

AN ACT

relating to the deferral by a licensed distributor or importer of payment of gasoline and diesel fuel taxes and credits authorized for certain of those deferrals.

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

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

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

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

(1) the supplier or permissive supplier erroneously requested the credit that resulted in the termination of the

1 licensed distributor's or licensed importer's right to defer  
2 payment; or

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

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

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

26 SECTION 3. Section 162.214, Tax Code, is amended by  
27 amending Subsection (d) and adding Subsection (d-1) to read as

1 follows:

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

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

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

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

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

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

17           SECTION 5. Subsection (d), Section 162.116, and Subsection  
18 (d), Section 162.217, Tax Code, are repealed.

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

27           SECTION 7. This Act takes effect immediately if it receives

S.B. No. 1782

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

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

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

I hereby certify that S.B. No. 1782 passed the Senate on May 14, 2009, by the following vote: Yeas 31, Nays 0.

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

I hereby certify that S.B. No. 1782 passed the House on May 26, 2009, by the following vote: Yeas 143, Nays 0, one present not voting.

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

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor