

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 (7), (9), (11), (19), (20), (29), (31), (42),  
4 (43), and (55) and adding Subdivision (10-a) to read as follows:

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

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

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

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

23 (10-a) "Bulk storage" means a container of more than  
24 10 gallons.

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

1 including:

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

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

6 (C) a book transfer or in-tank transfer of motor  
7 fuel within a terminal between licensed suppliers before completion  
8 of removal across the rack; and

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

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

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

25 (29) "Gasoline" means any liquid or combination of  
26 liquids blended together, offered for sale, sold, [~~or~~] used, or  
27 capable of use as [~~the~~] fuel for a gasoline-powered engine. The

1 term includes gasohol, aviation gasoline, and blending agents, but  
2 does not include racing gasoline, diesel fuel, aviation jet fuel,  
3 or liquefied gas.

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

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

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

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

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

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

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

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

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

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

22                   (1) the terminal control number of the terminal or  
23 physical address of the terminal or bulk plant from which the motor  
24 fuel was received;

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

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

27                   (4) the net gallons loaded, or the gross gallons

1 loaded if the fuel was purchased from a bulk plant;

2 (5) the destination state of the motor fuel, as  
3 represented by the purchaser of the motor fuel or the purchaser's  
4 agent; and

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

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

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

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

15 (1) the name and physical address of the terminal or  
16 bulk plant from which the motor fuel was received for import or  
17 export;

18 (2) the name [~~and federal employer identification~~  
19 ~~number, or the social security number if the employer~~  
20 ~~identification number is not available,~~] of the carrier  
21 transporting the motor fuel;

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

23 (4) the type of motor fuel;

24 (5) the number of gallons:

25 (A) in temperature-adjusted gallons if purchased  
26 from a terminal for export or import; or

27 (B) in temperature-adjusted gallons or in gross



1 gallons if purchased from a bulk plant;

2 (6) the destination of the motor fuel as represented  
3 by the purchaser of the motor fuel and the number of gallons of the  
4 fuel to be delivered, if delivery is to only one state;

5 (7) the name [~~, federal employer identification~~  
6 ~~number, license number,~~] and physical address of the purchaser of  
7 the motor fuel;

8 (8) the name of the person responsible for paying the  
9 tax imposed by this chapter, as given to the terminal by the  
10 purchaser if different from the licensed supplier or distributor;  
11 [~~and~~]

12 (9) the destination state of each portion of a split  
13 load of motor fuel if the motor fuel is to be delivered to more than  
14 one state; and

15 (10) any other information that, in the opinion of the  
16 comptroller, is necessary for the proper administration of this  
17 chapter.

18 (b) The [~~terminal or bulk plant shall provide the~~] shipping  
19 documents shall be provided to the importer or exporter.

20 (d) A seller, transporter, or receiver of [~~terminal, a bulk~~  
21 ~~plant, the carrier, the licensed distributor or supplier, and the~~  
22 ~~person that received the~~] motor fuel shall:

23 (1) retain a copy of the shipping document until at  
24 least the fourth anniversary of the date the fuel is received; and

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

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

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

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

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

25 (c) A tax is imposed on the removal [~~sale or transfer~~] of  
26 gasoline from [~~in~~] the bulk transfer/terminal system in this state  
27 [~~by a supplier to a person who does not hold a supplier's license~~].

1 The supplier is liable for and shall collect the tax imposed by this  
2 subchapter from the person who orders the removal from [~~sale or~~  
3 ~~transfer in~~] the bulk transfer terminal system.

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

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

15 SECTION 11. Subchapter B, Chapter 162, Tax Code, is amended  
16 by adding Section 162.1025 to read as follows:

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

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

1 document, if the shipping document includes the sales price of the  
2 gasoline.

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

9 (d) Subsection (b) does not apply to a sale of gasoline by a  
10 licensed dealer to a person who delivers the gasoline at the  
11 dealer's place of business into a fuel supply tank or into a  
12 container having a capacity of not more than 10 gallons.

13 SECTION 12. Subsections (a) and (d), Section 162.103, Tax  
14 Code, are amended to read as follows:

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

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

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

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

26 (4) a person, other than a person exempted under  
27 Section 162.104, who acquires gasoline on which tax has not been

1 paid from any source in this state.

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

9 SECTION 13. Subsections (b) and (c), Section 162.112, Tax  
10 Code, are amended to read as follows:

11 (b) A licensed supplier, ~~[or]~~ permissive supplier, or  
12 distributor who sells gasoline tax-free to a person whose  
13 supplier's, ~~[or]~~ permissive supplier's, or aviation fuel dealer's  
14 license has been canceled or revoked under this chapter is liable  
15 for any tax due on gasoline sold after receiving notice of the  
16 cancellation or revocation.

17 (c) The comptroller shall notify all license holders under  
18 this chapter when a canceled or revoked license is subsequently  
19 reinstated and include in the notice the effective date of the  
20 reinstatement. Sales to the supplier, ~~[or]~~ permissive supplier, or  
21 aviation fuel dealer after the effective date of the reinstatement  
22 may be made tax-free.

23 SECTION 14. Section 162.115, Tax Code, is amended by adding  
24 Subsection (n) to read as follows:

25 (n) In addition to the records specifically required by this  
26 chapter, a license holder, a dealer, or a person required to hold a  
27 license shall keep any other record required by the comptroller.

1 SECTION 15. Section 162.117, Tax Code, is amended to read as  
2 follows:

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

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

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

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

20 SECTION 16. Section 162.122, Tax Code, is amended to read as  
21 follows:

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

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

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

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

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

11           (5) [~~4~~] any other information required by the  
12 comptroller.

13           SECTION 17. Section 162.125, Tax Code, is amended by adding  
14 Subsection (j) to read as follows:

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

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

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

27           (3) a commercial transportation company that provides

1 public school transportation services to a public school district  
2 under Section 34.008, Education Code, for its exclusive use to  
3 provide those services;

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

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

8 SECTION 18. Subsection (d), Section 162.128, Tax Code, is  
9 amended to read as follows:

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

18 SECTION 19. Subsections (a) through (e), Section 162.201,  
19 Tax Code, are amended to read as follows:

20 (a) A tax is imposed on the removal of diesel fuel from the  
21 terminal using the terminal rack other than by bulk transfer. The  
22 supplier or permissive supplier is liable for and shall collect the  
23 tax imposed by this subchapter from the person who orders the  
24 withdrawal at the terminal rack.

25 (b) A tax is imposed at the time diesel fuel is imported into  
26 this state, other than by a bulk transfer, for delivery to a  
27 destination in this state. The supplier or permissive supplier is



1 liable for and shall collect the tax imposed by this subchapter from  
2 the person who imports the diesel fuel into this state. If the  
3 seller is not a supplier or permissive supplier, the person who  
4 imports the diesel fuel into this state is liable for and shall pay  
5 the tax.

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

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

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

23 SECTION 20. Subchapter C, Chapter 162, Tax Code, is amended  
24 by adding Section 162.2025 to read as follows:

25 Sec. 162.2025. SEPARATE STATEMENT OF TAX COLLECTED FROM  
26 PURCHASER. (a) In each subsequent sale of diesel fuel on which the  
27 tax has been paid, the tax imposed by this subchapter shall be

1 collected from the purchaser so that the tax is paid ultimately by  
2 the person who uses the diesel fuel. Diesel fuel is considered to  
3 be used when it is delivered into a fuel supply tank.

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

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

17 (d) Subsection (b) does not apply to a sale of diesel fuel by  
18 a licensed dealer to a person who delivers the diesel fuel at the  
19 dealer's place of business into a fuel supply tank or into a  
20 container having a capacity of not more than 10 gallons.

21 SECTION 21. Subsections (a) and (d), Section 162.203, Tax  
22 Code, are amended to read as follows:

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

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

1 highway;

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

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

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

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 22. 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 23. 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 24. 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 25. 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 chapter, a license holder, a dealer, or a person required to hold a  
8 license shall keep any other record required by the comptroller.

9 SECTION 26. Section 162.218, Tax Code, is amended to read as  
10 follows:

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

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

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

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

1 SECTION 27. Section 162.223, Tax Code, is amended to read as  
2 follows:

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

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

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

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

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

19 (5) [~~4~~] any other information the comptroller  
20 requires.

21 SECTION 28. Section 162.227, Tax Code, is amended by adding  
22 Subsection (j) to read as follows:

23 (j) A license holder may take a credit on a return for the  
24 tax included in the retail purchase price of diesel fuel for the  
25 period in which the purchase occurred when made by one of the  
26 following purchasers, if the purchase was made by acceptance of a  
27 credit card not issued by the license holder, the credit card issuer



1 did not collect the tax from the purchaser, and the license holder  
2 reimbursed the credit card issuer for the amount of tax included in  
3 the retail purchase price:

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

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

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

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

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

16 SECTION 29. Subsection (d), Section 162.230, Tax Code, is  
17 amended to read as follows:

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

26 SECTION 30. Subsection (a), Section 162.308, Tax Code, is  
27 amended to read as follows:

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

6 SECTION 31. Subsections (a) and (c), Section 162.309, Tax  
7 Code, are amended to read as follows:

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

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

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

19 (2) the date of the sale or delivery;

20 (3) the number of gallons sold or delivered;

21 (4) the mileage recorded on the odometer;

22 (5) the state and state highway license number;

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

24 and

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

27 SECTION 32. Subsections (a) and (d), Section 162.402, Tax

1 Code, are amended to read as follows:

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

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

7 (2) operates a motor vehicle in this state without a  
8 valid interstate trucker's license or a trip permit when the person  
9 is required to hold one of those licenses or permits;

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

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

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

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

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

27 (8) transports gasoline or diesel fuel in any cargo

1 tank that has a connection by pipe, tube, valve, or otherwise with  
2 the fuel injector or carburetor of, or with the fuel supply tank  
3 feeding the fuel injector or carburetor of, the motor vehicle  
4 transporting the product;

5 (9) sells or delivers gasoline or diesel fuel from any  
6 fuel supply tank connected with the fuel injector or carburetor of a  
7 motor vehicle;

8 (10) owns or operates a motor vehicle for which  
9 reports or mileage records are required by this chapter without an  
10 operating odometer or other device in good working condition to  
11 record accurately the miles traveled;

12 (11) furnishes to a licensed supplier or distributor a  
13 signed statement for purchasing diesel fuel tax-free and then uses  
14 the tax-free diesel fuel to operate a diesel-powered motor vehicle  
15 on a public highway;

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

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

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

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

1           (d) A person [~~operating a bulk plant or terminal~~] who issues  
2 a shipping document that does not conform with the requirements of  
3 Section 162.016(a) is liable to this state for a civil penalty of  
4 \$2,000 or five times the amount of the unpaid tax, whichever is  
5 greater, for each occurrence.

6           SECTION 33. Section 162.403, Tax Code, is amended to read as  
7 follows:

8           Sec. 162.403. CRIMINAL OFFENSES. Except as provided by  
9 Section 162.404, a person commits an offense if the person:

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

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

16           (3) operates a liquefied gas-propelled motor vehicle  
17 that is required to be licensed in this state, including a motor  
18 vehicle equipped with dual carburetion, and does not display a  
19 current liquefied gas tax decal or multistate fuels tax agreement  
20 decal;

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

26           (5) sells or delivers gasoline or diesel fuel from a  
27 fuel supply tank that is connected with the fuel injector or

1 carburetor of a motor vehicle;

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

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

8           (8) uses dyed diesel fuel for the operation of a motor  
9 vehicle on a public highway except as allowed under Section  
10 162.235;

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

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

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

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

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

1           (14) refuses to permit the comptroller or the attorney  
2 general to inspect or examine any plant, equipment, materials, or  
3 premises where motor fuel is produced, processed, blended, stored,  
4 sold, delivered, or used;

5           (15) refuses to permit the comptroller, the attorney  
6 general, an employee of either of those officials, a peace officer,  
7 an employee of the Texas Commission on Environmental Quality, or an  
8 employee of the Department of Agriculture to measure or gauge the  
9 contents of or take samples from a storage tank or container on  
10 premises where motor fuel is produced, processed, blended, stored,  
11 sold, delivered, or used;

12           (16) is a license holder, a person required to be  
13 licensed, or another user and fails or refuses to make or deliver to  
14 the comptroller a report required by this chapter to be made and  
15 delivered to the comptroller;

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

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

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

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

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

7           (22) mutilates, destroys, or secretes a book or record  
8 required by this chapter to be kept by a license holder, other user,  
9 or person required to hold a license under this chapter;

10          (23) is a license holder, other user, or other person  
11 required to hold a license under this chapter, or the agent or  
12 employee of one of those persons, and makes a false entry or fails  
13 to make an entry in the books and records required under this  
14 chapter to be made by the person or fails to retain a document as  
15 required by this chapter;

16          (24) transports in any manner motor fuel under a false  
17 cargo manifest or shipping document, or transports in any manner  
18 motor fuel to a location without delivering at the same time a  
19 shipping document relating to that shipment;

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

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

26          (27) forges, falsifies, or alters an invoice or  
27 shipping document prescribed by law;



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

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

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

9           (31) fails to remit any tax funds collected or  
10 required to be collected by a license holder, another user, or any  
11 other person required to hold a license under this chapter;

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

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

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

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

20           (34) [~~is a dealer who~~] purchases any motor fuel  
21 tax-free when not authorized to make a tax-free purchase under this  
22 chapter;

23           (35) [~~is a dealer who~~] purchases motor fuel with the  
24 intent to evade any tax imposed by this chapter or [~~who~~] accepts a  
25 delivery of motor fuel by any means and does not at the same time  
26 accept or receive a shipping document relating to the delivery;

27           (36) transports motor fuel for which a cargo manifest

1 or shipping document is required to be carried without possessing  
2 or exhibiting on demand by an officer authorized to make the demand  
3 a cargo manifest or shipping document containing the information  
4 required to be shown on the manifest or shipping document;

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

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

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

16 SECTION 34. Subsection (f), Section 162.405, Tax Code, is  
17 amended to read as follows:

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

23 (1) Section 162.403(7);

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

25 (3) Sections 162.403(22) through (29).

26 SECTION 35. The heading to Section 162.409, Tax Code, is  
27 amended to read as follows:

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

3           SECTION 36. Subsections (a) and (d), Section 162.409, Tax  
4 Code, are amended to read as follows:

5           (a) A person commits an offense if:

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

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

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

16           (d) A person who makes payment on an obligation or debt that  
17 includes a tax under this chapter and pays with an insufficient  
18 funds check issued to a licensed distributor, ~~[or]~~ licensed  
19 supplier, or permissive supplier may be held liable for a penalty  
20 equal to the total amount of tax not paid to the licensed  
21 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

22           SECTION 37. Subchapter E, Chapter 162, Tax Code, is amended  
23 by adding Section 162.410 to read as follows:

24           Sec. 162.410. ELECTION OF OFFENSES. If a violation of a  
25 criminal offense provision of this chapter by a person constitutes  
26 another offense under the laws of this state, the state may elect  
27 the offense for which it will prosecute the person.

1           SECTION 38. Article 12.01, Code of Criminal Procedure, as  
2 amended by Chapters 285 (H.B. 716), 593 (H.B. 8), 640 (H.B. 887),  
3 and 841 (H.B. 959), Acts of the 80th Legislature, Regular Session,  
4 2007, is reenacted and amended to read as follows:

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

8                   (1) no limitation:

9                           (A) murder and manslaughter;

10                           (B) sexual assault under Section 22.011(a)(2),  
11 Penal Code, or aggravated sexual assault under Section  
12 22.021(a)(1)(B), Penal Code;

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

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

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

22                           (F) an offense involving leaving the scene of an  
23 accident under Section 550.021, Transportation Code, if the  
24 accident resulted in the death of a person;

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

27                           (A) theft of any estate, real, personal or mixed,

1 by an executor, administrator, guardian or trustee, with intent to  
2 defraud any creditor, heir, legatee, ward, distributee,  
3 beneficiary or settlor of a trust interested in such estate;

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

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

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

11 (E) sexual assault, except as provided by  
12 Subdivision (1) [~~or (5)~~]; or

13 (F) arson;

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

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

18 (B) securing execution of document by deception;

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

21 (D) false statement to obtain property or credit  
22 under Section 32.32, Penal Code;

23 (E) money laundering;

24 (F) [~~(D)~~] credit card or debit card abuse under  
25 Section 32.31, Penal Code; or

26 (G) [~~(F)~~] fraudulent use or possession of  
27 identifying information under Section 32.51, Penal Code;

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

3                   (A) theft or robbery;

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

6                   (C) injury to an elderly or disabled individual  
7 that is not punishable as a felony of the first degree under Section  
8 22.04, Penal Code;

9                   (D) abandoning or endangering a child; or

10                   (E) insurance fraud;

11           (5) if the investigation of the offense shows that the  
12 victim is younger than 17 years of age at the time the offense is  
13 committed, 20 years from the 18th birthday of the victim of one of  
14 the following offenses:

15                   (A) sexual performance by a child under Section  
16 43.25, Penal Code;

17                   (B) aggravated kidnapping under Section  
18 20.04(a)(4), Penal Code, if the defendant committed the offense  
19 with the intent to violate or abuse the victim sexually; or

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

25           (6) ~~[(5)]~~ ten years from the 18th birthday of the  
26 victim of the offense:

27                   ~~[(A) indecency with a child under Section~~

1 ~~21.11(a)(1) or (2), Penal Code,~~  
2 ~~[(B) except as provided by Subdivision (1),~~  
3 ~~sexual assault under Section 22.011(a)(2), Penal Code, or~~  
4 ~~aggravated sexual assault under Section 22.021(a)(1)(B), Penal~~  
5 ~~Code; or~~  
6 ~~[(C)]~~ injury to a child under Section 22.04,  
7 Penal Code; or  
8 (7) ~~[(6)]~~ three years from the date of the commission  
9 of the offense: all other felonies.

10 SECTION 39. Subsections (b) and (d), Section 20.002,  
11 Transportation Code, are amended to read as follows:

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

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

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

18 (d) The fee imposed by this section is equal to 25 percent of  
19 the diesel fuel tax rate imposed under Section 162.202  
20 ~~[153.202(b)]~~, Tax Code.

21 SECTION 40. Subsection (o), Section 26.3574, Water Code, is  
22 amended to read as follows:

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

1 enforcement of taxes under Title 2, Tax Code.

2 SECTION 41. Section 162.017, Tax Code, is repealed.

3 SECTION 42. (a) The change in law made by this Act applies  
4 only to an offense committed on or after the effective date of this  
5 Act. For purposes of this section, an offense is committed before  
6 the effective date of this Act if any element of the offense occurs  
7 before that date.

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

11 SECTION 43. The change in law made by this Act does not  
12 affect tax liability accruing before the effective date of this  
13 Act. That liability continues in effect as if this Act had not been  
14 enacted, and the former law is continued in effect for the  
15 collection of taxes due and for civil and criminal enforcement of  
16 the liability for those taxes.

17 SECTION 44. This Act takes effect September 1, 2009.



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1495 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; May 15, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 20, 2009, House granted request of the Senate; June 1, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1495 passed the House, with amendments, on May 7, 2009, by the following vote: Yeas 136, Nays 0, one present not voting; May 20, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor