

By: Hinojosa

S.B. No. 1782

A BILL TO BE ENTITLED

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

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

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

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

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

23 (1) the supplier or permissive supplier erroneously
24 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.