

By: Williams

S.B. No. 1495

A BILL TO BE ENTITLED

AN ACT

relating to the taxation of motor fuels; providing penalties.

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

SECTION 1. Subsection (b), Section 101.009, Tax Code, is amended to read as follows:

(b) Cigarette tax revenue allocated under Section 154.603(b) [~~of this code~~] shall be allocated as provided by Section 154.603 [~~of this code~~]. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F, Chapter 162 [~~of Chapter 153 of this code~~].

SECTION 2. Subsection (g), Section 111.006, Tax Code, is amended to read as follows:

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

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

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

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the

1 official in a manner substantially equivalent to the official's
2 access to information under this subsection.

3 SECTION 3. Subsection (d), Section 111.060, Tax Code, is
4 amended to read as follows:

5 (d) Subsection (c) does not apply to the taxes imposed by
6 Chapters 152 and 211 or under an agreement made under Section
7 162.003 [~~153.017~~].

8 SECTION 4. Subsection (d), Section 111.064, Tax Code, is
9 amended to read as follows:

10 (d) This section does not apply to an amount paid to the
11 comptroller under Title 6, Property Code, or under an agreement
12 made under Section 162.003 [~~153.017~~].

13 SECTION 5. Subsection (a), Section 111.107, Tax Code, is
14 amended to read as follows:

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

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

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

26 (3) under Chapter 162 [~~153~~], except Section 162.126(f)
27 [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~],

1 or 162.230(d) [~~153.224(d)~~].

2 SECTION 6. Section 151.308, Tax Code, is amended to read as
3 follows:

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

6 (1) oil as taxed by Chapter 202;

7 (2) sulphur as taxed by Chapter 203;

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

10 (4) cement as taxed by Chapter 181;

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

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

17 (7) alcoholic beverages when sold to the holder of a
18 private club registration permit or to the agent or employee of the
19 holder of a private club registration permit if the holder or agent
20 or employee is acting as the agent of the members of the club and if
21 the beverages are to be served on the premises of the club;

22 (8) oil well service as taxed by Subchapter E, Chapter
23 191; and

24 (9) insurance premiums subject to gross premiums
25 taxes.

26 (b) Natural gas is exempted under Subsection (a)(3) only to
27 the extent that the gas is taxed as a motor fuel under Chapter 162

1 ~~[153]~~.

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

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

14 (10-a) "Bulk storage" means a container of more than
15 10 gallons.

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

25 (20) "Distributor" means a person who ~~[acquires motor~~
26 ~~fuel from a licensed supplier, permissive supplier, or another~~
27 ~~licensed distributor and who]~~ makes sales of motor fuel at

1 wholesale. A distributor's ~~[and whose]~~ activities may also include
2 sales of motor fuel at retail.

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

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

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

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

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

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

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

12 SECTION 8. Section 162.004, Tax Code, is amended by
13 amending Subsections (a) and (b) and adding Subsections (a-1) and
14 (h) to read as follows:

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

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

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

26 (1) the terminal control number of the terminal or
27 physical address of the bulk plant from which the motor fuel was

1 received;

2 (2) the name [~~and license number~~] of the purchaser;

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

4 (4) the net gallons loaded, or the gross gallons
5 loaded if the fuel was purchased from a bulk plant;

6 (5) the destination state of the motor fuel, as
7 represented by the purchaser of the motor fuel or the purchaser's
8 agent; and

9 (6) a description of the product being transported.

10 (h) This section does not apply to motor fuel that is
11 delivered into the fuel supply tank of a motor vehicle.

12 SECTION 9. Subsections (a), (b), (d), and (e), Section
13 162.016, Tax Code, are amended to read as follows:

14 (a) A person may not import motor fuel to a destination in
15 this state or export motor fuel to a destination outside this state
16 by any means unless the person possesses a shipping document for
17 that fuel [~~created by the terminal or bulk plant at which the fuel~~
18 ~~was received~~]. The shipping document must include:

19 (1) the name and physical address of the terminal or
20 bulk plant from which the motor fuel was received for import or
21 export;

22 (2) the name [~~and federal employer identification~~
23 ~~number, or the social security number if the employer~~
24 ~~identification number is not available,~~] of the carrier
25 transporting the motor fuel;

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

27 (4) the type of motor fuel;

- 1 (5) the number of gallons:
- 2 (A) in temperature-adjusted gallons if purchased
- 3 from a terminal for export or import; or
- 4 (B) in temperature-adjusted gallons or in gross
- 5 gallons if purchased from a bulk plant;
- 6 (6) the destination of the motor fuel as represented
- 7 by the purchaser of the motor fuel and the number of gallons of the
- 8 fuel to be delivered, if delivery is to only one state;
- 9 (7) the name [~~, federal employer identification~~
- 10 ~~number, license number,~~] and physical address of the purchaser of
- 11 the motor fuel;
- 12 (8) the name of the person responsible for paying the
- 13 tax imposed by this chapter, as given to the terminal by the
- 14 purchaser if different from the licensed supplier or distributor;
- 15 [~~and~~]
- 16 (9) the destination state of each portion of a split
- 17 load of motor fuel if the motor fuel is to be delivered to more than
- 18 one state; and
- 19 (10) any other information that, in the opinion of the
- 20 comptroller, is necessary for the proper administration of this
- 21 chapter.
- 22 (b) The [~~terminal or bulk plant shall provide the~~] shipping
- 23 documents shall be provided to the importer or exporter.
- 24 (d) A seller, transporter, or receiver of [~~terminal, a bulk~~
- 25 ~~plant, the carrier, the licensed distributor or supplier, and the~~
- 26 ~~person that received the~~] motor fuel shall:
- 27 (1) retain a copy of the shipping document until at

1 least the fourth anniversary of the date the fuel is received; and

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

5 (e) An importer or exporter shall keep in the person's
6 possession the shipping document [~~issued by the terminal or bulk~~
7 ~~plant~~] when transporting motor fuel imported into this state or for
8 export from this state. The importer or exporter shall show the
9 document to the comptroller or a peace officer on request. The
10 comptroller may delegate authority to inspect the document to other
11 governmental agencies. The importer or exporter shall provide a
12 copy of the shipping document to the person that receives the fuel
13 when it is delivered.

14 SECTION 10. Subsections (a) through (e), Section 162.101,
15 Tax Code, are amended to read as follows:

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

21 (b) A tax is imposed at the time gasoline is imported into
22 this state, other than by a bulk transfer, for delivery to a
23 destination in this state. The supplier or permissive supplier is
24 liable for and shall collect the tax imposed by this subchapter from
25 the person who imports the gasoline into this state. If the seller
26 is not a supplier or permissive supplier, then the person who
27 imports the gasoline into this state is liable for and shall pay the

1 tax.

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

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

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

19 SECTION 11. Subsection (d), Section 162.103, Tax Code, is
20 amended to read as follows:

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

1 SECTION 12. Subsections (b) and (c), Section 162.112, Tax
2 Code, are amended to read as follows:

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

9 (c) The comptroller shall notify all license holders under
10 this chapter when a canceled or revoked license is subsequently
11 reinstated and include in the notice the effective date of the
12 reinstatement. Sales to the supplier, ~~or~~ permissive supplier, or
13 aviation fuel dealer after the effective date of the reinstatement
14 may be made tax-free.

15 SECTION 13. Section 162.115, Tax Code, is amended by adding
16 Subsection (n) to read as follows:

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

20 SECTION 14. Subsection (d), Section 162.128, Tax Code, is
21 amended to read as follows:

22 (d) A supplier, ~~or~~ permissive supplier, distributor,
23 importer, exporter, or blender that determines taxes were
24 erroneously reported and remitted or that paid more taxes than were
25 due this state because of a mistake of fact or law may take a credit
26 on the monthly tax report on which the error has occurred and tax
27 payment made to the comptroller. The credit must be taken before

1 the expiration of the applicable period of limitation as provided
2 by Chapter 111.

3 SECTION 15. Subsections (a) through (e), Section 162.201,
4 Tax Code, are amended to read as follows:

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

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

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

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

1 (e) A tax is imposed on the blending of diesel fuel at the
2 point blended diesel fuel is made in this state outside the bulk
3 transfer/terminal system. The blender is liable for and shall pay
4 the tax. The number of gallons of blended diesel fuel on which the
5 tax is imposed is equal to the difference between the number of
6 gallons of blended fuel made and the number of gallons of previously
7 taxed diesel fuel used to make the blended fuel.

8 SECTION 16. Subsection (d), Section 162.203, Tax Code, is
9 amended to read as follows:

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

17 SECTION 17. Subsection (b), Section 162.205, Tax Code, is
18 amended to read as follows:

19 (b) A person must obtain a license as a dyed diesel fuel
20 bonded user to purchase dyed diesel fuel in amounts that exceed the
21 limitations prescribed by Section 162.206(c). This subsection does
22 not affect the right of a purchaser to purchase not more than the
23 number of [~~10,000~~] gallons of dyed diesel fuel prescribed by
24 Section 162.206(c) each month for the purchaser's own use using a
25 signed statement [~~under Section 162.206~~].

26 SECTION 18. Section 162.206, Tax Code, is amended by
27 amending Subsections (c), (d), and (j) and adding Subsections

1 (c-1), (g-1), and (k) to read as follows:

2 (c) A person may not make a tax-free purchase and a licensed
3 supplier or distributor may not make a tax-free sale to a purchaser
4 of any dyed diesel fuel under this section using a signed statement
5 for the first sale or purchase and for any subsequent sale or
6 purchase[-

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

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

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

13 (2) [~~(B)] 25,000 gallons of dyed diesel fuel if the~~
14 purchaser stipulates in the signed statement that all of the fuel
15 will be consumed by the purchaser in the original production of, or
16 to increase the production of, oil or gas and furnishes the licensed
17 supplier or distributor with a letter of exception issued by the
18 comptroller; or

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

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

27 (d) Any gallons purchased or sold in excess of the

1 limitations prescribed by Subsection (c) constitute a taxable
2 purchase or sale. [~~The purchaser paying the tax on dyed diesel fuel~~
3 ~~in excess of the limitations prescribed by Subsection (c) may claim~~
4 ~~a refund of the tax paid on any dyed diesel fuel used for nonhighway~~
5 ~~purposes under Section 162.227.~~] A purchaser that exceeds the
6 limitations prescribed by Subsection (c) shall be required to
7 obtain a dyed diesel fuel bonded user license.

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

17 (j) A taxable use of any part of the dyed diesel fuel
18 purchased under a signed statement shall, in addition to
19 application of any criminal penalty, forfeit the right of the
20 person to purchase dyed diesel fuel tax-free for a period of one
21 year from the date of the offense. Any tax, interest, and penalty
22 found to be due through false or erroneous execution or continuance
23 of a promissory statement by the purchaser, if assessed to the
24 licensed supplier or distributor, is a debt of the purchaser to the
25 licensed supplier or distributor until paid and is recoverable at
26 law in the same manner as the purchase price of the fuel. [~~The~~
27 ~~person may, however, claim a refund of the tax paid on any dyed~~

1 ~~diesel fuel used for nonhighway purposes under Section 162.227.]~~

2 (k) Properly completed signed statements should be in the
3 possession of the licensed supplier or distributor at the time the
4 sale of dyed diesel fuel occurs. If the licensed supplier or
5 distributor is not in possession of the signed statements within 60
6 days after the date written notice requiring possession of them is
7 given to the licensed supplier or distributor by the comptroller,
8 exempt sales claimed by the licensed supplier or distributor that
9 require delivery of the signed statements shall be disallowed. If
10 the licensed supplier or distributor delivers the signed statements
11 to the comptroller within the 60-day period, the comptroller may
12 verify the reason or basis for the signed statements before
13 allowing the exempt sales. An exempt sale may not be granted on the
14 basis of signed statements delivered to the comptroller after the
15 60-day period.

16 SECTION 19. Subsections (b) and (c), Section 162.213, Tax
17 Code, are amended to read as follows:

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

25 (c) The comptroller shall notify all license holders under
26 this chapter when a canceled or revoked license is subsequently
27 reinstated and include in the notice the effective date of the

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

4 SECTION 20. Section 162.216, Tax Code, is amended by adding
5 Subsection (o) to read as follows:

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

9 SECTION 21. Subsection (d), Section 162.230, Tax Code, is
10 amended to read as follows:

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

19 SECTION 22. Subsections (a) and (d), Section 162.402, Tax
20 Code, are amended to read as follows:

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

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

26 (2) operates a motor vehicle in this state without a
27 valid interstate trucker's license or a trip permit when the person

1 is required to hold one of those licenses or permits;

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

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

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

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

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

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

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

27 (10) owns or operates a motor vehicle for which

1 reports or mileage records are required by this chapter without an
2 operating odometer or other device in good working condition to
3 record accurately the miles traveled;

4 (11) furnishes to a licensed supplier or distributor a
5 signed statement for purchasing diesel fuel tax-free and then uses
6 the tax-free diesel fuel to operate a diesel-powered motor vehicle
7 on a public highway;

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

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

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

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

20 (d) A person [~~operating a bulk plant or terminal~~] who issues
21 a shipping document that does not conform with the requirements of
22 Section 162.016(a) is liable to this state for a civil penalty of
23 \$2,000 or five times the amount of the unpaid tax, whichever is
24 greater, for each occurrence.

25 SECTION 23. Section 162.403, Tax Code, is amended to read as
26 follows:

27 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by

1 Section 162.404, a person commits an offense if the person:

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

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

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

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

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

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

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

27 (8) uses dyed diesel fuel for the operation of a motor

1 vehicle on a public highway except as allowed under Section
2 162.235;

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

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

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

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

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

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

24 (15) refuses to permit the comptroller, the attorney
25 general, an employee of either of those officials, a peace officer,
26 an employee of the Texas Commission on Environmental Quality, or an
27 employee of the Department of Agriculture to measure or gauge the

1 contents of or take samples from a storage tank or container on
2 premises where motor fuel is produced, processed, blended, stored,
3 sold, delivered, or used;

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

8 (17) is an importer who does not obtain an import
9 verification number when required by this chapter;

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

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

20 (20) refuses, while transporting motor fuel, to stop
21 the motor vehicle the person is operating when called on to do so by
22 a person authorized to stop the motor vehicle;

23 (21) refuses to surrender a motor vehicle and cargo
24 for impoundment after being ordered to do so by a person authorized
25 to impound the motor vehicle and cargo;

26 (22) mutilates, destroys, or secretes a book or record
27 required by this chapter to be kept by a license holder, other user,

1 or person required to hold a license under this chapter;

2 (23) is a license holder, other user, or other person
3 required to hold a license under this chapter, or the agent or
4 employee of one of those persons, and makes a false entry or fails
5 to make an entry in the books and records required under this
6 chapter to be made by the person or fails to retain a document as
7 required by this chapter;

8 (24) transports in any manner motor fuel under a false
9 cargo manifest or shipping document, or transports in any manner
10 motor fuel to a location without delivering at the same time a
11 shipping document relating to that shipment;

12 (25) engages in a motor fuel transaction that requires
13 that the person have a license under this chapter without then and
14 there holding the required license;

15 (26) makes and delivers to the comptroller a report
16 required under this chapter to be made and delivered to the
17 comptroller, if the report contains false information;

18 (27) forges, falsifies, or alters an invoice
19 prescribed by law;

20 (28) makes any statement, knowing said statement to be
21 false, in a claim for a tax refund filed with the comptroller;

22 (29) furnishes to a licensed supplier or distributor a
23 signed statement for purchasing diesel fuel tax-free and then uses
24 the tax-free diesel fuel to operate a diesel-powered motor vehicle
25 on a public highway;

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

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

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

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

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

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

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

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

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

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

1 (38) blends products together to produce a blended
2 fuel that is offered for sale, sold, or used and that expands the
3 volume of the original product to evade paying applicable motor
4 fuel taxes; or

5 (39) evades or attempts to evade in any manner a tax
6 imposed on motor fuel by this chapter.

7 SECTION 24. The heading to Section 162.409, Tax Code, is
8 amended to read as follows:

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

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

13 (a) A person commits an offense if:

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

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

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

24 (d) A person who makes payment on an obligation or debt that
25 includes a tax under this chapter and pays with an insufficient
26 funds check issued to a licensed distributor, ~~[or]~~ licensed
27 supplier, or permissive supplier may be held liable for a penalty

1 equal to the total amount of tax not paid to the licensed
2 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

3 SECTION 26. Subchapter E, Chapter 162, Tax Code, is amended
4 by adding Section 162.410 to read as follows:

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

9 SECTION 27. Subsections (b) and (d), Section 20.002,
10 Transportation Code, are amended to read as follows:

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

13 (1) owns, controls, operates, or manages a commercial
14 motor vehicle; and

15 (2) is exempt from the state diesel fuel tax under
16 Section 162.204 [~~153.203~~], Tax Code.

17 (d) The fee imposed by this section is equal to 25 percent of
18 the diesel fuel tax rate imposed under Section 162.202
19 [~~153.202(b)~~], Tax Code.

20 SECTION 28. Subsection (o), Section 26.3574, Water Code, is
21 amended to read as follows:

22 (o) Chapters 101 and 111-113, and Sections 162.005
23 [~~153.006~~], 162.007 [~~153.007~~], and 162.111(b)-(k) [~~153.116(b)-(j)~~],
24 Tax Code, apply to the administration, payment, collection, and
25 enforcement of fees under this section in the same manner that those
26 chapters apply to the administration, payment, collection, and
27 enforcement of taxes under Title 2, Tax Code.

1 SECTION 29. (a) The change in law made by this Act applies
2 only to an offense committed on or after the effective date of this
3 Act. For purposes of this section, an offense is committed before
4 the effective date of this Act if any element of the offense occurs
5 before that date.

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

9 SECTION 30. The change in law made by this Act does not
10 affect tax liability accruing before the effective date of this
11 Act. That liability continues in effect as if this Act had not been
12 enacted, and the former law is continued in effect for the
13 collection of taxes due and for civil and criminal enforcement of
14 the liability for those taxes.

15 SECTION 31. This Act takes effect September 1, 2009.