

By: Pitts

H.B. No. 3640

Substitute the following for H.B. No. 3640:

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C.S.H.B. No. 3640

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the remittance and allocation of certain taxes and
3 fees.

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

5 SECTION 1. Section 34.04, Alcoholic Beverage Code, is
6 amended by adding Subsections (c), (d), and (e) to read as follows:

7 (c) In August 2013, a permittee shall remit a tax prepayment
8 of taxes due to be remitted in September 2013 that is equal to 25
9 percent of the amount the permittee is otherwise required to remit
10 during August 2013 under the reporting system prescribed by the
11 commission. The prepayment is in addition to the amount the
12 permittee is otherwise required to remit during August. The
13 permittee shall remit the additional payment in conjunction with
14 the report and payment otherwise required during that month.

15 (d) A permittee who remits the additional payment as
16 required by Subsection (c) may take a credit in the amount of the
17 additional payment against the next payment due under the reporting
18 system prescribed by the commission.

19 (e) Subsections (c) and (d) and this subsection expire
20 September 1, 2015.

21 SECTION 2. Section 48.04, Alcoholic Beverage Code, is
22 amended by adding Subsections (c), (d), and (e) to read as follows:

23 (c) In August 2013, a permittee shall remit a tax prepayment
24 of taxes due to be remitted in September 2013 that is equal to 25

1 percent of the amount the permittee is otherwise required to remit
2 during August 2013 under the reporting system prescribed by the
3 commission. The prepayment is in addition to the amount the
4 permittee is otherwise required to remit during August. The
5 permittee shall remit the additional payment in conjunction with
6 the report and payment otherwise required during that month.

7 (d) A permittee who remits the additional payment as
8 required by Subsection (c) may take a credit in the amount of the
9 additional payment against the next payment due under the reporting
10 system prescribed by the commission.

11 (e) Subsections (c) and (d) and this subsection expire
12 September 1, 2015.

13 SECTION 3. Section 201.07, Alcoholic Beverage Code, is
14 amended to read as follows:

15 Sec. 201.07. DUE DATE. (a) The tax on liquor is due and
16 payable on the 15th of the month following the first sale, together
17 with a report on the tax due.

18 (b) In August 2013, each permittee who is liable for the
19 taxes imposed by this subchapter shall remit a tax prepayment of
20 taxes due to be remitted in September 2013 that is equal to 25
21 percent of the amount the permittee is otherwise required to remit
22 during August 2013 under Subsection (a). The prepayment is in
23 addition to the amount the permittee is otherwise required to remit
24 during August. The permittee shall remit the additional payment in
25 conjunction with the report and payment otherwise required during
26 that month.

27 (c) A permittee who remits the additional payment as

1 required by Subsection (b) may take a credit in the amount of the
2 additional payment against the next payment due under Subsection
3 (a).

4 (d) Subsections (b) and (c) and this subsection expire
5 September 1, 2015.

6 SECTION 4. Section 201.43, Alcoholic Beverage Code, is
7 amended by amending Subsection (b) and adding Subsections (c), (d),
8 and (e) to read as follows:

9 (b) The tax is due and payable on the 15th day of the month
10 following the month in which the taxable first sale occurs,
11 together with a report on the tax due.

12 (c) In August 2013, each permittee who is liable for the tax
13 imposed by this subchapter shall remit a tax prepayment of taxes due
14 to be remitted in September 2013 that is equal to 25 percent of the
15 amount the permittee is otherwise required to remit during August
16 2013 under Subsection (b). The prepayment is in addition to the
17 amount the permittee is otherwise required to remit during August.
18 The permittee shall remit the additional payment in conjunction
19 with the report and payment otherwise required during that month.

20 (d) A permittee who remits the additional payment as
21 required by Subsection (c) may take a credit in the amount of the
22 additional payment against the next payment due under Subsection
23 (b).

24 (e) Subsections (c) and (d) and this subsection expire
25 September 1, 2015.

26 SECTION 5. Section 203.03, Alcoholic Beverage Code, is
27 amended by amending Subsection (b) and adding Subsections (c), (d),

1 and (e) to read as follows:

2 (b) The tax is due and payable on the 15th day of the month
3 following the month in which the taxable first sale occurs,
4 together with a report on the tax due.

5 (c) Each licensee who is liable for the tax imposed by this
6 chapter shall remit a tax prepayment of taxes due to be remitted in
7 September 2013 that is equal to 25 percent of the amount the
8 licensee is otherwise required to remit during August 2013 under
9 Subsection (b). The prepayment is in addition to the amount the
10 licensee is otherwise required to remit during August. The
11 licensee shall remit the additional payment in conjunction with the
12 report and payment otherwise required during that month.

13 (d) A licensee who remits the additional payment as required
14 by Subsection (c) may take a credit in the amount of the additional
15 payment against the next payment due under Subsection (b).

16 (e) Subsections (c) and (d) and this subsection expire
17 September 1, 2015.

18 SECTION 6. Section 151.401, Tax Code, is amended by adding
19 Subsections (c), (d), and (e) to read as follows:

20 (c) In August 2013, a taxpayer who is required to pay the
21 taxes imposed by this chapter on or before the 20th day of that
22 month under Subsection (a), who pays the taxes imposed by this
23 chapter by electronic funds transfer, and who does not prepay as
24 provided by Section 151.424 shall remit to the comptroller a tax
25 prepayment that is equal to 25 percent of the amount the taxpayer is
26 otherwise required to remit during August 2013 under Subsection
27 (a). The prepayment is in addition to the amount the taxpayer is

1 otherwise required to remit during August. The taxpayer shall
2 remit the additional payment in conjunction with the payment
3 otherwise required during that month. Section 151.424 does not
4 apply with respect to the additional payment required by this
5 subsection.

6 (d) A taxpayer who remits the additional payment as required
7 by Subsection (c) may take a credit in the amount of the additional
8 payment against the next payment due under Subsection (a).

9 (e) Subsections (c) and (d) and this subsection expire
10 September 1, 2015.

11 SECTION 7. Section 151.402, Tax Code, is amended to read as
12 follows:

13 Sec. 151.402. TAX REPORT DATES. (a) A ~~[Except as provided~~
14 ~~by Subsection (b) of this section, a]~~ tax report required by this
15 chapter for a reporting period is due on the same date that the tax
16 payment for the period is due as provided by Section 151.401.

17 (b) A taxpayer may report a credit in the amount of any tax
18 prepayment remitted to the comptroller as required by Section
19 151.401(c) on the tax report required by this chapter that is
20 otherwise due in September 2013 ~~[for taxes required by Section~~
21 ~~151.401(a) to be paid on or before August 20 is due on or before the~~
22 ~~20th day of the following month].~~ This subsection expires
23 September 1, 2015.

24 SECTION 8. Section 162.113, Tax Code, is amended by adding
25 Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

26 (a-1) On August 28, 2013, each licensed distributor and
27 licensed importer shall remit to the supplier or permissive

1 supplier, as applicable, a tax prepayment in an amount equal to 25
2 percent of the tax imposed by Section 162.101 for gasoline removed
3 at the terminal rack during July 2013 by the licensed distributor or
4 licensed importer, without accounting for any credit or allowance
5 to which the licensed distributor or licensed importer is entitled.
6 The supplier or permissive supplier shall remit the tax prepayment
7 received under this subsection to the comptroller by electronic
8 funds transfer on August 30, 2013, without accounting for any
9 credit or allowance to which the supplier or permissive supplier is
10 entitled. Subsections (c) through (e) do not apply to the tax
11 prepayment under this subsection.

12 (a-2) A licensed distributor or licensed importer may take a
13 credit against the amount of tax imposed by Section 162.101 for
14 gasoline removed at a terminal rack during August 2013 that is
15 required to be remitted to the supplier or permissive supplier, as
16 applicable, under Subsection (a) in September 2013. The amount of
17 the credit is equal to the amount of any tax prepayment remitted by
18 the licensed distributor or licensed importer as required by
19 Subsection (a-1).

20 (a-3) Subsections (a-1) and (a-2) apply to a supplier or an
21 affiliate of a supplier who removes gasoline at the terminal rack
22 for distribution to the same extent and in the same manner that
23 those subsections apply to a licensed distributor or licensed
24 importer.

25 (a-4) Subsections (a-1), (a-2), and (a-3) and this
26 subsection expire September 1, 2015.

27 SECTION 9. Section 162.214, Tax Code, is amended by adding

1 Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

2 (a-1) On August 28, 2013, each licensed distributor and
3 licensed importer shall remit to the supplier or permissive
4 supplier, as applicable, a tax prepayment in an amount equal to 25
5 percent of the tax imposed by Section 162.201 for diesel fuel
6 removed at the terminal rack during July 2013 by the licensed
7 distributor or licensed importer, without accounting for any credit
8 or allowance to which the licensed distributor or licensed importer
9 is entitled. The supplier or permissive supplier shall remit the
10 tax prepayment received under this subsection to the comptroller by
11 electronic funds transfer on August 30, 2013, without accounting
12 for any credit or allowance to which the supplier or permissive
13 supplier is entitled. Subsections (c) through (e) do not apply to
14 the tax prepayment under this subsection.

15 (a-2) A licensed distributor or licensed importer may take a
16 credit against the amount of tax imposed by Section 162.201 for
17 diesel fuel removed at a terminal rack during August 2013 that is
18 required to be remitted to the supplier or permissive supplier, as
19 applicable, under Subsection (a) in September 2013. The amount of
20 the credit is equal to any tax prepayment remitted by the licensed
21 distributor or licensed importer as required by Subsection (a-1).

22 (a-3) Subsections (a-1) and (a-2) apply to a supplier or an
23 affiliate of a supplier who removes diesel fuel at the terminal rack
24 for distribution to the same extent and in the same manner that
25 those subsections apply to a licensed distributor or licensed
26 importer.

27 (a-4) Subsections (a-1), (a-2), and (a-3) and this

1 subsection expire September 1, 2015.

2 SECTION 10. Section 162.503, Tax Code, is amended to read as
3 follows:

4 Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) On or before
5 the fifth workday after the end of each month, the comptroller,
6 after making all deductions for refund purposes and for the amounts
7 allocated under Sections 162.502 and 162.5025, shall allocate the
8 net remainder of the taxes collected under Subchapter B as follows:

9 (1) one-fourth of the tax shall be deposited to the
10 credit of the available school fund;

11 (2) one-half of the tax shall be deposited to the
12 credit of the state highway fund for the construction and
13 maintenance of the state road system under existing law; and

14 (3) from the remaining one-fourth of the tax the
15 comptroller shall:

16 (A) deposit to the credit of the county and road
17 district highway fund all the remaining tax receipts until a total
18 of \$7,300,000 has been credited to the fund each fiscal year; and

19 (B) after the amount required to be deposited to
20 the county and road district highway fund has been deposited,
21 deposit to the credit of the state highway fund the remainder of the
22 one-fourth of the tax, the amount to be provided on the basis of
23 allocations made each month of the fiscal year, which sum shall be
24 used by the Texas Department of Transportation for the
25 construction, improvement, and maintenance of farm-to-market
26 roads.

27 (b) Notwithstanding Subsection (a), the comptroller may not

1 allocate revenue otherwise required to be allocated under
2 Subsection (a) during August 2013 before the first workday of
3 September 2013. The revenue shall be allocated as otherwise
4 provided by Subsection (a) not later than the fifth workday of
5 September 2013. This subsection expires September 1, 2015.

6 SECTION 11. Section 162.504, Tax Code, is amended to read as
7 follows:

8 Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) On or
9 before the fifth workday after the end of each month, the
10 comptroller, after making deductions for refund purposes, for the
11 administration and enforcement of this chapter, and for the amounts
12 allocated under Section 162.5025, shall allocate the remainder of
13 the taxes collected under Subchapter C as follows:

14 (1) one-fourth of the taxes shall be deposited to the
15 credit of the available school fund; and

16 (2) three-fourths of the taxes shall be deposited to
17 the credit of the state highway fund.

18 (b) Notwithstanding Subsection (a), the comptroller may not
19 allocate revenue otherwise required to be allocated under
20 Subsection (a) during August 2013 before the first workday of
21 September 2013. The revenue shall be allocated as otherwise
22 provided by Subsection (a) not later than the fifth workday of
23 September 2013. This subsection expires September 1, 2015.

24 SECTION 12. Subchapter D, Chapter 171, Tax Code, is amended
25 by adding Section 171.153 to read as follows:

26 Sec. 171.153. TAX PREPAYMENT FROM TAXABLE ENTITIES
27 REMITTING ELECTRONICALLY. (a) For purposes of this section,

1 "large taxable entity" means a taxable entity that, on July 31,
2 2013, is doing business in this state and that is required by rules
3 adopted by the comptroller to make the taxable entity's tax payment
4 for the regular annual period for which a report is originally due
5 May 15, 2013, regardless of the date the taxable entity actually
6 filed the report, by electronic funds transfer.

7 (b) Notwithstanding Section 171.152(c), a large taxable
8 entity shall pay a prepayment of taxes due to be remitted with the
9 report originally due May 15, 2014, under this chapter in an amount
10 equal to 25 percent of the amount of tax imposed under this chapter
11 and reported as due for the regular annual period covered by the
12 report originally due May 15, 2012, regardless of the date the
13 taxable entity actually files the report. The taxable entity shall
14 remit the tax prepayment to the comptroller:

15 (1) not later than July 31, 2013;

16 (2) in the manner prescribed by rules adopted by the
17 comptroller; and

18 (3) accompanied by any information required by the
19 comptroller.

20 (c) A large taxable entity that remits a tax prepayment as
21 required by Subsection (b) may take a credit on the report
22 originally due on May 15, 2014, in the amount of the tax prepayment.

23 (d) In lieu of a penalty that may be assessed under Section
24 171.362, a large taxable entity that fails to remit the tax
25 prepayment required by this section on or before July 31, 2013, is
26 liable for a penalty of 10 percent of the estimated amount of the
27 tax prepayment due under this section.

1 (e) A tax prepayment remitted under this section is not
2 considered a report for purposes of any provision of Subchapter E,
3 F, or G.

4 (f) Notwithstanding Section 171.4011, the comptroller shall
5 deposit revenue received from tax prepayments under this section to
6 the credit of the general revenue fund. The comptroller shall
7 deposit revenue received from tax payments remitted with reports
8 originally due on May 15, 2014, in accordance with Subchapter I.

9 (g) This section expires September 1, 2015.

10 SECTION 13. Section 183.023, Tax Code, is amended to read as
11 follows:

12 Sec. 183.023. PAYMENT. (a) The tax due for the preceding
13 month shall accompany the return and shall be payable to the state.

14 (b) The comptroller shall deposit the revenue received
15 under this section in the general revenue fund.

16 (c) In August 2013, each permittee who is liable for the tax
17 imposed by this subchapter shall remit a tax prepayment of taxes due
18 to be remitted in September 2013 that is equal to 25 percent of the
19 amount the permittee is otherwise required to remit during August
20 2013 under Subsection (a). The prepayment is in addition to the
21 amount the permittee is otherwise required to remit during August.
22 The permittee shall remit the additional payment in conjunction
23 with the return and payment otherwise required during that month.

24 (d) A permittee who remits the additional payment as
25 required by Subsection (c) may take a credit in the amount of the
26 additional payment against the next payment due under Subsection
27 (a).

1 (e) Subsections (c) and (d) and this subsection expire
2 September 1, 2015.

3 SECTION 14. The expiration of the amendments made to the
4 Alcoholic Beverage Code and Tax Code in accordance with this Act
5 does not affect tax liability accruing before the expiration of
6 those amendments. That liability continues in effect as if the
7 amendments had not expired, and the former law is continued in
8 effect for the collection of taxes due and for civil and criminal
9 enforcement of the liability for those taxes.

10 SECTION 15. This Act takes effect September 1, 2011.