemption from taxation under this section or Section  
2 11.18.

3 (1) Notwithstanding the other provisions of this section,  
4 a corporation that is not a qualified charitable organization is  
5 entitled to an exemption from taxation of property under this  
6 section if:

7 (1) the corporation is exempt from federal income  
8 taxation under Section 501(a), Internal Revenue Code of 1986, by  
9 being listed as an exempt entity under Section 501(c)(2) of that  
10 code;

11 (2) the corporation holds title to the property for,  
12 collects income from the property for, and turns over the entire  
13 amount of that income, less expenses, to a qualified charitable  
14 organization; and

15 (3) the qualified charitable organization would  
16 qualify for an exemption from taxation of the property under  
17 this section if the qualified charitable organization owned the  
18 property.

19 (m) Before a corporation described by Subsection (l) may  
20 submit an application for an exemption under this section, the  
21 qualified charitable organization for which the corporation  
22 holds title to the property must apply to the comptroller for  
23 the determination described by Subsection (e) with regard to the  
24 qualified charitable organization. The application for the  
25 determination must also include an application to the  
26 comptroller for a determination of whether the corporation meets  
27 the requirements of Subsections (l)(1) and (2). The corporation  
28 shall submit with the application for an exemption under this  
29 section a copy of the determination letter issued by the  
30 comptroller. The chief appraiser shall accept the copy of the

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1 letter as conclusive evidence of the matters described by  
2 Subsection (h) as well as of whether the corporation meets the  
3 requirements of Subsections (l)(1) and (2).

4 (n) Notwithstanding Subsection (k), in order for a  
5 corporation to continue to receive an exemption under Subsection  
6 (l) after the fifth tax year after the year in which the  
7 exemption is granted, the qualified charitable organization for  
8 which the corporation holds title to property must obtain a new  
9 determination letter and the corporation must reapply for the  
10 exemption.

11 (b) Section 11.184(b), Tax Code, is repealed.

12 (c) This section applies only to ad valorem taxes imposed  
13 for a tax year beginning on or after January 1, 2008.

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# ADOPTED

MAY 23 2007

*Leroy Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 11

BY: *[Signature]*

1 Amend H.B. No. 3314 by adding the following SECTION to the  
2 bill, appropriately numbered, and renumbering subsequent SECTIONS  
3 accordingly:

4 SECTION \_\_\_\_\_. (a) Section 21.02(e), Tax Code, is amended to  
5 read as follows:

6 (e) In this subsection, "portable drilling rig" includes  
7 equipment associated with the drilling rig. A portable drilling  
8 rig designed for land-based oil or gas drilling or exploration  
9 operations is taxable by each ~~[the]~~ taxing unit in which the rig is  
10 located on January 1 if the rig was located in the appraisal  
11 district that appraises property for the unit for the preceding 365  
12 consecutive days. If the drilling rig was not located in the  
13 appraisal district where it is located on January 1 for the  
14 preceding 365 days, it is taxable by each ~~[the]~~ taxing unit in  
15 which the owner's principal place of business in this state is  
16 located on January 1, unless the owner renders the rig under  
17 Chapter 22 to the appraisal district in which the rig is located on  
18 January 1, in which event the rig is taxable by each taxing unit in  
19 which the rig is located on January 1. If an owner elects to  
20 render any portable drilling rig to the appraisal district in which  
21 the rig is located on January 1 when the rig otherwise would be  
22 taxable at the owner's principal place of business in this state,  
23 all the owner's portable drilling rigs are taxable by the taxing  
24 units in which each rig is located on January 1. Notwithstanding  
25 any other provision of this subsection, if the owner of a portable  
26 drilling rig does not have a place of business in this state, the

1 rig is taxable by each taxing unit in which the rig is located on  
2 January 1.

3 (b) Subsection (a) of this section applies only to a tax year  
4 that begins on or after the effective date of this section.

5 (c) This section takes effect January 1, 2008.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 15, 2007**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3314** by Keffer, Jim (Relating to administration, collection, and enforcement of state taxes; providing penalties.), **As Engrossed**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would amend various provisions of the Tax Code and Property Code relating to the administration, collection and enforcement of state taxes.

The bill would add Section 111.0102 to the Tax Code to specify Travis County district courts as the venue and jurisdiction for any tax suit in connection with collection actions taken by the Comptroller.

The bill would amend Section 111.016 to add a statutory presumption that a taxpayer has actually collected taxes when the taxpayer has filed a return showing tax due and would add situations in which the statute of limitations could be stayed for personal liability actions.

The bill would amend Section 111.017 to impose a criminal penalty (Class A misdemeanor) for interference, trespass, or theft against seized property.

The bill would amend Section 111.021 to impose a penalty in an amount equal to 50 percent of the amount sought to be frozen or levied and to impose a criminal penalty (Class A misdemeanor) on those entities that did not honor a freeze or levy.

The bill would add Section 111.0511 to prohibit restricted or conditional payments to the Comptroller.

The bill would add Section 111.0611 to make individual officers, managers, and directors of business entities personally liable for fraudulent tax evasion.

The bill would amend Section 113.106 by setting a deadline for bringing a suit to determine the validity of a state tax lien and to create a rebuttable presumption regarding the receipt of proper notice of tax liability.

The bill would add Section 152.0472, relating to seller-financed motor vehicles, to state that a seller is not considered to have factored, assigned, or transferred a loan when the loan is pledged as collateral for the sale of bonds and nonpayment risk remains with the seller.

The bill would amend Section 162.004 of the Tax Code to require a motor fuel transportation document when motor fuel originated from other than a terminal rack or bulk plant rack and to clarify that a shipping document is not required for motor fuel transported in the supply tank of a motor vehicle.

The bill would add Section 183.024 to the Tax Code to make an individual, officer, manager, or director of a mixed beverage permittee personally liable for fraudulent tax evasion.

The bill would amend Section 183.053(b) to raise the maximum amount of a mixed beverage tax bond to mirror the current sales tax bonding procedures. Under current law, sales tax bonds are assessed at



four times the amount of the monthly tax liability.

According to the Comptroller of Public Accounts, the provisions of this bill would enhance the collection and enforcement of state taxes, clarify current law, or conform to current practice and would have no fiscal impact.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, CT, EB, SD



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

May 2, 2007

**TO:** Honorable Jim Keffer, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3314** by Keffer, Jim (Relating to administration, collection, and enforcement of state taxes; providing penalties. ), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

The bill would amend various provisions of the Tax Code and Property Code relating to the administration, collection and enforcement of state taxes.

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According to the Comptroller of Public Accounts, the provisions of this bill would enhance the collection and enforcement of state taxes, clarify current law, or conform to current practice and would have no fiscal impact.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, EB, CT, SD



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 11, 2007

**TO:** Honorable Jim Keffer, Chair, House Committee on Ways & Means

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3314** by Keffer, Jim (Relating to administration, collection, and enforcement of state taxes; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3314, As Introduced: a positive impact of \$4,948,000 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$2,474,000
2009	\$2,474,000
2010	\$2,474,000
2011	\$2,474,000
2012	\$2,474,000

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2008	\$2,474,000
2009	\$2,474,000
2010	\$2,474,000
2011	\$2,474,000
2012	\$2,474,000

**Fiscal Analysis**

The bill would amend various provisions of the Tax Code and Property Code relating to the administration, collection and enforcement of state taxes.

The bill would add Section 111.0102 to the Tax Code to specify Travis County district courts as the venue and jurisdiction for any tax suit in connection with collection actions taken by the Comptroller.

The bill would amend Section 111.016 to add a statutory presumption that a taxpayer has actually collected taxes when the taxpayer has filed a return showing tax due and would add situations in which the statute of limitations could be stayed for personal liability actions.

The bill would amend Section 111.017 to impose a criminal penalty (Class A misdemeanor) for interference, trespass, or theft against seized property.

The bill would amend Section 111.021 to impose a penalty in an amount equal to 50 percent of the



amount sought to be frozen or levied and to impose a criminal penalty (Class A misdemeanor) on those entities that did not honor a freeze or levy.

The bill would add Section 111.0511 to prohibit restricted or conditional payments to the Comptroller.

The bill would add Section 111.0611 to make individual officers, managers, and directors of business entities personally liable for fraudulent tax evasion.

The bill would amend Section 111.0625 and add Section 111.0626 to allow the Comptroller to prescribe by rule the category and amount of payments that would require a taxpayer to file tax reports electronically and/or transfer payments by means of electronic funds transfer (EFT).

The bill would amend Section 113.106 by setting a deadline for bringing a suit to determine the validity of a state tax lien and to create a rebuttable presumption regarding the receipt of proper notice of tax liability.

The bill would amend Section 162.004 of the Tax Code to require a motor fuel transportation document when motor fuel originated from other than a terminal rack or bulk plant rack and to clarify that a shipping document is not required for motor fuel transported in the supply tank of a motor vehicle.

The bill would add Section 183.024 to the Tax Code to make an individual, officer, manager, or director of a mixed beverage permittee personally liable for fraudulent tax evasion.

The bill would amend Section 183.053(b) to raise the maximum amount of a mixed beverage tax bond to mirror the current sales tax bonding procedures. Under current law, sales tax bonds are assessed at four times the amount of the monthly tax liability.

The bill would amend Section 52.006 of the Property Code to extend the duration of a judgment lien until the date the judgment was satisfied or the lien was released.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

### **Methodology**

The provisions of the bill, with the exception of SECTIONS 7 and 8, would enhance the collection and enforcement of state taxes, clarify current law, or conform to current practice.

With respect to SECTIONS 7 and 8, the annual savings to the General Revenue Fund 0001 would arise from annual gains in interest income attributable to an estimated two-day decrease in cash float, less 25 percent for a waiver for specific reasons. The change to EFT and electronic reporting from paper checks and paper reports would reduce the processing costs by \$1.93 per taxpayer, per pay period. The estimate assumes an effective date of September 1, 2007.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, CT, SD

