

By: Keffer

H.B. No. 2578

Substitute the following for H.B. No. 2578:

By: Oliveira

C.S.H.B. No. 2578

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the deferral by a licensed distributor or importer of
3 payment of gasoline and diesel fuel taxes and information required
4 on a tax return relating to credits authorized for certain of those
5 deferrals.

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

7 SECTION 1. Section 162.113, Tax Code, is amended by
8 amending Subsection (d) and adding Subsection (d-1) to read as
9 follows:

10 (d) The supplier or permissive supplier [~~has the right~~],
11 after requesting a credit [~~notifying the comptroller of the~~
12 ~~licensed distributor's or licensed importer's failure to remit~~
13 ~~taxes~~] under this section, shall [~~to~~] terminate the ability of the
14 licensed distributor or licensed importer to defer the payment of
15 gasoline tax. The supplier or permissive supplier may not [~~shall~~]
16 reinstate [~~without delay~~] the right of the licensed distributor or
17 licensed importer to defer the payment of gasoline tax until the
18 first anniversary of the date the supplier or permissive supplier
19 requested the credit, subject to Subsection (d-1).

20 (d-1) A supplier or permissive supplier may reinstate the
21 right of a licensed distributor or licensed importer to defer the
22 payment of gasoline tax before the date prescribed by Subsection
23 (d) if the comptroller determines that:

24 (1) the supplier or permissive supplier erroneously

1 requested the credit that resulted in the termination of the
2 licensed distributor's or licensed importer's right to defer
3 payment; or

4 (2) the licensed distributor or licensed importer
5 failed to pay gasoline taxes due because of circumstances that may
6 have been outside the distributor's or importer's control [~~after~~
7 ~~the comptroller provides to the supplier or permissive supplier~~
8 ~~notice that the licensed distributor or licensed importer is in~~
9 ~~good standing with the comptroller for the purposes of the gasoline~~
10 ~~tax imposed under this subchapter].~~

11 SECTION 2. Section 162.116, Tax Code, is amended by
12 amending Subsection (c) to read as follows:

13 (c) A supplier or permissive supplier may take a credit for
14 any taxes that were not remitted in a previous period to the
15 supplier or permissive supplier by a licensed distributor or
16 licensed importer as required by Section 162.113. The supplier or
17 permissive supplier is eligible to take the credit if the
18 comptroller is notified of the default within 15 [~~60~~] days after the
19 default occurs. If a license holder pays to a supplier or
20 permissive supplier the tax owed, but the payment occurs after the
21 supplier or permissive supplier has taken a credit on its return,
22 the supplier or permissive supplier shall remit the payment to the
23 comptroller with the next monthly return after receipt of the tax,
24 plus a penalty of 10 percent of the amount of unpaid taxes and
25 interest at the rate provided by Section 111.060 beginning on the
26 date the credit was taken.

27 SECTION 3. Section 162.214, Tax Code, is amended by

1 amending Subsection (d) and adding Subsection (d-1) to read as
2 follows:

3 (d) The supplier or permissive supplier [~~has the right~~],
4 after requesting a credit [~~notifying the comptroller of the~~
5 ~~licensed distributor's or licensed importer's failure to remit~~
6 ~~taxes~~] under this section, shall [~~to~~] terminate the ability of the
7 licensed distributor or licensed importer to defer the payment of
8 diesel fuel tax. The supplier or permissive supplier may not
9 [~~shall~~] reinstate [~~without delay~~] the right of the licensed
10 distributor or licensed importer to defer the payment of diesel
11 fuel tax until the first anniversary of the date the supplier or
12 permissive supplier requested the credit, subject to Subsection
13 (d-1).

14 (d-1) A supplier or permissive supplier may reinstate the
15 right of a licensed distributor or licensed importer to defer the
16 payment of diesel fuel tax before the date prescribed by Subsection
17 (d) if the comptroller determines that:

18 (1) the supplier or permissive supplier erroneously
19 requested the credit that resulted in the termination of the
20 licensed distributor's or licensed importer's right to defer
21 payment; or

22 (2) the licensed distributor or licensed importer
23 failed to pay diesel fuel taxes due because of circumstances that
24 may have been outside the distributor's or importer's control
25 [~~after the comptroller provides to the supplier or permissive~~
26 ~~supplier notice that the licensed distributor or licensed importer~~
27 ~~is in good standing with the comptroller for the purposes of diesel~~

1 ~~fuel tax imposed under this subchapter].~~

2 SECTION 4. Section 162.217, Tax Code, is amended by
3 amending Subsection (c) to read as follows:

4 (c) A supplier or permissive supplier may take a credit for
5 any taxes that were not remitted in a previous period to the
6 supplier or permissive supplier by a licensed distributor or
7 licensed importer as required by Section 162.214. The supplier or
8 permissive supplier is eligible to take this credit if the
9 comptroller is notified of the default within 15 ~~60~~ days after the
10 default occurs. If a license holder pays to a supplier or
11 permissive supplier the tax owed, but the payment occurs after the
12 supplier or permissive supplier has taken a credit on its return,
13 the supplier or permissive supplier shall remit the payment to the
14 comptroller with the next monthly return after receipt of the tax,
15 plus a penalty of 10 percent of the amount of unpaid taxes and
16 interest at the rate provided by Section 111.060 beginning on the
17 date the credit is taken.

18 SECTION 5. Sections 162.116(d) and 162.217(d), Tax Code,
19 are repealed.

20 SECTION 6. The changes in law made by this Act apply only to
21 a credit claimed, or the termination of tax payment deferral
22 following a credit requested, on or after the effective date of this
23 Act. A credit claimed, or the termination of tax payment deferral
24 following a credit requested, before the effective date of this Act
25 is governed by the law in effect on the date the credit was claimed
26 or requested, and the former law is continued in effect for that
27 purpose.

1 SECTION 7. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.