

1-1 By: Williams S.B. No. 1495
1-2 (In the Senate - Filed March 6, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Finance; March 31, 2009,
1-4 reported favorably by the following vote: Yeas 14, Nays 0;
1-5 March 31, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the taxation of motor fuels; providing penalties.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (b), Section 101.009, Tax Code, is
1-11 amended to read as follows:

1-12 (b) Cigarette tax revenue allocated under Section
1-13 154.603(b) [~~of this code~~] shall be allocated as provided by Section
1-14 154.603 [~~of this code~~]. Motor fuel tax revenue shall be allocated
1-15 and deposited as provided by Subchapter F, Chapter 162 [~~of Chapter~~
1-16 ~~153 of this code~~].

1-17 SECTION 2. Subsection (g), Section 111.006, Tax Code, is
1-18 amended to read as follows:

1-19 (g) Information made confidential by Subsection (a)(2) that
1-20 relates to a taxpayer's responsibilities under Chapter 162 [~~153~~]
1-21 may be examined by an official of another state or of the United
1-22 States if:

1-23 (1) the official has information that would assist the
1-24 comptroller in administering Chapter 162 [~~153~~];

1-25 (2) the comptroller is conducting or may conduct an
1-26 examination or a criminal investigation of the taxpayer that is the
1-27 subject of the information made confidential by Subsection (a)(2);
1-28 and

1-29 (3) a reciprocal agreement exists allowing the
1-30 comptroller to examine information under the control of the
1-31 official in a manner substantially equivalent to the official's
1-32 access to information under this subsection.

1-33 SECTION 3. Subsection (d), Section 111.060, Tax Code, is
1-34 amended to read as follows:

1-35 (d) Subsection (c) does not apply to the taxes imposed by
1-36 Chapters 152 and 211 or under an agreement made under Section
1-37 162.003 [~~153.017~~].

1-38 SECTION 4. Subsection (d), Section 111.064, Tax Code, is
1-39 amended to read as follows:

1-40 (d) This section does not apply to an amount paid to the
1-41 comptroller under Title 6, Property Code, or under an agreement
1-42 made under Section 162.003 [~~153.017~~].

1-43 SECTION 5. Subsection (a), Section 111.107, Tax Code, is
1-44 amended to read as follows:

1-45 (a) Except as otherwise expressly provided, a person may
1-46 request a refund or a credit or the comptroller may make a refund or
1-47 issue a credit for the overpayment of a tax imposed by this title at
1-48 any time before the expiration of the period during which the
1-49 comptroller may assess a deficiency for the tax and not thereafter
1-50 unless the refund or credit is requested:

1-51 (1) under Subchapter B of Chapter 112 and the refund is
1-52 made or the credit is issued under a court order;

1-53 (2) under the provision of Section 111.104(c)(3)
1-54 applicable to a refund claim filed after a jeopardy or deficiency
1-55 determination becomes final; or

1-56 (3) under Chapter 162 [~~153~~], except Section 162.126(f)
1-57 [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~],
1-58 or 162.230(d) [~~153.224(d)~~].

1-59 SECTION 6. Section 151.308, Tax Code, is amended to read as
1-60 follows:

1-61 Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following
1-62 are exempted from the taxes imposed by this chapter:

1-63 (1) oil as taxed by Chapter 202;

1-64 (2) sulphur as taxed by Chapter 203;

- 2-1 (3) motor fuels and special fuels as defined, taxed,
 2-2 or exempted by Chapter 162 [~~153~~];
- 2-3 (4) cement as taxed by Chapter 181;
- 2-4 (5) motor vehicles, trailers, and semitrailers as
 2-5 defined, taxed, or exempted by Chapter 152, other than a mobile
 2-6 office as defined by Section 152.001(16);
- 2-7 (6) mixed beverages, ice, or nonalcoholic beverages
 2-8 and the preparation or service of these items if the receipts are
 2-9 taxable by Chapter 183;
- 2-10 (7) alcoholic beverages when sold to the holder of a
 2-11 private club registration permit or to the agent or employee of the
 2-12 holder of a private club registration permit if the holder or agent
 2-13 or employee is acting as the agent of the members of the club and if
 2-14 the beverages are to be served on the premises of the club;
- 2-15 (8) oil well service as taxed by Subchapter E, Chapter
 2-16 191; and
- 2-17 (9) insurance premiums subject to gross premiums
 2-18 taxes.
- 2-19 (b) Natural gas is exempted under Subsection (a)(3) only to
 2-20 the extent that the gas is taxed as a motor fuel under Chapter 162
 2-21 [~~153~~].
- 2-22 SECTION 7. Section 162.001, Tax Code, is amended by
 2-23 amending Subdivisions (9), (19), (20), (29), (31), (42), (43), and
 2-24 (55) and adding Subdivision (10-a) to read as follows:
- 2-25 (9) "Blending" means the mixing together of one or
 2-26 more [~~petroleum~~] products with other products [~~another product~~],
 2-27 regardless of the original character of the product blended, that
 2-28 produces a product that is offered for sale, sold, or used as a
 2-29 motor fuel or [if the product obtained by the blending] is capable
 2-30 of use as fuel [in the generation of power] for the propulsion of a
 2-31 motor vehicle. The term does not include mixing that occurs in the
 2-32 process of refining by the original refiner of crude petroleum or
 2-33 the commingling of products during transportation in a pipeline.
- 2-34 (10-a) "Bulk storage" means a container of more than
 2-35 10 gallons.
- 2-36 (19) "Diesel fuel" means kerosene or another liquid,
 2-37 or a combination of liquids blended together, offered for sale,
 2-38 sold, [that is suitable for or] used, or capable of use as fuel for
 2-39 the propulsion of a diesel-powered engine [motor vehicles]. The
 2-40 term includes products commonly referred to as kerosene, light
 2-41 cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel
 2-42 fuel, aviation jet fuel, biodiesel, distillate fuel, cutter stock,
 2-43 or heating oil, but does not include gasoline, aviation gasoline,
 2-44 or liquefied gas.
- 2-45 (20) "Distributor" means a person who [~~acquires motor~~
 2-46 ~~fuel from a licensed supplier, permissive supplier, or another~~
 2-47 ~~licensed distributor and who]~~ makes sales of motor fuel at
 2-48 wholesale. A distributor's [and whose] activities may also include
 2-49 sales of motor fuel at retail.
- 2-50 (29) "Gasoline" means any liquid or combination of
 2-51 liquids blended together, offered for sale, sold, [~~or~~] used, or
 2-52 capable of use as [the] fuel for the propulsion of a
 2-53 gasoline-powered engine. The term includes gasohol, aviation
 2-54 gasoline, and blending agents, but does not include racing
 2-55 gasoline, diesel fuel, aviation jet fuel, or liquefied gas.
- 2-56 (31) "Gasoline blended fuel" means a mixture composed
 2-57 of gasoline and other liquids, including gasoline blend stocks,
 2-58 gasohol, ethanol, methanol, fuel grade alcohol, and resulting
 2-59 blends, other than a de minimus amount of a product such as
 2-60 carburetor detergent or oxidation inhibitor, that is offered for
 2-61 sale, sold, [can be] used, or is capable of use as fuel for a
 2-62 gasoline-powered engine [gasoline in a motor vehicle].
- 2-63 (42) "Motor fuel" means gasoline, diesel fuel,
 2-64 liquefied gas, gasoline blended fuel, and other products that are
 2-65 offered for sale, sold, [can be] used, or are capable of use as fuel
 2-66 for the propulsion of [to propel] a motor vehicle.
- 2-67 (43) "Motor fuel transporter" means a person who
 2-68 transports gasoline, diesel fuel, [~~or~~] gasoline blended fuel, or
 2-69 any other motor fuel, except liquefied gas, outside the bulk

3-1 transfer/terminal system by means of a transport vehicle, a
 3-2 railroad tank car, or a marine vessel. The term does not include a
 3-3 person who:

3-4 (A) is licensed under this chapter as a supplier,
 3-5 permissive supplier, or distributor; and

3-6 (B) exclusively transports gasoline, diesel
 3-7 fuel, gasoline blended fuel, or any other motor fuel to which the
 3-8 person retains ownership while the fuel is being transported by the
 3-9 person.

3-10 (55) "Shipping document" means a delivery document
 3-11 issued [~~by a terminal or bulk plant operator~~] in conjunction with
 3-12 the sale, transfer, or transport [~~removal~~] of motor fuel [~~from the~~
 3-13 ~~terminal or bulk plant~~]. A shipping document issued by a terminal
 3-14 operator shall be machine printed. All other shipping documents [A
 3-15 shipping document issued by a bulk plant] shall be typed or
 3-16 handwritten on a preprinted form or machine printed.

3-17 SECTION 8. Section 162.004, Tax Code, is amended by
 3-18 amending Subsections (a) and (b) and adding Subsections (a-1) and
 3-19 (h) to read as follows:

3-20 (a) A person may not transport in this state any motor fuel
 3-21 by barge, vessel, railroad tank car, or transport vehicle unless
 3-22 the person has a shipping document for the motor fuel that complies
 3-23 with this section.

3-24 (a-1) A terminal operator or operator of a bulk plant shall
 3-25 give a shipping document to the person who operates the barge,
 3-26 vessel, railroad tank car, or transport vehicle into which motor
 3-27 fuel is loaded at the terminal rack or bulk plant rack.

3-28 (b) A [The] shipping document [issued by the terminal
 3-29 operator or operator of a bulk plant] shall contain the following
 3-30 information and any other information required by the comptroller:

3-31 (1) the terminal control number of the terminal or
 3-32 physical address of the bulk plant from which the motor fuel was
 3-33 received;

3-34 (2) the name [~~and license number~~] of the purchaser;

3-35 (3) the date the motor fuel was loaded;

3-36 (4) the net gallons loaded, or the gross gallons
 3-37 loaded if the fuel was purchased from a bulk plant;

3-38 (5) the destination state of the motor fuel, as
 3-39 represented by the purchaser of the motor fuel or the purchaser's
 3-40 agent; and

3-41 (6) a description of the product being transported.

3-42 (h) This section does not apply to motor fuel that is
 3-43 delivered into the fuel supply tank of a motor vehicle.

3-44 SECTION 9. Subsections (a), (b), (d), and (e), Section
 3-45 162.016, Tax Code, are amended to read as follows:

3-46 (a) A person may not import motor fuel to a destination in
 3-47 this state or export motor fuel to a destination outside this state
 3-48 by any means unless the person possesses a shipping document for
 3-49 that fuel [~~created by the terminal or bulk plant at which the fuel~~
 3-50 ~~was received~~]. The shipping document must include:

3-51 (1) the name and physical address of the terminal or
 3-52 bulk plant from which the motor fuel was received for import or
 3-53 export;

3-54 (2) the name [~~and federal employer identification~~
 3-55 ~~number, or the social security number if the employer~~
 3-56 ~~identification number is not available,~~] of the carrier
 3-57 transporting the motor fuel;

3-58 (3) the date the motor fuel was loaded;

3-59 (4) the type of motor fuel;

3-60 (5) the number of gallons:

3-61 (A) in temperature-adjusted gallons if purchased
 3-62 from a terminal for export or import; or

3-63 (B) in temperature-adjusted gallons or in gross
 3-64 gallons if purchased from a bulk plant;

3-65 (6) the destination of the motor fuel as represented
 3-66 by the purchaser of the motor fuel and the number of gallons of the
 3-67 fuel to be delivered, if delivery is to only one state;

3-68 (7) the name [~~, federal employer identification~~
 3-69 ~~number, license number,~~] and physical address of the purchaser of

4-1 the motor fuel;

4-2 (8) the name of the person responsible for paying the
4-3 tax imposed by this chapter, as given to the terminal by the
4-4 purchaser if different from the licensed supplier or distributor;
4-5 ~~[and]~~

4-6 (9) the destination state of each portion of a split
4-7 load of motor fuel if the motor fuel is to be delivered to more than
4-8 one state; and

4-9 (10) any other information that, in the opinion of the
4-10 comptroller, is necessary for the proper administration of this
4-11 chapter.

4-12 (b) The ~~[terminal or bulk plant shall provide the]~~ shipping
4-13 documents shall be provided to the importer or exporter.

4-14 (d) A seller, transporter, or receiver of ~~[terminal, a bulk~~
4-15 ~~plant, the carrier, the licensed distributor or supplier, and the~~
4-16 ~~person that received the]~~ motor fuel shall:

4-17 (1) retain a copy of the shipping document until at
4-18 least the fourth anniversary of the date the fuel is received; and

4-19 (2) provide a copy of the document to the comptroller
4-20 or any law enforcement officer not later than the 10th working day
4-21 after the date a request for the copy is received.

4-22 (e) An importer or exporter shall keep in the person's
4-23 possession the shipping document ~~[issued by the terminal or bulk~~
4-24 ~~plant]~~ when transporting motor fuel imported into this state or for
4-25 export from this state. The importer or exporter shall show the
4-26 document to the comptroller or a peace officer on request. The
4-27 comptroller may delegate authority to inspect the document to other
4-28 governmental agencies. The importer or exporter shall provide a
4-29 copy of the shipping document to the person that receives the fuel
4-30 when it is delivered.

4-31 SECTION 10. Subsections (a) through (e), Section 162.101,
4-32 Tax Code, are amended to read as follows:

4-33 (a) A tax is imposed on the removal of gasoline from the
4-34 terminal using the terminal rack, other than by bulk transfer. The
4-35 supplier or permissive supplier is liable for and shall collect the
4-36 tax imposed by this subchapter from the person who orders the
4-37 withdrawal at the terminal rack.

4-38 (b) A tax is imposed at the time gasoline is imported into
4-39 this state, other than by a bulk transfer, for delivery to a
4-40 destination in this state. The supplier or permissive supplier is
4-41 liable for and shall collect the tax imposed by this subchapter from
4-42 the person who imports the gasoline into this state. If the seller
4-43 is not a supplier or permissive supplier, then the person who
4-44 imports the gasoline into this state is liable for and shall pay the
4-45 tax.

4-46 (c) A tax is imposed on the removal ~~[sale or transfer]~~ of
4-47 gasoline from ~~[in]~~ the bulk transfer/terminal system in this state
4-48 ~~[by a supplier to a person who does not hold a supplier's license].~~
4-49 The supplier is liable for and shall collect the tax imposed by this
4-50 subchapter from the person who orders the removal from ~~[sale or~~
4-51 ~~transfer in]~~ the bulk transfer terminal system.

4-52 (d) A tax is imposed on gasoline brought into this state in a
4-53 motor fuel supply tank or tanks of a motor vehicle operated by a
4-54 person required to be licensed as an interstate trucker. The
4-55 interstate trucker is liable for and shall pay the tax.

4-56 (e) A tax is imposed on the blending of gasoline at the point
4-57 gasoline blended fuel is made in this state outside the bulk
4-58 transfer/terminal system. The blender is liable for and shall pay
4-59 the tax. The number of gallons of gasoline blended fuel on which
4-60 the tax is imposed is equal to the difference between the number of
4-61 gallons of blended fuel made and the number of gallons of previously
4-62 taxed gasoline used to make the blended fuel.

4-63 SECTION 11. Subsection (d), Section 162.103, Tax Code, is
4-64 amended to read as follows:

4-65 (d) A person who sells gasoline in this state, other than by
4-66 a bulk transfer, on which tax has not been paid for any purpose
4-67 other than a purpose exempt under Section 162.104 shall at the time
4-68 of sale collect the tax from the purchaser or recipient of gasoline
4-69 in addition to the selling price and is liable to this state for the

5-1 taxes imposed [~~collected at the time and~~] in the manner provided by
5-2 this chapter.

5-3 SECTION 12. Subsections (b) and (c), Section 162.112, Tax
5-4 Code, are amended to read as follows:

5-5 (b) A licensed supplier, [~~or~~] permissive supplier, or
5-6 distributor who sells gasoline tax-free to a person whose
5-7 supplier's, [~~or~~] permissive supplier's, or aviation fuel dealer's
5-8 license has been canceled or revoked under this chapter is liable
5-9 for any tax due on gasoline sold after receiving notice of the
5-10 cancellation or revocation.

5-11 (c) The comptroller shall notify all license holders under
5-12 this chapter when a canceled or revoked license is subsequently
5-13 reinstated and include in the notice the effective date of the
5-14 reinstatement. Sales to the supplier, [~~or~~] permissive supplier, or
5-15 aviation fuel dealer after the effective date of the reinstatement
5-16 may be made tax-free.

5-17 SECTION 13. Section 162.115, Tax Code, is amended by adding
5-18 Subsection (n) to read as follows:

5-19 (n) In addition to the records specifically required by this
5-20 section, a license holder shall keep any other record required by
5-21 the comptroller.

5-22 SECTION 14. Subsection (d), Section 162.128, Tax Code, is
5-23 amended to read as follows:

5-24 (d) A supplier, [~~or~~] permissive supplier, distributor,
5-25 importer, exporter, or blender that determines taxes were
5-26 erroneously reported and remitted or that paid more taxes than were
5-27 due this state because of a mistake of fact or law may take a credit
5-28 on the monthly tax report on which the error has occurred and tax
5-29 payment made to the comptroller. The credit must be taken before
5-30 the expiration of the applicable period of limitation as provided
5-31 by Chapter 111.

5-32 SECTION 15. Subsections (a) through (e), Section 162.201,
5-33 Tax Code, are amended to read as follows:

5-34 (a) A tax is imposed on the removal of diesel fuel from the
5-35 terminal using the terminal rack other than by bulk transfer. The
5-36 supplier or permissive supplier is liable for and shall collect the
5-37 tax imposed by this subchapter from the person who orders the
5-38 withdrawal at the terminal rack.

5-39 (b) A tax is imposed at the time diesel fuel is imported into
5-40 this state, other than by a bulk transfer, for delivery to a
5-41 destination in this state. The supplier or permissive supplier is
5-42 liable for and shall collect the tax imposed by this subchapter from
5-43 the person who imports the diesel fuel into this state. If the
5-44 seller is not a supplier or permissive supplier, the person who
5-45 imports the diesel fuel into this state is liable for and shall pay
5-46 the tax.

5-47 (c) A tax is imposed on the removal [~~sale or transfer~~] of
5-48 diesel fuel from [~~in~~] the bulk transfer/terminal system in this
5-49 state [~~by a supplier to a person who does not hold a supplier's~~
5-50 ~~license~~]. The supplier is liable for and shall collect the tax
5-51 imposed by this subchapter from the person who orders the removal
5-52 from [~~sale or transfer in~~] the bulk transfer/terminal system.

5-53 (d) A tax is imposed on diesel fuel brought into this state
5-54 in the motor fuel supply tank or tanks of a motor vehicle operated
5-55 by a person required to be licensed as an interstate trucker. The
5-56 interstate trucker is liable for and shall pay the tax.

5-57 (e) A tax is imposed on the blending of diesel fuel at the
5-58 point blended diesel fuel is made in this state outside the bulk
5-59 transfer/terminal system. The blender is liable for and shall pay
5-60 the tax. The number of gallons of blended diesel fuel on which the
5-61 tax is imposed is equal to the difference between the number of
5-62 gallons of blended fuel made and the number of gallons of previously
5-63 taxed diesel fuel used to make the blended fuel.

5-64 SECTION 16. Subsection (d), Section 162.203, Tax Code, is
5-65 amended to read as follows:

5-66 (d) A person who sells diesel fuel in this state, other than
5-67 by a bulk transfer, on which tax has not been paid for any purpose
5-68 other than a purpose exempt under Section 162.204 shall at the time
5-69 of sale collect the tax from the purchaser or recipient of diesel

6-1 fuel in addition to the selling price and is liable to this state
 6-2 for the taxes imposed [~~collected at the time and~~] in the manner
 6-3 provided by this chapter.

6-4 SECTION 17. Subsection (b), Section 162.205, Tax Code, is
 6-5 amended to read as follows:

6-6 (b) A person must obtain a license as a dyed diesel fuel
 6-7 bonded user to purchase dyed diesel fuel in amounts that exceed the
 6-8 limitations prescribed by Section 162.206(c). This subsection does
 6-9 not affect the right of a purchaser to purchase not more than the
 6-10 number of [10,000] gallons of dyed diesel fuel prescribed by
 6-11 Section 162.206(c) each month for the purchaser's own use using a
 6-12 signed statement [under Section 162.206].

6-13 SECTION 18. Section 162.206, Tax Code, is amended by
 6-14 amending Subsections (c), (d), and (j) and adding Subsections
 6-15 (c-1), (g-1), and (k) to read as follows:

6-16 (c) A person may not make a tax-free purchase and a licensed
 6-17 supplier or distributor may not make a tax-free sale to a purchaser
 6-18 of any dyed diesel fuel under this section using a signed statement
 6-19 for the first sale or purchase and for any subsequent sale or
 6-20 purchase[+]

6-21 ~~[(1) for the purchase or the sale of more than 7,400~~
 6-22 ~~gallons of dyed diesel fuel in a single delivery; or~~

6-23 ~~[(2)] in a calendar month for [in which the person has~~
 6-24 ~~previously purchased from all sources or in which the licensed~~
 6-25 ~~supplier has previously sold to that purchaser] more than:~~

6-26 (1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;

6-27 (2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the
 6-28 purchaser stipulates in the signed statement that all of the fuel
 6-29 will be consumed by the purchaser in the original production of, or
 6-30 to increase the production of, oil or gas and furnishes the licensed
 6-31 supplier or distributor with a letter of exception issued by the
 6-32 comptroller; or

6-33 (3) ~~[(C)]~~ 25,000 gallons of dyed diesel fuel if the
 6-34 purchaser stipulates in the signed statement that all of the fuel
 6-35 will be consumed by the purchaser in agricultural off-highway
 6-36 equipment.

6-37 (c-1) The monthly limitations prescribed by Subsection (c)
 6-38 apply regardless of whether the dyed diesel fuel is purchased in a
 6-39 single transaction during that month or in multiple transactions
 6-40 during that month.

6-41 (d) Any gallons purchased or sold in excess of the
 6-42 limitations prescribed by Subsection (c) constitute a taxable
 6-43 purchase or sale. [~~The purchaser paying the tax on dyed diesel fuel~~
 6-44 ~~in excess of the limitations prescribed by Subsection (c) may claim~~
 6-45 ~~a refund of the tax paid on any dyed diesel fuel used for nonhighway~~
 6-46 ~~purposes under Section 162.227.] A purchaser that exceeds the
 6-47 limitations prescribed by Subsection (c) shall be required to
 6-48 obtain a dyed diesel fuel bonded user license.~~

6-49 (g-1) For purposes of this section, the purchaser is
 6-50 considered to have temporarily furnished the signed statement to
 6-51 the licensed supplier or distributor if the supplier or distributor
 6-52 verifies that the purchaser has an end user number issued by the
 6-53 comptroller. The licensed supplier or distributor shall use the
 6-54 comptroller's Internet website or other materials provided or
 6-55 produced by the comptroller to verify this information until the
 6-56 purchaser provides to the supplier or distributor a completed
 6-57 signed statement.

6-58 (j) A taxable use of any part of the dyed diesel fuel
 6-59 purchased under a signed statement shall, in addition to
 6-60 application of any criminal penalty, forfeit the right of the
 6-61 person to purchase dyed diesel fuel tax-free for a period of one
 6-62 year from the date of the offense. Any tax, interest, and penalty
 6-63 found to be due through false or erroneous execution or continuance
 6-64 of a promissory statement by the purchaser, if assessed to the
 6-65 licensed supplier or distributor, is a debt of the purchaser to the
 6-66 licensed supplier or distributor until paid and is recoverable at
 6-67 law in the same manner as the purchase price of the fuel. [~~The~~
 6-68 ~~person may, however, claim a refund of the tax paid on any dyed~~
 6-69 ~~diesel fuel used for nonhighway purposes under Section 162.227.]~~

7-1 (k) Properly completed signed statements should be in the
 7-2 possession of the licensed supplier or distributor at the time the
 7-3 sale of dyed diesel fuel occurs. If the licensed supplier or
 7-4 distributor is not in possession of the signed statements within 60
 7-5 days after the date written notice requiring possession of them is
 7-6 given to the licensed supplier or distributor by the comptroller,
 7-7 exempt sales claimed by the licensed supplier or distributor that
 7-8 require delivery of the signed statements shall be disallowed. If
 7-9 the licensed supplier or distributor delivers the signed statements
 7-10 to the comptroller within the 60-day period, the comptroller may
 7-11 verify the reason or basis for the signed statements before
 7-12 allowing the exempt sales. An exempt sale may not be granted on the
 7-13 basis of signed statements delivered to the comptroller after the
 7-14 60-day period.

7-15 SECTION 19. Subsections (b) and (c), Section 162.213, Tax
 7-16 Code, are amended to read as follows:

7-17 (b) A licensed supplier or permissive supplier who sells
 7-18 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or
 7-19 aviation fuel dealer whose license has been canceled or revoked
 7-20 under this chapter, or who sells dyed diesel fuel to a distributor
 7-21 or dyed diesel fuel bonded user whose license has been canceled or
 7-22 revoked under this chapter, is liable for any tax due on diesel fuel
 7-23 sold after receiving notice of the cancellation or revocation.

7-24 (c) The comptroller shall notify all license holders under
 7-25 this chapter when a canceled or revoked license is subsequently
 7-26 reinstated and include in the notice the effective date of the
 7-27 reinstatement. Sales to a supplier, permissive supplier,
 7-28 distributor, aviation fuel dealer, or dyed diesel fuel bonded user
 7-29 after the effective date of the reinstatement may be made tax-free.

7-30 SECTION 20. Section 162.216, Tax Code, is amended by adding
 7-31 Subsection (o) to read as follows:

7-32 (o) In addition to the records specifically required by this
 7-33 section, a license holder shall keep any other record required by
 7-34 the comptroller.

7-35 SECTION 21. Subsection (d), Section 162.230, Tax Code, is
 7-36 amended to read as follows:

7-37 (d) A supplier, ~~or~~ permissive supplier, distributor,
 7-38 importer, exporter, or blender that determines taxes were
 7-39 erroneously reported and remitted or that paid more taxes than were
 7-40 due to this state because of a mistake of fact or law may take a
 7-41 credit on the monthly tax report on which the error has occurred and
 7-42 tax payment made to the comptroller. The credit must be taken
 7-43 before the expiration of the applicable period of limitation as
 7-44 provided by Chapter 111.

7-45 SECTION 22. Subsections (a) and (d), Section 162.402, Tax
 7-46 Code, are amended to read as follows:

7-47 (a) A person forfeits to the state a civil penalty of not
 7-48 less than \$25 and not more than \$200 if the person:

7-49 (1) refuses to stop and permit the inspection and
 7-50 examination of a motor vehicle transporting or using motor fuel on
 7-51 demand of a peace officer or the comptroller;

7-52 (2) operates a motor vehicle in this state without a
 7-53 valid interstate trucker's license or a trip permit when the person
 7-54 is required to hold one of those licenses or permits;

7-55 (3) operates a liquefied gas-propelled motor vehicle
 7-56 that is required to be licensed in this state, including motor
 7-57 vehicles equipped with dual carburetion, and does not display a
 7-58 current liquefied gas tax decal or multistate fuels tax agreement
 7-59 decal;

7-60 (4) makes a tax-free sale or delivery of liquefied gas
 7-61 into the fuel supply tank of a motor vehicle that does not display a
 7-62 current Texas liquefied gas tax decal;

7-63 (5) makes a taxable sale or delivery of liquefied gas
 7-64 without holding a valid dealer's license;

7-65 (6) makes a tax-free sale or delivery of liquefied gas
 7-66 into the fuel supply tank of a motor vehicle bearing out-of-state
 7-67 license plates;

7-68 (7) makes a delivery of liquefied gas into the fuel
 7-69 supply tank of a motor vehicle bearing Texas license plates and no

8-1 Texas liquefied gas tax decal, unless licensed under a multistate
8-2 fuels tax agreement;

8-3 (8) transports gasoline or diesel fuel in any cargo
8-4 tank that has a connection by pipe, tube, valve, or otherwise with
8-5 the fuel injector or carburetor of, or with the fuel supply tank
8-6 feeding the fuel injector or carburetor of, the motor vehicle
8-7 transporting the product;

8-8 (9) sells or delivers gasoline or diesel fuel from any
8-9 fuel supply tank connected with the fuel injector or carburetor of a
8-10 motor vehicle;

8-11 (10) owns or operates a motor vehicle for which
8-12 reports or mileage records are required by this chapter without an
8-13 operating odometer or other device in good working condition to
8-14 record accurately the miles traveled;

8-15 (11) furnishes to a licensed supplier or distributor a
8-16 signed statement for purchasing diesel fuel tax-free and then uses
8-17 the tax-free diesel fuel to operate a diesel-powered motor vehicle
8-18 on a public highway;

8-19 (12) fails or refuses to comply with or violates a
8-20 provision of this chapter;

8-21 (13) fails or refuses to comply with or violates a
8-22 comptroller's rule for administering or enforcing this chapter;

8-23 (14) is an importer who does not obtain an import
8-24 verification number when required by this chapter; or

8-25 (15) purchases motor fuel for export, on which the tax
8-26 imposed by this chapter has not been paid, and subsequently diverts
8-27 or causes the motor fuel to be diverted to a destination in this
8-28 state or any other state or country other than the originally
8-29 designated state or country without first obtaining a diversion
8-30 number.

8-31 (d) A person [~~operating a bulk plant or terminal~~] who issues
8-32 a shipping document that does not conform with the requirements of
8-33 Section 162.016(a) is liable to this state for a civil penalty of
8-34 \$2,000 or five times the amount of the unpaid tax, whichever is
8-35 greater, for each occurrence.

8-36 SECTION 23. Section 162.403, Tax Code, is amended to read as
8-37 follows:

8-38 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
8-39 Section 162.404, a person commits an offense if the person:

8-40 (1) refuses to stop and permit the inspection and
8-41 examination of a motor vehicle transporting or using motor fuel on
8-42 the demand of a peace officer or the comptroller;

8-43 (2) is required to hold a valid trip permit or
8-44 interstate trucker's license, but operates a motor vehicle in this
8-45 state without a valid trip permit or interstate trucker's license;

8-46 (3) operates a liquefied gas-propelled motor vehicle
8-47 that is required to be licensed in this state, including a motor
8-48 vehicle equipped with dual carburetion, and does not display a
8-49 current liquefied gas tax decal or multistate fuels tax agreement
8-50 decal;

8-51 (4) transports gasoline or diesel fuel in any cargo
8-52 tank that has a connection by pipe, tube, valve, or otherwise with
8-53 the fuel injector or carburetor or with the fuel supply tank feeding
8-54 the fuel injector or carburetor of the motor vehicle transporting
8-55 the product;

8-56 (5) sells or delivers gasoline or diesel fuel from a
8-57 fuel supply tank that is connected with the fuel injector or
8-58 carburetor of a motor vehicle;

8-59 (6) owns or operates a motor vehicle for which reports
8-60 or mileage records are required by this chapter without an
8-61 operating odometer or other device in good working condition to
8-62 record accurately the miles traveled;

8-63 (7) sells or delivers dyed diesel fuel for the
8-64 operation of a motor vehicle on a public highway;

8-65 (8) uses dyed diesel fuel for the operation of a motor
8-66 vehicle on a public highway except as allowed under Section
8-67 162.235;

8-68 (9) makes a tax-free sale or delivery of liquefied gas
8-69 into the fuel supply tank of a motor vehicle that does not display a

9-1 current Texas liquefied gas tax decal;

9-2 (10) makes a sale or delivery of liquefied gas on which

9-3 the person knows the tax is required to be collected, if at the time

9-4 the sale is made the person does not hold a valid dealer's license;

9-5 (11) makes a tax-free sale or delivery of liquefied

9-6 gas into the fuel supply tank of a motor vehicle bearing

9-7 out-of-state license plates;

9-8 (12) makes a delivery of liquefied gas into the fuel

9-9 supply tank of a motor vehicle bearing Texas license plates and no

9-10 Texas liquefied gas tax decal, unless licensed under a multistate

9-11 fuels tax agreement;

9-12 (13) refuses to permit the comptroller or the attorney

9-13 general to inspect, examine, or audit a book or record required to

9-14 be kept by a license holder, other user, or any person required to

9-15 hold a license under this chapter;

9-16 (14) refuses to permit the comptroller or the attorney

9-17 general to inspect or examine any plant, equipment, materials, or

9-18 premises where motor fuel is produced, processed, blended, stored,

9-19 sold, delivered, or used;

9-20 (15) refuses to permit the comptroller, the attorney

9-21 general, an employee of either of those officials, a peace officer,

9-22 an employee of the Texas Commission on Environmental Quality, or an

9-23 employee of the Department of Agriculture to measure or gauge the

9-24 contents of or take samples from a storage tank or container on

9-25 premises where motor fuel is produced, processed, blended, stored,

9-26 sold, delivered, or used;

9-27 (16) is a license holder, a person required to be

9-28 licensed, or another user and fails or refuses to make or deliver to

9-29 the comptroller a report required by this chapter to be made and

9-30 delivered to the comptroller;

9-31 (17) is an importer who does not obtain an import

9-32 verification number when required by this chapter;

9-33 (18) purchases motor fuel for export, on which the tax

9-34 imposed by this chapter has not been paid, and subsequently diverts

9-35 or causes the motor fuel to be diverted to a destination in this

9-36 state or any other state or country other than the originally

9-37 designated state or country without first obtaining a diversion

9-38 number;

9-39 (19) conceals motor fuel with the intent of engaging

9-40 in any conduct proscribed by this chapter or refuses to make sales

9-41 of motor fuel on the volume-corrected basis prescribed by this

9-42 chapter;

9-43 (20) refuses, while transporting motor fuel, to stop

9-44 the motor vehicle the person is operating when called on to do so by

9-45 a person authorized to stop the motor vehicle;

9-46 (21) refuses to surrender a motor vehicle and cargo

9-47 for impoundment after being ordered to do so by a person authorized

9-48 to impound the motor vehicle and cargo;

9-49 (22) mutilates, destroys, or secretes a book or record

9-50 required by this chapter to be kept by a license holder, other user,

9-51 or person required to hold a license under this chapter;

9-52 (23) is a license holder, other user, or other person

9-53 required to hold a license under this chapter, or the agent or

9-54 employee of one of those persons, and makes a false entry or fails

9-55 to make an entry in the books and records required under this

9-56 chapter to be made by the person or fails to retain a document as

9-57 required by this chapter;

9-58 (24) transports in any manner motor fuel under a false

9-59 cargo manifest or shipping document, or transports in any manner

9-60 motor fuel to a location without delivering at the same time a

9-61 shipping document relating to that shipment;

9-62 (25) engages in a motor fuel transaction that requires

9-63 that the person have a license under this chapter without then and

9-64 there holding the required license;

9-65 (26) makes and delivers to the comptroller a report

9-66 required under this chapter to be made and delivered to the

9-67 comptroller, if the report contains false information;

9-68 (27) forges, falsifies, or alters an invoice

9-69 prescribed by law;

10-1 (28) makes any statement, knowing said statement to be
 10-2 false, in a claim for a tax refund filed with the comptroller;
 10-3 (29) furnishes to a licensed supplier or distributor a
 10-4 signed statement for purchasing diesel fuel tax-free and then uses
 10-5 the tax-free diesel fuel to operate a diesel-powered motor vehicle
 10-6 on a public highway;
 10-7 (30) holds an aviation fuel dealer's license and makes
 10-8 a taxable sale or use of any gasoline or diesel fuel;
 10-9 (31) fails to remit any tax funds collected by a
 10-10 license holder, another user, or any other person required to hold a
 10-11 license under this chapter;
 10-12 (32) makes a sale of dyed diesel fuel tax-free into a
 10-13 storage facility of a person who:
 10-14 (A) is not licensed as a distributor, as an
 10-15 aviation fuel dealer, or as a dyed diesel fuel bonded user; or
 10-16 (B) does not furnish to the licensed supplier or
 10-17 distributor a signed statement prescribed in Section 162.206;
 10-18 (33) makes a sale of gasoline tax-free to any person
 10-19 who is not licensed as an aviation fuel dealer;
 10-20 (34) is a dealer who purchases any motor fuel tax-free
 10-21 when not authorized to make a tax-free purchase under this chapter;
 10-22 (35) is a dealer who purchases motor fuel with the
 10-23 intent to evade any tax imposed by this chapter or who accepts a
 10-24 delivery of motor fuel by any means and does not at the same time
 10-25 accept or receive a shipping document relating to the delivery;
 10-26 (36) transports motor fuel for which a cargo manifest
 10-27 or shipping document is required to be carried without possessing
 10-28 or exhibiting on demand by an officer authorized to make the demand
 10-29 a cargo manifest or shipping document containing the information
 10-30 required to be shown on the manifest or shipping document;
 10-31 (37) imports, sells, uses, blends, distributes, or
 10-32 stores motor fuel within this state on which the taxes imposed by
 10-33 this chapter are owed but have not been first paid to or reported by
 10-34 a license holder, another user, or any other person required to hold
 10-35 a license under this chapter;
 10-36 (38) blends products together to produce a blended
 10-37 fuel that is offered for sale, sold, or used and that expands the
 10-38 volume of the original product to evade paying applicable motor
 10-39 fuel taxes; or
 10-40 (39) evades or attempts to evade in any manner a tax
 10-41 imposed on motor fuel by this chapter.
 10-42 SECTION 24. The heading to Section 162.409, Tax Code, is
 10-43 amended to read as follows:
 10-44 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED
 10-45 DISTRIBUTOR, ~~[OR]~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.
 10-46 SECTION 25. Subsections (a) and (d), Section 162.409, Tax
 10-47 Code, are amended to read as follows:
 10-48 (a) A person commits an offense if:
 10-49 (1) the person issues or passes a check or similar
 10-50 sight order for the payment of money knowing that the issuer does
 10-51 not have sufficient funds in or on deposit with the bank or other
 10-52 drawee for the payment in full of the check or order as well as all
 10-53 other checks or orders outstanding at the time of issuance;
 10-54 (2) the payee on the check or order is a licensed
 10-55 distributor, ~~[or]~~ licensed supplier, or permissive supplier; and
 10-56 (3) the payment is for an obligation or debt that
 10-57 includes a tax under this chapter to be collected by the licensed
 10-58 distributor, ~~[or]~~ licensed supplier, or permissive supplier.
 10-59 (d) A person who makes payment on an obligation or debt that
 10-60 includes a tax under this chapter and pays with an insufficient
 10-61 funds check issued to a licensed distributor, ~~[or]~~ licensed
 10-62 supplier, or permissive supplier may be held liable for a penalty
 10-63 equal to the total amount of tax not paid to the licensed
 10-64 distributor, ~~[or]~~ licensed supplier, or permissive supplier.
 10-65 SECTION 26. Subchapter E, Chapter 162, Tax Code, is amended
 10-66 by adding Section 162.410 to read as follows:
 10-67 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
 10-68 criminal offense provision of this chapter by a person constitutes
 10-69 another offense under the laws of this state, the state may elect

11-1 the offense for which it will prosecute the person.

11-2 SECTION 27. Subsections (b) and (d), Section 20.002,
11-3 Transportation Code, are amended to read as follows:

11-4 (b) This section applies to a person, other than a political
11-5 subdivision, who:

11-6 (1) owns, controls, operates, or manages a commercial
11-7 motor vehicle; and

11-8 (2) is exempt from the state diesel fuel tax under
11-9 Section 162.204 [~~153.203~~], Tax Code.

11-10 (d) The fee imposed by this section is equal to 25 percent of
11-11 the diesel fuel tax rate imposed under Section 162.202
11-12 [~~153.202(b)~~], Tax Code.

11-13 SECTION 28. Subsection (o), Section 26.3574, Water Code, is
11-14 amended to read as follows:

11-15 (o) Chapters 101 and 111-113, and Sections 162.005
11-16 [~~153.006~~], 162.007 [~~153.007~~], and 162.111(b)-(k) [~~153.116(b)-(j)~~],
11-17 Tax Code, apply to the administration, payment, collection, and
11-18 enforcement of fees under this section in the same manner that those
11-19 chapters apply to the administration, payment, collection, and
11-20 enforcement of taxes under Title 2, Tax Code.

11-21 SECTION 29. (a) The change in law made by this Act applies
11-22 only to an offense committed on or after the effective date of this
11-23 Act. For purposes of this section, an offense is committed before
11-24 the effective date of this Act if any element of the offense occurs
11-25 before that date.

11-26 (b) An offense committed before the effective date of this
11-27 Act is governed by the law in effect when the offense was committed,
11-28 and the former law is continued in effect for that purpose.

11-29 SECTION 30. The change in law made by this Act does not
11-30 affect tax liability accruing before the effective date of this
11-31 Act. That liability continues in effect as if this Act had not been
11-32 enacted, and the former law is continued in effect for the
11-33 collection of taxes due and for civil and criminal enforcement of
11-34 the liability for those taxes.

11-35 SECTION 31. This Act takes effect September 1, 2009.

11-36

* * * * *