

Amend SB 1495 on third reading as follows:

(1) Strike SECTION 7 of the bill, substitute the following appropriately numbered SECTION, and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 162.001, Tax Code, is amended by amending Subdivisions (7), (9), (11), (19), (20), (29), (31), (42), (43), and (55) and adding Subdivision (10-a) to read as follows:

(7) "Biodiesel fuel" means any motor fuel or mixture of motor fuels, other than gasoline blended fuel, that is:

(A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and

(B) advertised, offered for sale, sold, used, or capable of ~~[suitable for]~~ use ~~[, or used]~~ as ~~[a motor]~~ fuel for a diesel-powered ~~[in an internal combustion]~~ engine.

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

(10-a) "Bulk storage" means a container of more than 10 gallons.

(11) "Bulk transfer" means a transfer of motor fuel from one location to another by pipeline ~~[tender]~~ or marine movement ~~[delivery]~~ within a bulk transfer/terminal system, including:

(A) a marine vessel movement of motor fuel from a refinery or terminal to a terminal;

(B) a pipeline movement of motor fuel from a refinery or terminal to a terminal;

(C) a book transfer or in-tank transfer of motor fuel within a terminal between licensed suppliers before completion

of removal across the rack; and

(D) a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

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

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

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

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

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

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas,

outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

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

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

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

(2) On page 6, line 27, between "the" and "bulk", insert "terminal or".

(3) Strike SECTION 11 of the bill, substitute the following appropriately numbered SECTIONS, and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of gasoline on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of gasoline and identified as gasoline tax on the invoice or receipt issued to a purchaser. Backup gasoline tax may be identified as gasoline tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the gasoline.

(c) Except as provided by Subsection (d), the sales price of

gasoline stated on an invoice, receipt, or shipping document is presumed to be exclusive of the taxes imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of gasoline by a licensed dealer to a person who delivers the gasoline at the dealer's place of business into a fuel supply tank or into a container having a capacity of no more than 10 gallons.

SECTION \_\_\_\_\_. Sections 162.103(a) and (d), Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.102 on:

(1) a person who obtains a refund of tax on gasoline by claiming the gasoline was used for an off-highway purpose, but actually uses the gasoline to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using gasoline on which tax has not been paid; ~~and~~

(3) a person who sells to the ultimate consumer gasoline on which tax has not been paid and who knew or had reason to know that the gasoline would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.104, who acquires gasoline on which tax has not been paid from any source in this state.

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

(4) Strike SECTION 13 of the bill, substitute the following, and renumber subsequent SECTIONS accordingly:

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

(n) In addition to the records specifically required by this

chapter, a license holder, a dealer, or a person required to hold a license shall keep any other record required by the comptroller.

SECTION \_\_\_\_\_. Section 162.117, Tax Code, is amended to read as follows:

Sec. 162.117. DUTIES OF SELLER OF GASOLINE [~~SUPPLIER OR PERMISSIVE SUPPLIER~~]. (a) A seller [~~supplier or permissive supplier~~] who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller [~~supplier or permissive supplier~~] shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller [~~supplier or permissive supplier~~] who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for gasoline purchased from the supplier or permissive supplier.

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

SECTION \_\_\_\_\_. Section 162.122, Tax Code, is amended to read as follows:

Sec. 162.122. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON EXPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of gasoline acquired from a supplier and exported during the month, including supplier name, terminal control number, and product code;

(2) the number of net gallons of gasoline acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of gasoline acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the gasoline was acquired and the name and address of the person receiving the gasoline;

(4) the destination state of the gasoline exported during the month; and

(5) ~~[(4)]~~ any other information required by the comptroller.

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

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

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

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

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

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

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

(5) Strike SECTION 16 of the bill, substitute the following appropriately numbered SECTIONS, and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2025 to read as follows:

Sec. 162.2025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of diesel fuel on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of diesel fuel and identified as diesel fuel tax on the invoice or receipt issued to a purchaser. Backup state diesel fuel tax may be identified as diesel fuel tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the diesel fuel.

(c) Except as provided by Subsection (d), the sales price of diesel fuel stated on an invoice, receipt, or shipping document is presumed to be exclusive of the tax imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of diesel fuel by a licensed dealer to a person who delivers the diesel fuel at the dealer's place of business into a fuel supply tank or into a container having a capacity of no more than 10 gallons.

SECTION \_\_\_\_\_. Sections 162.203(a) and (d), Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.202 on:

(1) a person who obtains a refund of tax on diesel fuel by claiming the diesel fuel was used for an off-highway purpose, but actually uses the diesel fuel to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid; ~~and~~

(3) a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid from any source in this state.

(d) A person who sells diesel fuel in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel

fuel in addition to the selling price and is liable to this state for the taxes imposed [~~collected at the time and~~] in the manner provided by this chapter.

(6) Strike SECTION 20, substitute the following appropriately numbered SECTIONS, and renumber subsequent SECTIONS appropriately:

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

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

SECTION \_\_\_\_\_. Section 162.218, Tax Code, is amended to read as follows:

Sec. 162.218. DUTIES OF SELLER OF DIESEL FUEL [~~SUPPLIER OR PERMISSIVE SUPPLIER~~]. (a) A seller [~~supplier or permissive supplier~~] who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller [~~supplier or permissive supplier~~] shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller [~~supplier or permissive supplier~~] who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for diesel fuel purchased from the supplier or permissive supplier.

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

SECTION \_\_\_\_\_. Section 162.223, Tax Code, is amended to read as follows:

Sec. 162.223. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON IMPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel acquired from a supplier and exported during the month, including supplier



name, terminal control number, and product code;

(2) the number of net gallons of diesel fuel acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of diesel fuel acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the diesel fuel was acquired and the name and address of the person receiving the diesel fuel;

(4) the destination state of the diesel fuel exported during the month; and

(5) [~~(4)~~] any other information the comptroller requires.

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

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

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

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

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

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

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

(7) On page 17, between lines 18 and 19, insert the following appropriately numbered SECTIONS and renumber subsequent

SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 162.308(a), Tax Code, is amended to read as follows:

(a) A licensed dealer or a person required to hold a dealer's license who makes a sale or delivery of liquefied gas into a fuel supply tank of a motor vehicle on which the tax is required to be collected is liable to this state for the tax imposed and shall report and pay the tax in the manner required by this subchapter.

SECTION \_\_\_\_\_. Sections 162.309(a) and (c), Tax Code, are amended to read as follows:

(a) A dealer or a person required to hold a dealer's license shall keep for four years, open to inspection at all times by the comptroller and the attorney general, a complete record of all liquefied gas sold or delivered for taxable purposes.

(c) Each taxable sale or delivery by a dealer or a person required to hold a dealer's license of liquefied gas into the fuel supply tanks of a motor vehicle, including deliveries by interstate truckers from bulk storage, shall be covered by an invoice. The invoice must be printed and contain:

(1) the preprinted or stamped name and address of the licensed dealer or interstate trucker;

(2) the date of the sale or delivery;

(3) the number of gallons sold or delivered;

(4) the mileage recorded on the odometer;

(5) the state and state highway license number;

(6) the signature of the driver of the motor vehicle;

and

(7) the amount of tax paid or accounted for stated separately from the selling price.

(8) On page 23, on line 18, after "invoice", insert "or shipping document".

(9) On page 24, line 1, between "collected" and "by", insert "or required to be collected".

(10) On page 24, line 12, strike "is a dealer who" and substitute "~~is a dealer who~~".

(11) On page 24, line 14, strike "is a dealer who" and substitute "~~is a dealer who~~".

(12) On page 25, between lines 6 and 7, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 162.405(f), Tax Code, is amended to read as follows:

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

(1) Section 162.403(7);

(2) Sections 162.403(13) through (16); or

(3) Sections 162.403(23) through (29).

(13) On page 26, between lines 8 and 9, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

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

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

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

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

(D) continuous sexual abuse of young child or children under Section 21.02, Penal Code;

(E) indecency with a child under Section 21.11, Penal Code; or

(F) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the

accident resulted in the death of a person;

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

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

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

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

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

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

(F) arson;

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

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

(B) securing execution of document by deception; or

(C) a felony violation under Chapter 162 [~~Sections 162.403(22)-(39)~~], Tax Code;

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

(A) theft or robbery;

(B) except as provided by Subdivision (5), kidnapping or burglary;

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

(D) abandoning or endangering a child; or

(E) insurance fraud;

(5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is

committed, 20 years from the 18th birthday of the victim of one of the following offenses:

(A) sexual performance by a child under Section 43.25, Penal Code;

(B) aggravated kidnapping under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(C) burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (B) of this subdivision; or

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

(14) At the top of page 27, between SECTIONS 28 and 29 of the bill, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 162.017, Tax Code, is repealed.