

By: Carona

S.B. No. 217

A BILL TO BE ENTITLED

AN ACT

relating to the rate of the state gasoline tax and diesel fuel taxes.

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

SECTION 1. Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATE. Except as provided by Section 162.1025, the ~~[The]~~ gasoline tax rate is 20 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

SECTION 2. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER PRICE INDEX. (a) In this section:

(1) "Producer price index" means the producer price index for highway and street construction published by the United States Department of Labor.

(2) "Producer price index percentage change" means the percentage increase or decrease, not to exceed five percent, in the producer price index of a given state fiscal year from the producer price index of the preceding state fiscal year.

(b) On October 1 of each year, the rate of the gasoline tax imposed under this subchapter is increased or decreased by an amount that is equal to the producer price index percentage change

1 for the preceding fiscal year multiplied by the combined rate of the
2 state and federal gasoline taxes on August 1 of that year.

3 (c) Not later than September 1 of each year, the comptroller
4 shall:

5 (1) compute the new tax rate as provided by this
6 section;

7 (2) give the new tax rate to the secretary of state for
8 publication in the Texas Register; and

9 (3) notify each license holder under this subchapter
10 of the applicable new tax rate.

11 SECTION 3. Section 162.103(a), Tax Code, is amended to read
12 as follows:

13 (a) A backup tax is imposed at the rate prescribed by
14 Sections [Section] 162.102 and 162.1025 on:

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

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

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

24 SECTION 4. Section 162.202, Tax Code, is amended to read as
25 follows:

26 Sec. 162.202. TAX RATE. Except as provided by Section
27 162.2025, the [The] diesel fuel tax rate is 20 cents for each net

1 gallon or fractional part on which the tax is imposed under Section
2 162.201.

3 SECTION 5. Subchapter C, Chapter 162, Tax Code, is amended
4 by adding Section 162.2025 to read as follows:

5 Sec. 162.2025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER
6 PRICE INDEX. (a) In this section:

7 (1) "Producer price index" means the producer price
8 index for highway and street construction published by the United
9 States Department of Labor.

10 (2) "Producer price index percentage change" means the
11 percentage increase or decrease, not to exceed five percent, in the
12 producer price index of a given state fiscal year from the producer
13 price index of the preceding state fiscal year.

14 (b) On October 1 of each year, the rate of the diesel fuel
15 tax imposed under this subchapter is increased or decreased by an
16 amount that is equal to the producer price index percentage change
17 for the preceding fiscal year multiplied by the combined rate of the
18 state and federal diesel fuel taxes on August 1 of that year.

19 (c) Not later than September 1 of each year, the comptroller
20 shall:

21 (1) compute the new tax rate as provided by this
22 section;

23 (2) give the new tax rate to the secretary of state for
24 publication in the Texas Register; and

25 (3) notify each license holder under this subchapter
26 of the applicable new tax rate.

27 SECTION 6. Section 162.203(a), Tax Code, is amended to read

1 as follows:

2 (a) A backup tax is imposed at the rate prescribed by
3 Sections [~~Section~~] 162.202 and 162.2025 on:

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

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

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

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