

1-1 By: Hinojosa S.B. No. 1782  
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Finance; May 6, 2009,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 8, Nays 0; May 6, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1782 By: Hinojosa

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the deferral by a licensed distributor or importer of  
1-10 payment of gasoline and diesel fuel taxes and credits authorized  
1-11 for certain of those deferrals.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 162.113, Tax Code, is amended by  
1-14 amending Subsection (d) and adding Subsection (d-1) to read as  
1-15 follows:

1-16 (d) The supplier or permissive supplier ~~[has the right]~~,  
1-17 after requesting a credit ~~[notifying the comptroller of the~~  
1-18 ~~licensed distributor's or licensed importer's failure to remit~~  
1-19 ~~taxes]~~ under this section, shall ~~[to]~~ terminate the ability of the  
1-20 licensed distributor or licensed importer to defer the payment of the  
1-21 gasoline tax. The supplier or permissive supplier may not ~~[shall]~~  
1-22 reinstate ~~[without delay]~~ the right of the licensed distributor or  
1-23 licensed importer to defer the payment of gasoline tax until the  
1-24 first anniversary of the date the supplier or permissive supplier  
1-25 requested the credit, subject to Subsection (d-1).

1-26 (d-1) A supplier or permissive supplier may reinstate the  
1-27 right of a licensed distributor or licensed importer to defer the  
1-28 payment of gasoline tax before the date prescribed by Subsection  
1-29 (d) if the comptroller determines that:

1-30 (1) the supplier or permissive supplier erroneously  
1-31 requested the credit that resulted in the termination of the  
1-32 licensed distributor's or licensed importer's right to defer  
1-33 payment; or

1-34 (2) the licensed distributor or licensed importer  
1-35 failed to pay gasoline taxes due because of circumstances that may  
1-36 have been outside the distributor's or importer's control ~~[after~~  
1-37 ~~the comptroller provides to the supplier or permissive supplier~~  
1-38 ~~notice that the licensed distributor or licensed importer is in~~  
1-39 ~~good standing with the comptroller for the purposes of the gasoline~~  
1-40 ~~tax imposed under this subchapter].~~

1-41 SECTION 2. Subsection (c), Section 162.116, Tax Code, is  
1-42 amended to read as follows:

1-43 (c) A supplier or permissive supplier may take a credit for  
1-44 any taxes that were not remitted in a previous period to the  
1-45 supplier or permissive supplier by a licensed distributor or  
1-46 licensed importer as required by Section 162.113. The supplier or  
1-47 permissive supplier is eligible to take the credit if the  
1-48 comptroller is notified of the default within 15 ~~[60]~~ days after the  
1-49 default occurs. If a license holder pays to a supplier or  
1-50 permissive supplier the tax owed, but the payment occurs after the  
1-51 supplier or permissive supplier has taken a credit on its return,  
1-52 the supplier or permissive supplier shall remit the payment to the  
1-53 comptroller with the next monthly return after receipt of the tax,  
1-54 plus a penalty of 10 percent of the amount of unpaid taxes and  
1-55 interest at the rate provided by Section 111.060 beginning on the  
1-56 date the credit was taken.

1-57 SECTION 3. Section 162.214, Tax Code, is amended by  
1-58 amending Subsection (d) and adding Subsection (d-1) to read as  
1-59 follows:

1-60 (d) The supplier or permissive supplier ~~[has the right]~~,  
1-61 after requesting a credit ~~[notifying the comptroller of the~~  
1-62 ~~licensed distributor's or licensed importer's failure to remit~~  
1-63 ~~taxes]~~ under this section, shall ~~[to]~~ terminate the ability of the

2-1 licensed distributor or licensed importer to defer the payment of  
2-2 diesel fuel tax. The supplier or permissive supplier may not  
2-3 ~~[shall]~~ reinstate ~~[without delay]~~ the right of the licensed  
2-4 distributor or licensed importer to defer the payment of diesel  
2-5 fuel tax until the first anniversary of the date the supplier or  
2-6 permissive supplier requested the credit, subject to Subsection  
2-7 (d-1).

2-8 (d-1) A supplier or permissive supplier may reinstate the  
2-9 right of a licensed distributor or licensed importer to defer the  
2-10 payment of diesel fuel tax before the date prescribed by Subsection  
2-11 (d) if the comptroller determines that:

2-12 (1) the supplier or permissive supplier erroneously  
2-13 requested the credit that resulted in the termination of the  
2-14 licensed distributor's or licensed importer's right to defer  
2-15 payment; or

2-16 (2) the licensed distributor or licensed importer  
2-17 failed to pay diesel fuel taxes due because of circumstances that  
2-18 may have been outside the distributor's or importer's control  
2-19 ~~[after the comptroller provides to the supplier or permissive~~  
2-20 ~~supplier notice that the licensed distributor or licensed importer~~  
2-21 ~~is in good standing with the comptroller for the purposes of diesel~~  
2-22 ~~fuel tax imposed under this subchapter].~~

2-23 SECTION 4. Subsection (c), Section 162.217, Tax Code, is  
2-24 amended to read as follows:

2-25 (c) A supplier or permissive supplier may take a credit for  
2-26 any taxes that were not remitted in a previous period to the  
2-27 supplier or permissive supplier by a licensed distributor or  
2-28 licensed importer as required by Section 162.214. The supplier or  
2-29 permissive supplier is eligible to take this credit if the  
2-30 comptroller is notified of the default within 15 ~~[60]~~ days after the  
2-31 default occurs. If a license holder pays to a supplier or  
2-32 permissive supplier the tax owed, but the payment occurs after the  
2-33 supplier or permissive supplier has taken a credit on its return,  
2-34 the supplier or permissive supplier shall remit the payment to the  
2-35 comptroller with the next monthly return after receipt of the tax,  
2-36 plus a penalty of 10 percent of the amount of unpaid taxes and  
2-37 interest at the rate provided by Section 111.060 beginning on the  
2-38 date the credit is taken.

2-39 SECTION 5. Subsection (d), Section 162.116, and Subsection  
2-40 (d), Section 162.217, Tax Code, are repealed.

2-41 SECTION 6. The changes in law made by this Act apply only to  
2-42 a credit claimed, or the termination of tax payment deferral  
2-43 following a credit requested, on or after the effective date of this  
2-44 Act. A credit claimed, or the termination of tax payment deferral  
2-45 following a credit requested, before the effective date of this Act  
2-46 is governed by the law in effect on the date the credit was claimed  
2-47 or requested, and the former law is continued in effect for that  
2-48 purpose.

2-49 SECTION 7. This Act takes effect immediately if it receives  
2-50 a vote of two-thirds of all the members elected to each house, as  
2-51 provided by Section 39, Article III, Texas Constitution. If this  
2-52 Act does not receive the vote necessary for immediate effect, this  
2-53 Act takes effect September 1, 2009.

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