

BILL ANALYSIS

Senate Research Center

H.B. 2148
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Finance
5/14/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Natural gas has been used as an alternative to gasoline and diesel in Texas vehicles for many years but has accounted for only a small fraction of the total transportation fuel market. State taxes on natural gas used in the state's cars, trucks, and buses have been administered under a system that is separate from the system for administering state taxes on other types of motor fuels. Interested parties contend that with the emergence of new production technologies, natural gas is plentiful and much less expensive by some measures than conventional petroleum-based fuels and, as a result, natural gas use in transportation, particularly as a substitute for diesel in heavy-duty vehicles, has expanded significantly. Interested parties further contend that these recent developments demonstrate the need to adjust tax collection methods for natural gas used in motor vehicles to provide a more equitable and fair way to calculate the rate of taxation and to encourage the use of natural gas as a transportation fuel.

H.B. 2148 amends current law relating to the motor fuel tax on compressed natural gas and liquefied natural gas, provides penalties, and imposes a tax.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 3 (Section 162.312, Tax Code), SECTION 4 (Section 162.365, Tax Code), and SECTION 9 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the legislature finds that this Act does not impose a new tax; compressed natural gas and liquefied natural gas are currently taxed and this Act leaves the tax rate effectively unchanged; this Act provides a new collection mechanism for an existing tax; and this Act provides a more efficient method of tax administration for taxpayers and for this state.

SECTION 2. Amends Section 162.001, Tax Code, by amending Subdivisions (4), (16), (19), (29), (38), (39), (42), and (43) to redefine "aviation fuel dealer," "compressed natural gas," "diesel fuel," "gasoline," "license holder," "liquefied gas," "motor fuel," and "motor fuel transporter" and adding Subdivisions (19-a), (24-a), (29-a), and (40-a) to define "diesel gallon equivalent," "fleet user," "gasoline gallon equivalent," and "liquefied natural gas."

SECTION 3. Amends Subchapter D, Chapter 162, Tax Code, by adding Section 162.312, as follows:

Sec. 162.312. APPLICABILITY OF SUBCHAPTER TO CERTAIN PUBLIC TRANSPORTATION PROVIDERS USING COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS. (a) Provides that this section applies only to a person who:

(1) operates motor vehicles used to provide the services of a transit company, including a metropolitan rapid transit authority under Chapter 451 (Metropolitan Rapid Transit Authorities), Transportation Code, or a

regional transportation authority under Chapter 452 (Regional Transportation Authorities), Transportation Code; and

(2) held a liquefied gas tax decal license on or before August 31, 2013.

(b) Authorizes a person to which this section applies, notwithstanding Subchapter D-1, to:

(1) pay tax as provided by this subchapter on compressed natural gas or liquefied natural gas delivered into the fuel supply tank of all motor vehicles described by Subsection (a)(1) from a refueling facility accessible only to motor vehicles described by Subsection (a)(1); and

(2) operate those motor vehicles on the public highways of this state using compressed natural gas or liquefied natural gas described by Subdivision (1).

(c) Provides that this section does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor vehicles other than those described by Subsection (a)(1).

(d) Defines “liquefied gas” in this subchapter.

(e) Requires the comptroller of public accounts of the State of Texas (comptroller) to adopt rules necessary to implement this section.

SECTION 4. Amends Chapter 162, Tax Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX

Sec. 162.351. TAX IMPOSED; SALE OF FUEL DELIVERED INTO FUEL SUPPLY TANK OF MOTOR VEHICLE. (a) Imposes a tax on the sale of compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) Provides that the dealer is liable for the tax imposed under this section.

(c) Requires the dealer to add the amount of the tax to the selling price so that the tax is paid by the purchaser. Provides that when the amount of the tax is added it becomes a part of the sales price; it is a debt of the purchaser to the dealer; and if unpaid, it is recoverable at law in the same manner as the original sales price.

(d) Requires the dealer to provide to the purchaser an invoice or receipt that states the rate and amount of tax added to the selling price or indicates that no tax was added to the selling price.

Sec. 162.352. TAX IMPOSED; DELIVERY OF FUEL INTO FUEL SUPPLY TANK OF MOTOR VEHICLE NOT IN CONNECTION WITH SALE. (a) Imposes a tax on the delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) Provides that the fleet user or other dealer is liable for the tax imposed under this section.

Sec. 162.353. TAX RATE; UNIT OF MEASUREMENT. (a) Provides that the rate of the tax under Sections 162.351 and 162.352 is 15 cents for each gasoline gallon

equivalent or fractional part of compressed natural gas or liquefied natural gas, or diesel gallon equivalent or fractional part of compressed natural gas or liquefied natural gas.

(b) Requires that the tax be imposed on an amount of compressed natural gas or liquefied natural gas equal to a:

(1) diesel gallon equivalent of compressed natural gas, as provided by Section 162.001(19-a)(A) (defining “diesel gallon equivalent” to include 6.380 pounds of compressed natural gas), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source;

(2) diesel gallon equivalent of liquefied natural gas, as provided by Section 162.001(19-a)(B) (defining “diesel gallon equivalent” to include 6.060 pounds of liquefied natural gas), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source;

(3) gasoline gallon equivalent of compressed natural gas, as provided by Section 162.001(29-a)(A) (defining “gasoline gallon equivalent” to include 5.660 pounds of compressed natural gas), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source; or

(4) gasoline gallon equivalent of liquefied natural gas, as provided by Section 162.001(29-a)(B) (defining “gasoline gallon equivalent” to include 5.370 pounds of liquefied natural gas), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source.

Sec. 162.354. **BACKUP TAX; LIABILITY.** (a) Imposes a backup tax at the rate prescribed by Section 162.353 on:

(1) a person who obtains a refund of tax on compressed natural gas or liquefied natural gas by claiming the fuel was used for an exempt purpose, but actually uses the fuel for a taxable purpose;

(2) a person who operates a motor vehicle on a public highway using compressed natural gas or liquefied natural gas on which tax has not been paid;

(3) a person who sells compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle, on which tax was not paid, and who knew or had reason to know that the fuel would be used for a taxable purpose; and

(4) a person who delivers into the fuel supply tank of a motor vehicle compressed natural gas or liquefied natural gas on which tax was not paid and who knew or had reason to know that the fuel would be used for a taxable purpose.

(b) Provides that if the person who operates a motor vehicle described by Subsection (a)(2) is not the owner or lessee of the motor vehicle, both the owner or lessee and the operator are liable for the tax.

(c) Provides that the tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) Provides that the tax imposed under Subsection (a)(4) is also imposed on the operator of the motor vehicle or the motor vehicle's owner or lessee.

(e) Provides that the tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Sec. 162.355. FUEL PRESUMED SUBJECT TO TAX. (a) Provides that all compressed natural gas and liquefied natural gas sold by a dealer and delivered into the fuel supply tank of a motor vehicle is presumed to be subject to tax, and the dealer is liable for the tax under Section 162.351(b) and in accordance with Section 162.012 (Presumptions) unless the dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

(b) Provides that all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale is presumed to be subject to tax, and the fleet user or other dealer is liable for the tax under Section 162.352(b) and in accordance with Section 162.012 unless the fleet user or other dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

Sec. 162.356. EXEMPTIONS. Provides that the tax imposed by this subchapter does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of:

(1) a motor vehicle operated exclusively by the United States, provided that the exemption does not apply with respect to fuel delivered into the fuel supply tank of a motor vehicle of a person operating under a contract with the United States;

(2) a motor vehicle operated exclusively by a public school district in this state;

(3) a motor vehicle operated exclusively by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008 (Contract with Transit Authority, Commercial Transportation Company, or Juvenile Board), Education Code, and that uses the fuel only to provide those services;

(4) a motor vehicle operated exclusively by a volunteer fire department in this state;

(5) a motor vehicle operated exclusively by a county in this state;

(6) a motor vehicle operated exclusively by a nonprofit electric cooperative corporation organized under Chapter 161 (Electric Cooperative Corporations), Utilities Code;

(7) a motor vehicle operated exclusively by a nonprofit telephone cooperative corporation organized under Chapter 162 (Telephone Cooperative Corporations), Utilities Code;

(8) a motor vehicle that is not registered for use on the public highways of this state and that is used exclusively off-highway; or

(9) off-highway equipment, a stationary engine, a motorboat, an aircraft, equipment used solely for servicing aircraft and used exclusively off-highway, a locomotive, or any device other than a motor vehicle operated or intended to be operated on the public highways.

Sec. 162.357. DEALER'S LICENSE. (a) Prohibits a person from selling compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle and on which tax is imposed under Section 162.351 unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(b) Prohibits a person from delivering compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle not in connection with a sale and on which tax is imposed under Section 162.352, or otherwise conducting the activities of a fleet user, unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(c) Prohibits a person from conducting the activities of an aviation fuel dealer who delivers compressed natural gas or liquefied natural gas unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(d) Provides that a compressed natural gas and liquefied natural gas dealer's license is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the license holder or canceled by the comptroller. Requires the comptroller to cancel a license under this subsection if the license holder has not reported a delivery of compressed natural gas or liquefied natural gas during the previous nine months.

(e) Provides that a compressed natural gas and liquefied natural gas dealer's license is not transferable.

Sec. 162.358. INTERSTATE TRUCKER'S LICENSE. (a) Provides that an interstate trucker's license authorizes a person who operates a motor vehicle described by Section 162.001(36) and fueled by compressed natural gas or liquefied natural gas to report and pay the tax and take a credit or claim a refund as provided by this subchapter.

(b) Provides that an interstate trucker's license is valid from the date of issuance until December 31 of each calendar year or until the license is surrendered by the license holder or canceled by the comptroller. Authorizes the comptroller to renew an interstate trucker's license each calendar year if the license holder furnishes timely reports as required.

(c) Provides that an interstate trucker's license is not transferable.

Sec. 162.359. LICENSE APPLICATION PROCEDURE. Requires an applicant for a license under this subchapter to file an application using a form adopted by the comptroller that contains the name under which the applicant transacts or intends to transact business; the applicant's principal office, residence, or place of business in this state, or other location of the applicant; if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and other information required by the comptroller.

Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE. (a) Requires the comptroller, if the comptroller approves a license application, to issue a license to the applicant. Requires a license holder to post the license in a conspicuous place or keep the license available for inspection at the license holder's principal place of business. Requires a license holder to keep a copy of the license at each place of business or other place of storage from which compressed natural gas or liquefied natural gas is sold or delivered.

(b) Requires an interstate trucker's license holder to reproduce the license and carry a photocopy with each motor vehicle being operated in or traveling to or from this state.

Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES. (a) Requires the comptroller to determine the amount of security required of a dealer, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter or its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

(b) Authorizes the comptroller to require a license holder to post a bond if the comptroller determines it is necessary for the license holder to post security to protect the revenues of this state. Requires a license holder to post a bond equal to two times the maximum amount of tax that could accrue on compressed natural gas or liquefied natural gas produced, purchased, acquired, sold, or delivered during a reporting period. Provides that the minimum bond for a person described by Section 162.357(a) is \$30,000. Requires the comptroller to prescribe the minimum bond for a person described by Section 162.357(b) or (c) who is not described by Section 162.357(a). Provides that the maximum bond is \$600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event the comptroller is authorized to require one or more bonds or securities in a total amount exceeding \$600,000.

(c) Entitles a license holder who has filed a bond or other security under this subchapter, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. Authorizes the comptroller, however, if the comptroller determines that the revenues of this state would be jeopardized by the return, refund, or release of the bond or security, to elect not to return, refund, or release the bond or security and to reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of this state.

(d) Requires that a bond be a continuing instrument, constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and remain in effect until the surety on the bond is released and discharged.

(e) Authorizes an applicant for a license, instead of filing a surety bond, to substitute the following security: cash in the form of United States currency in an amount equal to the required bond to be deposited in a suspense account of the state treasury; an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount at least equal to the bond amount required; or an irrevocable letter of credit to the comptroller from any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount of credit at least equal to the bond amount required.

(f) Authorizes the comptroller, if the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, to require the license holder to file a new or an additional bond or security.

(g) Prohibits a surety bond or other form of security from being released until the comptroller determines by examination or audit that a tax, penalty, or interest liability does not exist. Requires the comptroller to release the cash or securities not later than the 60th day after the date the comptroller determines that liability does not exist.

(h) Authorizes the comptroller to use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any

action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due to this state by a person on whose behalf the cash or certificate of deposit security was deposited.

(i) Requires the comptroller to release and discharge from liability to this state a surety on a bond furnished by a license holder on the 31st day after the date on which the surety files with the comptroller a written request to be released and discharged. Provides that the request does not relieve, release, or discharge the surety from a liability that already accrued or that accrues before the expiration of the 30-day period. Requires the comptroller, promptly on receipt of the request, to notify the license holder who furnished the bond, and unless the license holder, before the expiration date of the existing security, files with the comptroller a new bond with a surety company authorized to do business under the laws of this state, or other authorized security, in the amount required by this section, to cancel the license in the manner provided by this chapter.

(j) Requires the comptroller to immediately notify the issuer of a letter of credit of a final determination of the license holder's delinquent liability or a judgment secured in any action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due this state by a license holder on whose behalf the letter of credit was issued. Requires that the letter of credit allowed as security under this section contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's delinquency claim against the license holder.

(k) Authorizes a license holder to request an examination or audit to obtain release of the security when the license holder relinquishes the license or when the license holder wants to substitute one form of security for an existing one.

Sec. 162.362. RETURNS AND PAYMENTS; ALLOWANCES. (a) Requires a licensed dealer, on or before the 25th day of the month following the end of each calendar quarter, to file a report and remit the amount of tax due. Requires a licensed dealer who has not made taxable deliveries during the reporting period to file with the comptroller a report that includes those facts or that information.

(b) Provides that if a licensed dealer files a report and remits the tax due on or before the due date under Subsection (a), one percent of the tax due is allocated to the licensed dealer for the expense of collecting, accounting for, reporting, and timely remitting the taxes collected and for keeping the records. Requires the licensed dealer to deduct the allocated amount from the tax due when paying the tax to this state.

(c) Requires a licensed interstate trucker, on or before the 25th day of the month following the end of each calendar quarter, to file a report and remit the amount of tax due. Requires that a report be filed with the comptroller on forms provided for that purpose and to contain the number of miles traveled in this state, the number of miles traveled outside this state, and other information required by the comptroller. Requires an interstate trucker who is required to file a report under this section and who has not made interstate trips or used compressed natural gas or liquefied natural gas in motor vehicles in this state during the reporting period to file with the comptroller a report that includes those facts or that information.

(d) Provides that if a licensed interstate trucker files a report and remits the tax due on or before the due date under Subsection (c), one-half of one percent of the tax paid on compressed natural gas and liquefied natural gas used in this state by the interstate trucker is allocated to the interstate trucker for the expense of accounting for, reporting, and timely remitting the taxes due and for keeping the records. Requires the licensed interstate trucker to deduct the allocated amount from the tax due when paying the tax to this state. Authorizes the interstate

trucker, if the allocated amount exceeds the amount of tax due, to file a refund claim with the comptroller.

Sec. 162.363. RECORDS. (a) Requires a dealer to keep a record showing:

- (1) compressed natural gas and liquefied natural gas inventories at the first of each month;
- (2) the amount of natural gas compressed by the dealer and the amount of natural gas liquefied by the dealer;
- (3) all compressed natural gas and liquefied natural gas purchased or received, showing the name of the seller and the date of each purchase or receipt;
- (4) all compressed natural gas and liquefied natural gas sold and delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;
- (5) all compressed natural gas and liquefied natural gas sold but not delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;
- (6) all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle not in connection with a sale, showing the date of the delivery;
- (7) all compressed natural gas and liquefied natural gas sold or delivered into the fuel supply tank of a motor vehicle or other equipment exempt from tax under Section 162.356 or sold to the operator of a motor vehicle or owner of equipment exempt from tax under Section 162.356, showing the name of the operator of the vehicle or the owner of the equipment and the date of the delivery or sale; and
- (8) all compressed natural gas and liquefied natural gas lost by fire, theft, or accident.

(b) Requires an interstate trucker to keep a record of the total miles traveled in all states by all vehicles traveling to or from this state and the total quantity of compressed natural gas and liquefied natural gas consumed in those vehicles and the total miles traveled in this state and the total quantity of compressed natural gas or liquefied natural gas purchased and delivered into the fuel supply tanks of motor vehicles in this state.

(c) Requires that the records required by this section be kept until the fourth anniversary of the date they are created and provides that the records are open to inspection at all times by the comptroller and the attorney general.

(d) Requires a license holder or a person required to hold a license, in addition to the records specifically required by this subchapter, to keep any other records required by the comptroller.

Sec. 162.364. DUTIES OF PERSONS HOLDING TAX PAYMENTS. (a) Provides that a person who receives or collects tax under this subchapter holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) Prohibits a dealer who receives a payment of tax under this subchapter from applying the payment of tax to a debt that the person making the payment owes for compressed natural gas or liquefied natural gas purchased from the dealer.

(c) Provides that a person required to receive or collect a tax under this subchapter is liable for and is required to pay the tax in the manner provided by this subchapter.

Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) Authorizes a license holder to take a credit on a return for the period in which the purchase occurred, and authorizes a person who does not hold a license under this subchapter to file a refund claim with the comptroller if the license holder or person paid tax on compressed natural gas or liquefied natural gas and the license holder or person:

(1) is the United States government and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the United States, provided that a credit or refund is not allowed for fuel delivered into the fuel supply tank of a motor vehicle operated by a person operating under a contract with the United States;

(2) is a public school district in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the district;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the fuel was delivered into the fuel supply tank of a motor vehicle used to provide those services;

(4) is a volunteer fire department in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the department;

(5) is a county in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the county;

(6) is a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the electric cooperative;

(7) is a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the telephone cooperative;

(8) uses the fuel in off-highway equipment, in a stationary engine, in a motorboat, in an aircraft, in equipment used solely for servicing aircraft and used exclusively off-highway, in a locomotive, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways; or

(9) uses the fuel in a motor vehicle that is operated exclusively off-highway, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund is prohibited from being allowed for the portion used in the incidental highway travel.

(b) Authorizes a licensed interstate trucker to take a credit on a return for the period in which the purchase occurred if the licensed interstate trucker paid tax on compressed natural gas or liquefied natural gas and uses the fuel outside this state in commercial vehicles operated under an interstate trucker license, provided that a credit taken under this subsection is required to be taken within the limitation period provided by Section 162.369.

(c) Authorizes a transit company that paid tax on the purchase of compressed natural gas or liquefied natural gas to apply to the comptroller for and obtain a

refund in an amount equal to one cent per gasoline gallon equivalent of compressed natural gas or diesel gallon equivalent of liquefied natural gas used in transit vehicles.

(d) Provides that the right to receive a refund or take a credit under this section is not assignable.

(e) Authorizes the comptroller to adopt rules specifying procedures and requirements that are required to be followed to take a credit or receive a refund under this section.

Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT. (a) Authorizes a licensed dealer to take a credit on a return filed under this subchapter if the dealer paid the taxes imposed by this subchapter on compressed natural gas or liquefied natural gas sold on account; the dealer determines that the account is uncollectible and worthless; and the account is written off as a bad debt on the dealer's accounting books.

(b) Requires that the return on which the credit is taken state, if applicable, the name of the person whose account has been written off as a bad debt or who failed to remit the tax and any other information required by the comptroller. Authorizes the amount of the credit that is authorized to be taken under Subsection (a) to be equal to but prohibits it from exceeding the amount of taxes paid on the compressed natural gas or liquefied natural gas to which the written-off account applies.

(c) Requires the dealer who took the credit, if, after a credit is taken under Subsection (a), the account on which the credit was based is paid, or if the comptroller otherwise determines that the credit was not authorized by Subsection (a), to pay the unpaid taxes plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 (Interest on Delinquent Tax) beginning on the day the report showing the credit was filed and ending on the date the taxes and penalty are paid.

(d) Provides that this section does not apply to a sale of compressed natural gas or liquefied natural gas for which payment is made through the use and acceptance of a credit card.

(e) Requires that a credit under this section be taken at the time the account is written off as a bad debt, but authorizes it to only be taken before the expiration of the applicable limitation period as provided by Chapter 111 (Collection Procedures).

(f) Authorizes the comptroller to take action against a person in relation to whom a dealer has taken a credit for collection of the tax owed and for penalty and interest as provided by Chapter 111.

Sec. 162.367. CLAIMS FOR REFUNDS. (a) Requires that a refund claim be filed on a form provided by the comptroller, be supported by the original invoice issued by the dealer, and contain:

- (1) the stamped or preprinted name and address of the dealer;
- (2) the name of the purchaser or person who received the delivery of fuel;
- (3) the date of delivery of the fuel;
- (4) the date the invoice was issued, if different from the date of fuel delivery;

- (5) the number of gasoline gallon equivalents of compressed natural gas or diesel gallon equivalents of liquefied natural gas delivered;
- (6) the rate and the amount of tax added, separately stated from the selling price; and
- (7) the type of vehicle or equipment into which the fuel is delivered.

(b) Requires the purchaser or person who received the delivery of compressed natural gas or liquefied natural gas to obtain the original invoice from the dealer not later than the 30th day after the date the fuel is delivered. Authorizes one invoice, if the purchase or delivery of fuel is made through an automated method in which the purchase or delivery is automatically applied to the purchaser or recipient's account, to be issued at the time of billing that covers multiple purchases or deliveries made during a 30-day billing cycle.

(c) Requires the comptroller to pay a refund by warrant to a person who files a valid refund claim.

(d) Provides that a person who files a claim for a tax refund on compressed natural gas or liquefied natural gas used for a purpose for which a tax refund is not authorized or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered forfeits the person's right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

(e) Requires the comptroller, after examining the refund claim and before issuing a refund warrant, to deduct from the amount of the refund the one percent originally deducted by the dealer under Section 162.362(b).

Sec. 162.368. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Entitles a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, except as otherwise provided by this section, to a refund of taxes paid under this subchapter for compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle used to provide services under the contract and authorizes the transit authority to file a refund claim with the comptroller for the amount of those taxes.

(b) Requires that the refund claim under Subsection (a) contain information regarding vehicle mileage; hours of service provided; fuel consumed; the total number of student passengers per route; and the total number of non-student passengers per route.

(c) Provides that if, in any month of a school year, the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) Requires a metropolitan rapid transit authority that requests a refund under this section to maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED. (a) Requires that a claim for a refund, except as otherwise provided by this section, be filed with the comptroller before the first anniversary of the first day of the calendar month following the purchase, use, or

delivery of compressed natural gas or liquefied natural gas, whichever period expires latest.

(b) Authorizes the excess credit amount, if the amount of credit that a licensed interstate trucker is entitled to take under Section 162.365(b) exceeds the amount of tax due on that reporting period, to be claimed on any of three successive quarterly returns following the period in which the credit was established, or the licensed interstate trucker to seek a refund from the comptroller on or before the due date of the third successive quarterly return following the period in which the credit was established. Provides that a credit that is not claimed within the period prescribed by this subsection expires.

(c) Authorizes the purchaser, if the comptroller assesses a dealer for a tax-free sale that is taxable, and the dealer subsequently collects the tax from the purchaser, to file a refund claim before the first anniversary of the date the dealer's deficiency assessment becomes final if the purchaser used the fuel in an exempt manner.

(d) Authorizes a dealer who determines taxes were erroneously reported and remitted or who paid more taxes than were due because of a mistake of fact or law to take a credit on the quarterly tax report on which the error occurred and the tax payment was made to the comptroller. Requires that the credit be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 5. Amends Subchapter F, Chapter 162, Tax Code, by adding Section 162.506, as follows:

Sec. 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX. Requires the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, on or before the fifth workday after the end of each month, to allocate the remainder of the taxes collected under Subchapter D-1 as follows:

- (1) one-fourth of the taxes are required to be deposited to the credit of the available school fund; and
- (2) three-fourths of the taxes are required to be deposited to the credit of the state highway fund.

SECTION 6. Amends Section 162.402(a), Tax Code, as follows:

(a) Provides that a person forfeits to the state a civil penalty of not less than \$25 and not more than \$200 if the person:

- (1)-(13) Makes no change to these subdivisions;
- (14)-(15) Makes nonsubstantive changes;
- (16) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or
- (17) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

SECTION 7. Amends Section 162.403, Tax Code, as follows:

Sec. 162.403. CRIMINAL OFFENSES. Provides that, except as provided by Section 162.404, a person commits an offense if the person:

(1)-(37) Makes no change to these subdivisions;

(38)-(39) Makes nonsubstantive changes;

(40) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or

(41) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

SECTION 8. Amends Section 162.405(b), Tax Code, to provide that an offense under Section 162.403(40) or (41) is a Class B misdemeanor.

SECTION 9. Requires the comptroller, as soon as practicable before, on, or after the effective date of this Act, to adopt any rules necessary to implement the changes in law made by this Act and begin accepting applications for and issuing compressed natural gas and liquefied natural gas dealer's licenses and interstate trucker's licenses under Sections 162.357 and 162.358, Tax Code, as added by this Act, that become effective on or after the effective date of this Act.

SECTION 10. Authorizes a person who holds a liquefied gas tax decal license under Section 162.305, Tax Code, that is valid on or after the effective date of this Act, for a vehicle fueled by compressed natural gas or liquefied natural gas to, not later than December 31, 2013, apply to the comptroller for and obtain a pro rata refund of the unused portion of the advanced taxes paid for the period after the effective date of this Act. Requires the comptroller to provide application forms for refunds under this section.

SECTION 11. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 12. Effective date: September 1, 2013.