

By: Pitts

H.B. No. 3641

A BILL TO BE ENTITLED

AN ACT

relating to the remittance and allocation of gasoline and diesel fuel tax collections.

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

SECTION 1. Section 162.114, Tax Code, is amended by amending Subsections (a) and (c) and adding Subsections (e), (f), (g), and (h) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b), (e), and (g), each person who is liable for the tax imposed by this subchapter, a terminal operator, and a licensed distributor shall file a return on or before the 25th day of the month following the end of each calendar month.

(c) The return required by this section shall be accompanied by a payment for the amount of tax reported due, subject to Subsections (e) and (g).

(e) Each person who is liable for collecting and remitting the tax imposed by this subchapter on a monthly basis shall file not later than the last workday of August of each odd-numbered year the return that would otherwise have been due on or before September 25 of that year under Subsection (a) without accounting for any credit or allowance to which the person is entitled. The return must contain estimates for the month of August of the information ordinarily required on the return if it were filed in September, other than information relating to any credit or allowance to which

1 the person is entitled. The person must remit with the return a  
2 payment equal to one of the following amounts, at the person's  
3 election:

4 (1) 90 percent of the estimated amount of tax the  
5 person is required to collect and remit during August without  
6 accounting for any credit or allowance to which the person is  
7 entitled; or

8 (2) the amount of tax the person actually collected  
9 and remitted in August of the preceding year.

10 (f) The return and payment required by Subsection (e) may be  
11 filed in conjunction with the return and payment required by  
12 Subsection (a) that is due on or before August 25 of an odd-numbered  
13 year.

14 (g) A person who files a return required by Subsection (e)  
15 shall file a supplemental return not later than September 25 of each  
16 odd-numbered year that reports the total amount of tax collected  
17 for the month of August of that year and the amount required to be  
18 remitted, after accounting for any credit or allowance to which the  
19 person is entitled. If the payment made under Subsection (e) is  
20 less than the amount required to be remitted, the supplemental  
21 return must be accompanied by a payment for the difference between  
22 the amount required to be remitted and the amount of the payment  
23 made under Subsection (e). If the payment made under Subsection (e)  
24 exceeds the amount required to be remitted, the supplemental return  
25 must state the amount of the overpayment. The person filing the  
26 supplemental return may take a credit in the amount of the  
27 overpayment against the next payment due under Subsection (c).

1       (h) The comptroller may adopt rules prescribing the  
2 information required on a return filed under Subsection (e) or a  
3 supplemental return filed under Subsection (g).

4       SECTION 2. Section 162.215, Tax Code, is amended by  
5 amending Subsections (a) and (c) and adding Subsections (e), (f),  
6 (g), and (h) to read as follows:

7       (a) Except as provided by Subsections [~~Subsection~~] (b),  
8 (e), and (g), each person who is liable for the tax imposed by this  
9 subchapter, a terminal operator, and a licensed distributor shall  
10 file a return on or before the 25th day of the month following the  
11 end of each calendar month.

12       (c) The return required by this section shall be accompanied  
13 by a payment for the amount of tax reported due, subject to  
14 Subsections (e) and (g).

15       (e) Each person who is liable for collecting and remitting  
16 the tax imposed by this subchapter on a monthly basis shall file not  
17 later than the last workday of August of each odd-numbered year the  
18 return that would otherwise have been due on or before September 25  
19 of that year under Subsection (a) without accounting for any credit  
20 or allowance to which the person is entitled. The return must  
21 contain estimates for the month of August of the information  
22 ordinarily required on the return if it were filed in September,  
23 other than information relating to any credit or allowance to which  
24 the person is entitled. The person must remit with the return a  
25 payment equal to one of the following amounts, at the person's  
26 election:

27       (1) 90 percent of the estimated amount of tax the

1 person is required to collect and remit during August without  
2 accounting for any credit or allowance to which the person is  
3 entitled; or

4 (2) the amount of tax the person actually collected  
5 and remitted in August of the preceding year.

6 (f) The return and payment required by Subsection (e) may be  
7 filed in conjunction with the return and payment required by  
8 Subsection (a) that is due on or before August 25 of an odd-numbered  
9 year.

10 (g) A person who files a return required by Subsection (e)  
11 shall file a supplemental return not later than September 25 of each  
12 odd-numbered year that reports the total amount of tax collected  
13 for the month of August of that year and the amount required to be  
14 remitted, after accounting for any credit or allowance to which the  
15 person is entitled. If the payment made under Subsection (e) is  
16 less than the amount required to be remitted, the supplemental  
17 return must be accompanied by a payment for the difference between  
18 the amount required to be remitted and the amount of the payment  
19 made under Subsection (e). If the payment made under Subsection (e)  
20 exceeds the amount required to be remitted, the supplemental return  
21 must state the amount of the overpayment. The person filing the  
22 supplemental return may take a credit in the amount of the  
23 overpayment against the next payment due under Subsection (c).

24 (h) The comptroller may adopt rules prescribing the  
25 information required on a return filed under Subsection (e) or a  
26 supplemental return filed under Subsection (g).

27 SECTION 3. Section 162.503, Tax Code, is amended to read as

1 follows:

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

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

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

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

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

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

26           (b) The comptroller may not allocate revenue remitted to the  
27 comptroller during July and August of each odd-numbered year before

1 the first workday of September. The revenue shall be allocated as  
2 otherwise provided by Subsection (a) not later than the fifth  
3 workday of September.

4 SECTION 4. Section 162.504, Tax Code, is amended to read as  
5 follows:

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

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

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

17 (b) The comptroller may not allocate revenue remitted to the  
18 comptroller during July and August of each odd-numbered year before  
19 the first workday of September. The revenue shall be allocated as  
20 otherwise provided by Subsection (a) not later than the fifth  
21 workday of September.

22 SECTION 5. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2011.