

## **BILL ANALYSIS**

C.S.H.B. 2148  
By: Hilderbran  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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 separate system 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. C.S.H.B. 2148 seeks to align state taxes on the use of natural gas with those applied to gasoline and diesel fuel.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 3 and 8 of this bill.

### **ANALYSIS**

C.S.H.B. 2148 amends the Tax Code to impose a tax on the sale of compressed or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle in connection with a sale of the compressed or liquefied natural gas. The bill makes the dealer liable for the tax. The bill requires the dealer to add the amount of the tax to the selling price so that the tax is paid by the purchaser and 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. The bill establishes that when the amount of the tax is added, it becomes a part of the sales price, is a debt of the purchaser to the dealer, and, if unpaid, is recoverable at law in the same manner as the original sales price. The bill imposes a tax on the delivery of compressed 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 gas and makes the fleet user or other dealer liable for the tax. The bill sets the rate of both taxes at 15 cents for each gasoline gallon equivalent or fractional part of compressed natural gas or each diesel gallon equivalent or fractional part of liquefied natural gas. The bill imposes a backup tax on certain persons who use, sell, or deliver compressed or liquefied natural gas for a taxable purpose for which a refund was obtained by claiming the fuel was used for an exempt purpose when the fuel was actually used for a taxable purpose or for which use the tax has not been paid. The bill provides for the imposition of the backup tax and liability under such a tax. The bill defines "diesel gallon equivalent" to mean to mean 1.7 gallons of liquefied natural gas or 6.035 pounds of liquefied natural gas and "gasoline gallon equivalent" to mean 5.660 pounds of compressed natural gas.

C.S.H.B. 2148 establishes that such compressed and liquefied natural gas is presumed to be subject to tax and that the dealer or fleet user or other dealer, as applicable, is liable for the tax

unless the person maintains adequate records to establish that the fuel was exempt from the tax. The bill exempts from the tax compressed or liquefied natural gas delivered into the fuel supply tank of certain governmental motor vehicles, vehicles that provide public services, or motor vehicles, equipment, or other devices not intended to be operated on the public highways.

C.S.H.B. 2148 prohibits a person from selling compressed or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle and on which the tax is imposed, delivering compressed or liquefied natural gas into the fuel supply tank of a motor vehicle not in connection with a sale and on which the tax is imposed, otherwise conducting the activities of a fleet user, or conducting the activities of an aviation fuel dealer who delivers compressed or liquefied natural gas unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller of public accounts. The bill makes the license permanent, nontransferable, and 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 as specified by the bill. The bill sets out provisions for the license application procedure and for the issuance and display of the license and requirements applicable to an interstate trucker's license that authorizes an interstate trucker to report and pay the tax and take a credit or claim a refund.

C.S.H.B. 2148 requires the comptroller to determine the amount of security required of a dealer and 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 the state, given certain considerations. The bill sets out requirements for such securities and bonds, including provisions relating to minimum and maximum bond amounts; the return, refund, or release of bonds or securities; securities that may be filed as substitutes for a surety bond; and the use of securities to satisfy delinquent tax liability.

C.S.H.B. 2148 requires a licensed dealer or a trucker to file a quarterly report and remit the amount of tax due and provides that a specified percentage of the tax is allocated to a licensed dealer or trucker who files a report and remits the tax due on or before the due date. The bill sets out requirements for filing a report, including the information required to be included in the report, and establishes the types of records that a dealer or trucker is required to keep and the length of time that such records must be kept.

C.S.H.B. 2148 provides that a person who receives or collects the tax imposed by the bill's provisions holds the amount received or collected in trust for the benefit of the state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected. The bill prohibits a dealer who receives a payment of tax from applying the payment of tax to a debt that the person making the payment owes for compressed or liquefied natural gas purchased from the dealer. The bill makes a person required to receive or collect the tax liable for and required to pay the tax in the manner provided by the bill's provisions.

C.S.H.B. 2148 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 to file a refund claim with the comptroller if the license holder or person paid tax on compressed or liquefied natural gas and the license holder or person meets certain other conditions. The bill authorizes a licensed interstate trucker to take a credit on a return for the period in which the purchase occurred if the trucker paid tax on compressed or liquefied natural gas and used the fuel outside Texas in commercial vehicles operated under an interstate trucker license and establishes the deadline for claiming the credit. The bill authorizes a transit company that paid tax on the purchase of compressed 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. The bill establishes that the right to receive a refund or take a credit is not assignable and authorizes the comptroller to adopt rules specifying procedures and requirements that must be followed to take a credit or receive a refund.

C.S.H.B. 2148 authorizes a licensed dealer to take a credit on a return if the dealer paid the taxes imposed on compressed or liquefied natural gas sold on account, the dealer determines that the amount is uncollectible and worthless, and the account is written off as bad debt on the dealer's accounting books. The bill sets out requirements for filing the credit, the amount of the credit, and applicable penalties for a dealer who takes a credit that was not authorized and for a person in relation to whom a dealer has taken a credit. The bill establishes that the bill's provisions relating to refunds and credits do not apply to a sale for which payment is made through the use and acceptance of a credit card. The bill 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.

C.S.H.B. 2148 sets out procedures for claiming a refund and addressing errors regarding reports and remittances, including for a metropolitan rapid transit authority that is a party to a contract to provide a school district's public school transportation, and requires the comptroller to pay a refund by warrant to a person who files a valid refund claim and is not a license holder. The bill establishes deadlines and other required filing dates for filing compressed or liquefied natural gas tax refunds or credits.

C.S.H.B. 2148 requires the comptroller, on or before the fifth workday after the end of each month, to allocate and deposit one-fourth of the remainder of the compressed and liquefied natural gas taxes collected after making deductions for refund purposes and for the administration and enforcement of motor fuel taxes to the credit of the available school fund and three-fourths of the remainder of such taxes to the credit of the state highway fund.

C.S.H.B. 2148 expands the conduct that constitutes the Class B misdemeanor offense involving motor fuel taxes to include delivering compressed or liquefied natural gas into the fuel supply tank of a motor vehicle while not holding a valid compressed and liquefied natural gas dealer's license or making a tax-free delivery of compressed or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under the bill's provisions. The bill establishes that such conduct also makes a person liable for a civil penalty to the state of not less than \$25 and not more than \$200.

C.S.H.B. 2148 requires the comptroller, as soon as practicable before, on, or after the bill's effective date, to adopt any rules necessary to implement the bill's provisions and to begin accepting applications for and issuing compressed and liquefied natural gas dealer's licenses and interstate trucker's licenses that became effective on or after the bill's effective date. The bill authorizes a person who holds a liquefied gas tax decal license that is effective on or after the bill's effective date for a vehicle fueled by compressed or liquefied natural gas, not later than December 31, 2013, to 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 bill's effective date. The bill requires the comptroller to provide application forms for such refunds.

#### **EFFECTIVE DATE**

September 1, 2013.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2148 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The legislature finds that:

- (1) this Act does not impose a new tax;
- (2) compressed natural gas and liquefied natural gas are currently taxed and this Act leaves the tax rate effectively unchanged;
- (3) this Act provides a new collection mechanism for an existing tax; and
- (4) this Act provides a more efficient method of tax administration for taxpayers and for this state.

SECTION 2. Section 162.001, Tax Code, is amended by amending Subdivisions (4), (16), (19), (29), (38), (39), (42), and (43) and adding Subdivisions (19-a), (24-a), (29-a), and (40-a) to read as follows:

(4) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline, ~~or~~ diesel fuel, compressed natural gas, or liquefied natural gas exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline, ~~or~~ diesel fuel, compressed natural gas, or liquefied natural gas on which a fuel tax is required to be collected or paid to this state.

(16) "Compressed natural gas" means natural gas that has been compressed [~~and dispensed into motor fuel storage containers~~] and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for the propulsion of a diesel-powered engine. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include compressed natural gas, liquefied natural gas, gasoline, aviation gasoline, or liquefied gas.

(19-a) "Diesel gallon equivalent" means:

(A) 6.310 pounds of compressed natural gas; or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 162.001, Tax Code, is amended by amending Subdivisions (4), (16), (19), (29), (38), (39), (42), and (43) and adding Subdivisions (19-a), (24-a), (29-a), and (40-a) to read as follows:

(4) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline, ~~or~~ diesel fuel, compressed natural gas, or liquefied natural gas exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline, ~~or~~ diesel fuel, compressed natural gas, or liquefied natural gas on which a fuel tax is required to be collected or paid to this state.

(16) "Compressed natural gas" means natural gas that has been compressed [~~and dispensed into motor fuel storage containers~~] and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for the propulsion of a diesel-powered engine. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include compressed natural gas, liquefied natural gas, gasoline, aviation gasoline, or liquefied gas.

(19-a) "Diesel gallon equivalent" means:

(A) 1.7 gallons of liquefied natural gas; or

(B) 6.060 pounds of liquefied natural gas.

(24-a) "Fleet user" means a person who produces compressed natural gas or liquefied natural gas or maintains storage facilities for compressed natural gas or liquefied natural gas and who delivers all or part of the fuel produced or stored into the fuel supply tank of two or more motor vehicles owned or leased by that person.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include compressed natural gas, liquefied natural gas, racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(29-a) "Gasoline gallon equivalent" means

(A) 5.660 pounds of compressed natural gas; or,

(B) 5.370 pounds of liquefied natural gas.

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, 162.304, 162.305, [Ø] 162.306, 162.357, or 162.358.

(39) "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include compressed natural gas, liquefied natural gas, gasoline, or diesel fuel.

(40-a) "Liquefied natural gas" mean natural gas that has been cooled to a liquid state and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, compressed natural gas, or liquefied natural gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor;

(B) 6.035 pounds of liquefied natural gas.

(24-a) "Fleet user" means a person who produces compressed natural gas or liquefied natural gas or maintains storage facilities for compressed natural gas or liquefied natural gas and who delivers all or part of the fuel produced or stored into the fuel supply tank of a motor vehicle.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include compressed natural gas, liquefied natural gas, racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(29-a) "Gasoline gallon equivalent" means 5.660 pounds of compressed natural gas.

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, 162.304, 162.305, [Ø] 162.306, 162.357, or 162.358.

(39) "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include compressed natural gas, liquefied natural gas, gasoline, or diesel fuel.

(40-a) "Liquefied natural gas" mean natural gas that has been cooled to a liquid state and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, compressed natural gas, or liquefied natural gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor;

and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

SECTION 3. Chapter 162, Tax Code, is amended by adding Subchapter D-1 to read 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) A tax is imposed 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) The dealer is liable for the tax imposed under this section, including a delivery of compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle at no cost to the motor vehicle owner unless a documented exemption pursuant to this sub-chapter applies.

(c) The dealer shall add the amount of the tax to the selling price so that the tax is paid by the purchaser. When the amount of the tax is added:

- (1) it becomes a part of the sales price;
- (2) it is a debt of the purchaser to the dealer; and
- (3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(d) The dealer shall 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.

Sec. 162.353. TAX RATE.

Sec. 162.354. BACKUP TAX; LIABILITY.

Sec. 162.355. FUEL PRESUMED

and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

SECTION 3. Chapter 162, Tax Code, is amended by adding Subchapter D-1 to read 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) A tax is imposed 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) The dealer is liable for the tax imposed under this section.

(c) The dealer shall add the amount of the tax to the selling price so that the tax is paid by the purchaser. When the amount of the tax is added:

- (1) it becomes a part of the sales price;
- (2) it is a debt of the purchaser to the dealer; and
- (3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(d) The dealer shall 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.

Sec. 162.353. TAX RATE.

Sec. 162.354. BACKUP TAX; LIABILITY.

Sec. 162.355. FUEL PRESUMED

SUBJECT TO TAX. (a) 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 unless the dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

(b) 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) 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.

Sec. 162.357. DEALER'S LICENSE.

Sec. 162.358. INTERSTATE TRUCKER'S LICENSE.

Sec. 162.359. LICENSE APPLICATION PROCEDURE.

Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE.

Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES.

Sec. 162.362. RETURNS AND PAYMENTS; ALLOWANCES.

Sec. 162.363. RECORDS. (a) A dealer shall 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

SUBJECT TO TAX. (a) 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) unless the dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

(b) 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) 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.

Sec. 162.357. DEALER'S LICENSE.

Sec. 162.358. INTERSTATE TRUCKER'S LICENSE.

Sec. 162.359. LICENSE APPLICATION PROCEDURE.

Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE.

Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES.

Sec. 162.362. RETURNS AND PAYMENTS; ALLOWANCES.

Sec. 162.363. RECORDS. (a) A dealer shall 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, showing the name of the operator of the vehicle or the owner of the equipment and the date of the delivery; and

(8) all compressed natural gas and liquefied natural gas lost by fire, theft, or accident.

(b) An interstate trucker shall keep a record of:

(1) 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

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

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

Sec. 162.364. DUTIES OF PERSONS HOLDING TAX PAYMENTS.

Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may 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

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 delivered into the fuel supply tank of a motor vehicle or other 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; and

(8) all compressed natural gas and liquefied natural gas lost by fire, theft, or accident.

(b) An interstate trucker shall keep a record of:

(1) 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

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

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

Sec. 162.364. DUTIES OF PERSONS HOLDING TAX PAYMENTS. (

Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may 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 may not be allowed for the portion used in the incidental highway travel.

(b) A licensed interstate trucker may take a credit on a return for the period in which the

fuel was delivered into the fuel supply tank of a motor vehicle operated 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 license holder or 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 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 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 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 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 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 may not be allowed for the portion used in the incidental highway travel.

(b) A licensed interstate trucker may 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 must be taken within the limitation period provided by Section 162.369.

(c) A transit company that paid tax on the purchase of compressed natural gas or liquefied natural gas may 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) The right to receive a refund or take a credit under this section is not assignable.

(e) The comptroller may adopt rules specifying procedures and requirements that must be followed to take a credit or receive a refund under this section.

Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT.

Sec. 162.367. CLAIMS FOR REFUNDS.

(a) A refund claim must 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 to the selling price; and

(7) the type of vehicle or equipment into which the fuel is delivered.

(b) The purchaser or person who received the delivery of compressed natural gas or liquefied natural gas must obtain the original invoice from the dealer not later than the 30th day after the date the fuel is delivered. If the purchase or delivery of fuel

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 must be taken within the limitation period provided by Section 162.369.

(c) A transit company that paid tax on the purchase of compressed natural gas or liquefied natural gas may 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) The right to receive a refund or take a credit under this section is not assignable.

(e) The comptroller may adopt rules specifying procedures and requirements that must be followed to take a credit or receive a refund under this section.

Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT.

Sec. 162.367. CLAIMS FOR REFUNDS.

(a) A refund claim must 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 amount of tax, either separately stated from the selling price or stated with a notation that the selling price includes the tax; and

(7) the type of vehicle or equipment into which the fuel is delivered.

(b) The purchaser or person who received the delivery of compressed natural gas or liquefied natural gas must obtain the original invoice from the dealer not later than the 30th day after the date the fuel is delivered. 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, one invoice may be issued at the time of billing that covers multiple purchases or deliveries made during a 30-day billing cycle.

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

(d) 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) After examining the refund claim and before issuing a refund warrant, the comptroller shall 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.

Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED.

SECTION 4. Subchapter F, Chapter 162, Tax Code, is amended .

SECTION 5. Section 162.402(a), Tax Code, is amended.

SECTION 6. Section 162.403, Tax Code, is amended.

is made through an automated method in which the purchase or delivery is automatically applied to the purchaser or recipient's account, one invoice may be issued at the time of billing that covers multiple purchases or deliveries made during a 30-day billing cycle.

(c) The comptroller shall pay a refund by warrant to a person who files a valid refund claim ~~and is not a license holder~~.

(d) 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) After examining the refund claim and before issuing a refund warrant, the comptroller shall 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.

Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Section 162.405(b), Tax Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. As soon as practicable before, on, or after the effective date of this Act, the comptroller of public accounts shall:

SECTION 8. Same as introduced version.

(1) adopt any rules necessary to implement the changes in law made by this Act; and  
(2) 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 9. 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 may, not later than December 31, 2013, apply to the comptroller of public accounts 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. The comptroller shall provide application forms for refunds under this section.

SECTION 9. Same as introduced version.

SECTION 10. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. 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 10. Same as introduced version.

SECTION 11. This Act takes effect July 1, 2013, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect September 1, 2013.

SECTION 11. This Act takes effect September 1, 2013.