

BILL ANALYSIS

C.S.H.B. 2578
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 78th Legislature, Regular Session, 2003, enacted H.B. 2458 to move the point of collection for motor fuels taxes from the distributor to the supplier. Moving the point of collection for motor fuels taxes means that tax is assessed when a distributor removes fuel from a terminal. Prior to this change, fuels tax was not assessed until the distributor made a taxable sale to an end user.

In 2003, H.B. 2458 inadvertently included two different statutory provisions for addressing tax credits taken by a supplier following a distributor's default of fuels tax. Specifically, identical provisions include a requirement that the tax resulting from the sale of motor fuels and other goods be apportioned. Because motor fuels are the only goods exchanged between suppliers and distributors, these provisions are no longer applicable to the relationship between distributors and suppliers. The presence of the provisions when read with other provisions has caused confusion among distributors and suppliers as to which provision governs supplier credits for fuels tax.

C.S.H.B. 2578 amends provisions of the Tax Code relating to credits and allowances under the gasoline tax and the diesel tax, and repeals certain other provisions of the Tax Code relating to gasoline and diesel fuel taxes.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2578 amends the Tax Code to require a supplier or permissive supplier to terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline or diesel fuel taxes after requesting a gasoline or diesel fuel tax credit, rather than specifying that the supplier or permissive supplier has the right to take such action after notifying the comptroller of public accounts of the licensed distributor's or licensed importer's failure to remit such taxes. The bill prohibits the supplier or permissive supplier, before the first anniversary of the date the supplier or permissive supplier requested the credit, from reinstating the right of the licensed distributor or licensed importer to defer the payment of gasoline or diesel fuel taxes. The bill removes the requirement that the supplier or permissive supplier reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of gasoline or diesel fuel taxes after the comptroller provides to the supplier or permissive supplier notice that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of the applicable tax. The bill authorizes a supplier or permissive supplier to reinstate the right of a licensed distributor or licensed importer to defer the payment of gasoline or diesel fuel taxes before the first anniversary if the comptroller determines that the supplier or permissive supplier erroneously requested the credit that resulted in the termination of the licensed distributor's or licensed importer's right to defer payment or the licensed distributor or licensed importer failed

to pay gasoline or diesel fuel taxes because of circumstances that may have been outside the distributor's or importer's control.

C.S.H.B. 2578 decreases from 60 days after a default, to 15 days after a default, the deadline for notifying the comptroller of a default on payment of gasoline or diesel fuel taxes in order for a supplier or permissive supplier to be eligible to take a credit for gasoline or diesel fuel taxes that were not remitted.

C.S.H.B. 2578 repeals Sections 162.116(d) and 162.217(d), Tax Code, relating to the gasoline tax and the diesel fuel tax, respectively, to remove a requirement that all payments or credits in reduction of a customer's account be applied ratably between motor fuels and other goods sold to the customer and to remove a provision allowing and specifying the associated credit.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2578 differs from the original, which was confined to the repealed provisions and the effective date, by adding the other provisions relating to the deferral of a tax payment and the notification deadline for the obtaining of a credit by a supplier or permissive supplier for taxes that were not remitted.