

By: Hilderbran

H.B. No. 2148

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the motor fuel tax on compressed natural gas and
3 liquefied natural gas; providing penalties; imposing a tax.

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

5 SECTION 1. The legislature finds that:

6 (1) this Act does not impose a new tax;

7 (2) compressed natural gas and liquefied natural gas
8 are currently taxed and this Act leaves the tax rate effectively
9 unchanged;

10 (3) this Act provides a new collection mechanism for
11 an existing tax; and

12 (4) this Act provides a more efficient method of tax
13 administration for taxpayers and for this state.

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

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

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

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

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

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

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

18 (19-a) "Diesel gallon equivalent" means:

19 (A) 6.380 pounds of compressed natural gas; or

20 (B) 6.060 pounds of liquefied natural gas.

21 (24-a) "Fleet user" means a person who produces
22 compressed natural gas or liquefied natural gas or maintains
23 storage facilities for compressed natural gas or liquefied natural
24 gas and who delivers all or part of the fuel produced or stored into
25 the fuel supply tank of a motor vehicle.

26 (29) "Gasoline" means any liquid or combination of
27 liquids blended together, offered for sale, sold, used, or capable

1 of use as fuel for a gasoline-powered engine. The term includes
2 gasohol, aviation gasoline, and blending agents, but does not
3 include compressed natural gas, liquefied natural gas, racing
4 gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

5 (29-a) "Gasoline gallon equivalent" means:

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

7 (B) 5.370 pounds of liquefied natural gas.

8 (38) "License holder" means a person licensed by the
9 comptroller under Section 162.105, 162.205, 162.304, 162.305, [~~or~~]
10 162.306, 162.357, or 162.358.

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

16 (40-a) "Liquefied natural gas" mean natural gas that
17 has been cooled to a liquid state and is advertised, offered for
18 sale, sold, suitable for use, or used as an engine motor fuel.

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

24 (43) "Motor fuel transporter" means a person who
25 transports gasoline, diesel fuel, gasoline blended fuel, aviation
26 fuel, or any other motor fuel, except liquefied gas, compressed
27 natural gas, or liquefied natural gas, outside the bulk

1 transfer/terminal system by means of a transport vehicle, a
2 railroad tank car, or a marine vessel. The term does not include a
3 person who:

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

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

10 SECTION 3. Subchapter D, Chapter 162, Tax Code, is amended
11 by adding Section 162.312 to read as follows:

12 Sec. 162.312. APPLICABILITY OF SUBCHAPTER TO CERTAIN PUBLIC
13 TRANSPORTATION PROVIDERS USING COMPRESSED NATURAL GAS OR LIQUEFIED
14 NATURAL GAS. (a) This section applies only to a person who:

15 (1) operates motor vehicles used to provide the
16 services of a transit company, including a metropolitan rapid
17 transit authority under Chapter 451, Transportation Code, or a
18 regional transportation authority under Chapter 452,
19 Transportation Code; and

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

22 (b) Notwithstanding Subchapter D-1, a person to which this
23 section applies may:

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

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

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

9 (d) In this subchapter, "liquefied gas" includes compressed
10 natural gas and liquefied natural gas with respect to the persons to
11 which this section applies.

12 (e) The comptroller shall adopt rules necessary to
13 implement this section.

14 SECTION 4. Chapter 162, Tax Code, is amended by adding
15 Subchapter D-1 to read as follows:

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

17 TAX

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

23 (b) The dealer is liable for the tax imposed under this
24 section.

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

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

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

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

14 (b) The fleet user or other dealer is liable for the tax
15 imposed under this section.

16 Sec. 162.353. TAX RATE; UNIT OF MEASUREMENT. (a) The rate
17 of the tax under Sections 162.351 and 162.352 is 15 cents for each:

18 (1) gasoline gallon equivalent or fractional part of
19 compressed natural gas or liquefied natural gas; or

20 (2) diesel gallon equivalent or fractional part of
21 compressed natural gas or liquefied natural gas.

22 (b) The tax shall be imposed on an amount of compressed
23 natural gas or liquefied natural gas equal to a:

24 (1) diesel gallon equivalent of compressed natural
25 gas, as provided by Section 162.001(19-a)(A), if the natural gas
26 dispenser lists the price in diesel gallon equivalents and the
27 natural gas is supplied to the dispenser from a pipeline or other

1 nonliquefied source;

2 (2) diesel gallon equivalent of liquefied natural gas,
3 as provided by Section 162.001(19-a)(B), if the natural gas
4 dispenser lists the price in diesel gallon equivalents and the
5 natural gas is supplied to the dispenser from a liquefied source;

6 (3) gasoline gallon equivalent of compressed natural
7 gas, as provided by Section 162.001(29-a)(A), if the natural gas
8 dispenser lists the price in gasoline gallon equivalents and the
9 natural gas is supplied to the dispenser from a pipeline or other
10 nonliquefied source; or

11 (4) gasoline gallon equivalent of liquefied natural
12 gas, as provided by Section 162.001(29-a)(B), if the natural gas
13 dispenser lists the price in gasoline gallon equivalents and the
14 natural gas is supplied to the dispenser from a liquefied source.

15 Sec. 162.354. BACKUP TAX; LIABILITY. (a) A backup tax is
16 imposed at the rate prescribed by Section 162.353 on:

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

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

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

1 and

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

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

9 (c) The tax imposed under Subsection (a)(3) is also imposed
10 on the ultimate consumer.

11 (d) The tax imposed under Subsection (a)(4) is also imposed
12 on the operator of the motor vehicle or the motor vehicle's owner or
13 lessee.

14 (e) The tax liability imposed by this section is in addition
15 to any penalty imposed under this chapter.

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

23 (b) All compressed natural gas and liquefied natural gas
24 delivered into the fuel supply tank of a motor vehicle by a fleet
25 user or other dealer not in connection with a sale is presumed to be
26 subject to tax, and the fleet user or other dealer is liable for the
27 tax under Section 162.352(b) and in accordance with Section 162.012

1 unless the fleet user or other dealer maintains adequate records to
2 establish that the fuel was exempt from tax under Section 162.356.

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

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

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

12 (3) a motor vehicle operated exclusively by a
13 commercial transportation company or a metropolitan rapid transit
14 authority operating under Chapter 451, Transportation Code, that
15 provides public school transportation services to a school district
16 under Section 34.008, Education Code, and that uses the fuel only to
17 provide those services;

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

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

22 (6) a motor vehicle operated exclusively by a
23 nonprofit electric cooperative corporation organized under Chapter
24 161, Utilities Code;

25 (7) a motor vehicle operated exclusively by a
26 nonprofit telephone cooperative corporation organized under
27 Chapter 162, Utilities Code;

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

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

9 Sec. 162.357. DEALER'S LICENSE. (a) A person may not sell
10 compressed natural gas or liquefied natural gas that is delivered
11 into the fuel supply tank of a motor vehicle and on which tax is
12 imposed under Section 162.351 unless the person holds a compressed
13 natural gas and liquefied natural gas dealer's license issued by
14 the comptroller.

15 (b) A person may not deliver compressed natural gas or
16 liquefied natural gas into the fuel supply tank of a motor vehicle
17 not in connection with a sale and on which tax is imposed under
18 Section 162.352, or otherwise conduct the activities of a fleet
19 user, unless the person holds a compressed natural gas and
20 liquefied natural gas dealer's license issued by the comptroller.

21 (c) A person may not conduct the activities of an aviation
22 fuel dealer who delivers compressed natural gas or liquefied
23 natural gas unless the person holds a compressed natural gas and
24 liquefied natural gas dealer's license issued by the comptroller.

25 (d) A compressed natural gas and liquefied natural gas
26 dealer's license is permanent and is valid during the period the
27 license holder has in force and effect the required bond or security

1 and furnishes timely reports and supplements as required, or until
2 the license is surrendered by the license holder or canceled by the
3 comptroller. The comptroller shall cancel a license under this
4 subsection if the license holder has not reported a delivery of
5 compressed natural gas or liquefied natural gas during the previous
6 nine months.

7 (e) A compressed natural gas and liquefied natural gas
8 dealer's license is not transferable.

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

15 (b) An interstate trucker's license is valid from the date
16 of issuance until December 31 of each calendar year or until the
17 license is surrendered by the license holder or canceled by the
18 comptroller. The comptroller may renew an interstate trucker's
19 license each calendar year if the license holder furnishes timely
20 reports as required.

21 (c) An interstate trucker's license is not transferable.

22 Sec. 162.359. LICENSE APPLICATION PROCEDURE. An applicant
23 for a license under this subchapter must file an application using a
24 form adopted by the comptroller that contains:

25 (1) the name under which the applicant transacts or
26 intends to transact business;

27 (2) the applicant's principal office, residence, or

1 place of business in this state, or other location of the applicant;

2 (3) if the applicant is not an individual, the names of
3 the principal officers of an applicant corporation, or the names of
4 the members of an applicant partnership, and the office, street, or
5 post office addresses of each; and

6 (4) other information required by the comptroller.

7 Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE. (a) If the
8 comptroller approves a license application, the comptroller shall
9 issue a license to the applicant. A license holder shall post the
10 license in a conspicuous place or keep the license available for
11 inspection at the license holder's principal place of business. A
12 license holder shall keep a copy of the license at each place of
13 business or other place of storage from which compressed natural
14 gas or liquefied natural gas is sold or delivered.

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

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

25 (b) The comptroller may require a license holder to post a
26 bond if the comptroller determines it is necessary for the license
27 holder to post security to protect the revenues of this state. A

1 license holder must post a bond equal to two times the maximum
2 amount of tax that could accrue on compressed natural gas or
3 liquefied natural gas produced, purchased, acquired, sold, or
4 delivered during a reporting period. The minimum bond for a person
5 described by Section 162.357(a) is \$30,000. The comptroller shall
6 prescribe the minimum bond for a person described by Section
7 162.357(b) or (c) who is not described by Section 162.357(a). The
8 maximum bond is \$600,000 unless the comptroller believes there is
9 undue risk of loss of tax revenues, in which event the comptroller
10 may require one or more bonds or securities in a total amount
11 exceeding \$600,000.

12 (c) A license holder who has filed a bond or other security
13 under this subchapter is entitled, on request, to have the
14 comptroller return, refund, or release the bond or security if in
15 the judgment of the comptroller the person has for four consecutive
16 years continuously complied with the conditions of the bond or
17 other security filed under this subchapter. However, if the
18 comptroller determines that the revenues of this state would be
19 jeopardized by the return, refund, or release of the bond or
20 security, the comptroller may elect not to return, refund, or
21 release the bond or security and may reimpose a requirement of a
22 bond or other security as the comptroller determines necessary to
23 protect the revenues of this state.

24 (d) A bond must be a continuing instrument, must constitute
25 a new and separate obligation in the penal sum named in the bond for
26 each calendar year or portion of a year while the bond is in force,
27 and must remain in effect until the surety on the bond is released

1 and discharged.

2 (e) Instead of filing a surety bond, an applicant for a
3 license may substitute the following security:

4 (1) cash in the form of United States currency in an
5 amount equal to the required bond to be deposited in a suspense
6 account of the state treasury;

7 (2) an assignment to the comptroller of a certificate
8 of deposit in any bank or savings and loan association in this state
9 that is a member of the Federal Deposit Insurance Corporation in an
10 amount at least equal to the bond amount required; or

11 (3) an irrevocable letter of credit to the comptroller
12 from any bank or savings and loan association in this state that is
13 a member of the Federal Deposit Insurance Corporation in an amount
14 of credit at least equal to the bond amount required.

15 (f) If the amount of an existing bond becomes insufficient
16 or a security becomes unsatisfactory or unacceptable, the
17 comptroller may require the license holder to file a new or an
18 additional bond or security.

19 (g) A surety bond or other form of security may not be
20 released until the comptroller determines by examination or audit
21 that a tax, penalty, or interest liability does not exist. The
22 comptroller shall release the cash or securities not later than the
23 60th day after the date the comptroller determines that liability
24 does not exist.

25 (h) The comptroller may use the cash or certificate of
26 deposit security to satisfy a final determination of delinquent
27 liability or a judgment secured in any action by this state to

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

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

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

1 comptroller's delinquency claim against the license holder.

2 (k) A license holder may request an examination or audit to
3 obtain release of the security when the license holder relinquishes
4 the license or when the license holder wants to substitute one form
5 of security for an existing one.

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

12 (b) If a licensed dealer files a report and remits the tax
13 due on or before the due date under Subsection (a), one percent of
14 the tax due is allocated to the licensed dealer for the expense of
15 collecting, accounting for, reporting, and timely remitting the
16 taxes collected and for keeping the records. The licensed dealer
17 shall deduct the allocated amount from the tax due when paying the
18 tax to this state.

19 (c) A licensed interstate trucker, on or before the 25th day
20 of the month following the end of each calendar quarter, shall file
21 a report and remit the amount of tax due. A report shall be filed
22 with the comptroller on forms provided for that purpose and must
23 contain the number of miles traveled in this state, the number of
24 miles traveled outside this state, and other information required
25 by the comptroller. An interstate trucker who is required to file a
26 report under this section and who has not made interstate trips or
27 used compressed natural gas or liquefied natural gas in motor

1 vehicles in this state during the reporting period shall file with
2 the comptroller a report that includes those facts or that
3 information.

4 (d) If a licensed interstate trucker files a report and
5 remits the tax due on or before the due date under Subsection (c),
6 one-half of one percent of the tax paid on compressed natural gas
7 and liquefied natural gas used in this state by the interstate
8 trucker is allocated to the interstate trucker for the expense of
9 accounting for, reporting, and timely remitting the taxes due and
10 for keeping the records. The licensed interstate trucker shall
11 deduct the allocated amount from the tax due when paying the tax to
12 this state. If the allocated amount exceeds the amount of tax due,
13 the interstate trucker may file a refund claim with the
14 comptroller.

15 Sec. 162.363. RECORDS. (a) A dealer shall keep a record
16 showing:

17 (1) compressed natural gas and liquefied natural gas
18 inventories at the first of each month;

19 (2) the amount of natural gas compressed by the dealer
20 and the amount of natural gas liquefied by the dealer;

21 (3) all compressed natural gas and liquefied natural
22 gas purchased or received, showing the name of the seller and the
23 date of each purchase or receipt;

24 (4) all compressed natural gas and liquefied natural
25 gas sold and delivered into the fuel supply tank of a motor vehicle,
26 showing the date of the sale;

27 (5) all compressed natural gas and liquefied natural

1 gas sold but not delivered into the fuel supply tank of a motor
2 vehicle, showing the date of the sale;

3 (6) all compressed natural gas and liquefied natural
4 gas delivered into the fuel supply tank of a motor vehicle not in
5 connection with a sale, showing the date of the delivery;

6 (7) all compressed natural gas and liquefied natural
7 gas delivered into the fuel supply tank of a motor vehicle or other
8 equipment exempt from tax under Section 162.356 or sold to the
9 operator of a motor vehicle or owner of equipment exempt from tax
10 under Section 162.356, showing the name of the operator of the
11 vehicle or the owner of the equipment and the date of the delivery
12 or sale; and

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

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

16 (1) the total miles traveled in all states by all
17 vehicles traveling to or from this state and the total quantity of
18 compressed natural gas and liquefied natural gas consumed in those
19 vehicles; and

20 (2) the total miles traveled in this state and the
21 total quantity of compressed natural gas or liquefied natural gas
22 purchased and delivered into the fuel supply tanks of motor
23 vehicles in this state.

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

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

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

9 (b) A dealer who receives a payment of tax under this
10 subchapter may not apply the payment of tax to a debt that the
11 person making the payment owes for compressed natural gas or
12 liquefied natural gas purchased from the dealer.

13 (c) A person required to receive or collect a tax under this
14 subchapter is liable for and shall pay the tax in the manner
15 provided by this subchapter.

16 Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID.

17 (a) A license holder may take a credit on a return for the period
18 in which the purchase occurred, and a person who does not hold a
19 license under this subchapter may file a refund claim with the
20 comptroller if the license holder or person paid tax on compressed
21 natural gas or liquefied natural gas and the license holder or
22 person:

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

1 the United States;

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

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

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

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

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

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

24 (8) uses the fuel in off-highway equipment, in a
25 stationary engine, in a motorboat, in an aircraft, in equipment
26 used solely for servicing aircraft and used exclusively
27 off-highway, in a locomotive, or for other nonhighway purposes and

1 not in a motor vehicle operated or intended to be operated on the
2 public highways; or

3 (9) uses the fuel in a motor vehicle that is operated
4 exclusively off-highway, except for incidental travel on the public
5 highways as determined by the comptroller, provided that a credit
6 or refund may not be allowed for the portion used in the incidental
7 highway travel.

8 (b) A licensed interstate trucker may take a credit on a
9 return for the period in which the purchase occurred if the licensed
10 interstate trucker paid tax on compressed natural gas or liquefied
11 natural gas and uses the fuel outside this state in commercial
12 vehicles operated under an interstate trucker license, provided
13 that a credit taken under this subsection must be taken within the
14 limitation period provided by Section 162.369.

15 (c) A transit company that paid tax on the purchase of
16 compressed natural gas or liquefied natural gas may apply to the
17 comptroller for and obtain a refund in an amount equal to one cent
18 per gasoline gallon equivalent of compressed natural gas or diesel
19 gallon equivalent of liquefied natural gas used in transit
20 vehicles.

21 (d) The right to receive a refund or take a credit under this
22 section is not assignable.

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

26 Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT. (a) A
27 licensed dealer may take a credit on a return filed under this

1 subchapter if:

2 (1) the dealer paid the taxes imposed by this
3 subchapter on compressed natural gas or liquefied natural gas sold
4 on account;

5 (2) the dealer determines that the account is
6 uncollectible and worthless; and

7 (3) the account is written off as a bad debt on the
8 dealer's accounting books.

9 (b) The return on which the credit is taken must state, if
10 applicable, the name of the person whose account has been written
11 off as a bad debt or who failed to remit the tax and any other
12 information required by the comptroller. The amount of the credit
13 that may be taken under Subsection (a) may be equal to but may not
14 exceed the amount of taxes paid on the compressed natural gas or
15 liquefied natural gas to which the written-off account applies.

16 (c) If, after a credit is taken under Subsection (a), the
17 account on which the credit was based is paid, or if the comptroller
18 otherwise determines that the credit was not authorized by
19 Subsection (a), the dealer who took the credit shall pay the unpaid
20 taxes plus a penalty of 10 percent of the amount of the unpaid taxes
21 and interest at the rate provided by Section 111.060 beginning on
22 the day the report showing the credit was filed and ending on the
23 date the taxes and penalty are paid.

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

27 (e) A credit under this section must be taken at the time the

1 account is written off as a bad debt, but may only be taken before
2 the expiration of the applicable limitation period as provided by
3 Chapter 111.

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

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

10 (1) the stamped or preprinted name and address of the
11 dealer;

12 (2) the name of the purchaser or person who received
13 the delivery of fuel;

14 (3) the date of delivery of the fuel;

15 (4) the date the invoice was issued, if different from
16 the date of fuel delivery;

17 (5) the number of gasoline gallon equivalents of
18 compressed natural gas or diesel gallon equivalents of liquefied
19 natural gas delivered;

20 (6) the rate and amount of tax, separately stated from
21 the selling price; and

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

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

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

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

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

17 (e) After examining the refund claim and before issuing a
18 refund warrant, the comptroller shall deduct from the amount of the
19 refund the one percent originally deducted by the dealer under
20 Section 162.362(b).

21 Sec. 162.368. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT
22 AUTHORITIES. (a) Except as otherwise provided by this section, a
23 metropolitan rapid transit authority operating under Chapter 451,
24 Transportation Code, that is a party to a contract governed by
25 Section 34.008, Education Code, is entitled to a refund of taxes
26 paid under this subchapter for compressed natural gas or liquefied
27 natural gas delivered into the fuel supply tank of a motor vehicle

1 used to provide services under the contract and may file a refund
2 claim with the comptroller for the amount of those taxes.

3 (b) The refund claim under Subsection (a) must contain
4 information regarding:

5 (1) vehicle mileage;

6 (2) hours of service provided;

7 (3) fuel consumed;

8 (4) the total number of student passengers per route;

9 and

10 (5) the total number of non-student passengers per
11 route.

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

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

22 Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED
23 NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED. (a) Except as
24 otherwise provided by this section, a claim for a refund must be
25 filed with the comptroller before the first anniversary of the
26 first day of the calendar month following the purchase, use, or
27 delivery of compressed natural gas or liquefied natural gas,

1 whichever period expires latest.

2 (b) If the amount of credit that a licensed interstate
3 trucker is entitled to take under Section 162.365(b) exceeds the
4 amount of tax due on that reporting period, the excess credit amount
5 may be claimed on any of three successive quarterly returns
6 following the period in which the credit was established, or the
7 licensed interstate trucker may seek a refund from the comptroller
8 on or before the due date of the third successive quarterly return
9 following the period in which the credit was established. A credit
10 that is not claimed within the period prescribed by this subsection
11 expires.

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

17 (d) A dealer who determines taxes were erroneously reported
18 and remitted or who paid more taxes than were due because of a
19 mistake of fact or law may take a credit on the quarterly tax report
20 on which the error occurred and the tax payment was made to the
21 comptroller. The credit must be taken before the expiration of the
22 applicable period of limitation as provided by Chapter 111.

23 SECTION 5. Subchapter F, Chapter 162, Tax Code, is amended
24 by adding Section 162.506 to read as follows:

25 Sec. 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND
26 LIQUEFIED NATURAL GAS TAX. On or before the fifth workday after the
27 end of each month, the comptroller, after making deductions for

1 refund purposes and for the administration and enforcement of this
2 chapter, shall allocate the remainder of the taxes collected under
3 Subchapter D-1 as follows:

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

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

8 SECTION 6. Section 162.402(a), Tax Code, is amended to read
9 as follows:

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

12 (1) refuses to stop and permit the inspection and
13 examination of a motor vehicle transporting or using motor fuel on
14 demand of a peace officer or the comptroller;

15 (2) operates a motor vehicle in this state without a
16 valid interstate trucker's license or a trip permit when the person
17 is required to hold one of those licenses or permits;

18 (3) operates a liquefied gas-propelled motor vehicle
19 that is required to be licensed in this state, including motor
20 vehicles equipped with dual carburetion, and does not display a
21 current liquefied gas tax decal or multistate fuels tax agreement
22 decal;

23 (4) makes a tax-free sale or delivery of liquefied gas
24 into the fuel supply tank of a motor vehicle that does not display a
25 current Texas liquefied gas tax decal;

26 (5) makes a taxable sale or delivery of liquefied gas
27 without holding a valid dealer's license;

1 (6) makes a tax-free sale or delivery of liquefied gas
2 into the fuel supply tank of a motor vehicle bearing out-of-state
3 license plates;

4 (7) makes a delivery of liquefied gas into the fuel
5 supply tank of a motor vehicle bearing Texas license plates and no
6 Texas liquefied gas tax decal, unless licensed under a multistate
7 fuels tax agreement;

8 (8) transports gasoline or diesel fuel in any cargo
9 tank that has a connection by pipe, tube, valve, or otherwise with
10 the fuel injector or carburetor of, or with the fuel supply tank
11 feeding the fuel injector or carburetor of, the motor vehicle
12 transporting the product;

13 (9) sells or delivers gasoline or diesel fuel from any
14 fuel supply tank connected with the fuel injector or carburetor of a
15 motor vehicle;

16 (10) owns or operates a motor vehicle for which
17 reports or mileage records are required by this chapter without an
18 operating odometer or other device in good working condition to
19 record accurately the miles traveled;

20 (11) furnishes to a licensed supplier or distributor a
21 signed statement for purchasing diesel fuel tax-free and then uses
22 the tax-free diesel fuel to operate a diesel-powered motor vehicle
23 on a public highway;

24 (12) fails or refuses to comply with or violates a
25 provision of this chapter;

26 (13) fails or refuses to comply with or violates a
27 comptroller's rule for administering or enforcing this chapter;

1 (14) is an importer who does not obtain an import
2 verification number when required by this chapter; [~~or~~]

3 (15) purchases motor fuel for export, on which the tax
4 imposed by this chapter has not been paid, and subsequently diverts
5 or causes the motor fuel to be diverted to a destination in this
6 state or any other state or country other than the originally
7 designated state or country without first obtaining a diversion
8 number;

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

13 (17) makes a tax-free delivery of compressed natural
14 gas or liquefied natural gas into the fuel supply tank of a motor
15 vehicle, unless the delivery is exempt from tax under Section
16 162.356.

17 SECTION 7. Section 162.403, Tax Code, is amended to read as
18 follows:

19 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
20 Section 162.404, a person commits an offense if the person:

21 (1) refuses to stop and permit the inspection and
22 examination of a motor vehicle transporting or using motor fuel on
23 the demand of a peace officer or the comptroller;

24 (2) is required to hold a valid trip permit or
25 interstate trucker's license, but operates a motor vehicle in this
26 state without a valid trip permit or interstate trucker's license;

27 (3) operates a liquefied gas-propelled motor vehicle

1 that is required to be licensed in this state, including a motor
2 vehicle equipped with dual carburetion, and does not display a
3 current liquefied gas tax decal or multistate fuels tax agreement
4 decal;

5 (4) transports gasoline or diesel fuel in any cargo
6 tank that has a connection by pipe, tube, valve, or otherwise with
7 the fuel injector or carburetor or with the fuel supply tank feeding
8 the fuel injector or carburetor of the motor vehicle transporting
9 the product;

10 (5) sells or delivers gasoline or diesel fuel from a
11 fuel supply tank that is connected with the fuel injector or
12 carburetor of a motor vehicle;

13 (6) owns or operates a motor vehicle for which reports
14 or mileage records are required by this chapter without an
15 operating odometer or other device in good working condition to
16 record accurately the miles traveled;

17 (7) sells or delivers dyed diesel fuel for the
18 operation of a motor vehicle on a public highway;

19 (8) uses dyed diesel fuel for the operation of a motor
20 vehicle on a public highway except as allowed under Section
21 162.235;

22 (9) makes a tax-free sale or delivery of liquefied gas
23 into the fuel supply tank of a motor vehicle that does not display a
24 current Texas liquefied gas tax decal;

25 (10) makes a sale or delivery of liquefied gas on which
26 the person knows the tax is required to be collected, if at the time
27 the sale is made the person does not hold a valid dealer's license;

1 (11) makes a tax-free sale or delivery of liquefied
2 gas into the fuel supply tank of a motor vehicle bearing
3 out-of-state license plates;

4 (12) makes a delivery of liquefied gas into the fuel
5 supply tank of a motor vehicle bearing Texas license plates and no
6 Texas liquefied gas tax decal, unless licensed under a multistate
7 fuels tax agreement;

8 (13) refuses to permit the comptroller or the attorney
9 general to inspect, examine, or audit a book or record required to
10 be kept by a license holder, other user, or any person required to
11 hold a license under this chapter;

12 (14) refuses to permit the comptroller or the attorney
13 general to inspect or examine any plant, equipment, materials, or
14 premises where motor fuel is produced, processed, blended, stored,
15 sold, delivered, or used;

16 (15) refuses to permit the comptroller, the attorney
17 general, an employee of either of those officials, a peace officer,
18 an employee of the Texas Commission on Environmental Quality, or an
19 employee of the Department of Agriculture to measure or gauge the
20 contents of or take samples from a storage tank or container on
21 premises where motor fuel is produced, processed, blended, stored,
22 sold, delivered, or used;

23 (16) is a license holder, a person required to be
24 licensed, or another user and fails or refuses to make or deliver to
25 the comptroller a report required by this chapter to be made and
26 delivered to the comptroller;

27 (17) is an importer who does not obtain an import

1 verification number when required by this chapter;

2 (18) purchases motor fuel for export, on which the tax
3 imposed by this chapter has not been paid, and subsequently diverts
4 or causes the motor fuel to be diverted to a destination in this
5 state or any other state or country other than the originally
6 designated state or country without first obtaining a diversion
7 number;

8 (19) conceals motor fuel with the intent of engaging
9 in any conduct proscribed by this chapter or refuses to make sales
10 of motor fuel on the volume-corrected basis prescribed by this
11 chapter;

12 (20) refuses, while transporting motor fuel, to stop
13 the motor vehicle the person is operating when called on to do so by
14 a person authorized to stop the motor vehicle;

15 (21) refuses to surrender a motor vehicle and cargo
16 for impoundment after being ordered to do so by a person authorized
17 to impound the motor vehicle and cargo;

18 (22) mutilates, destroys, or secretes a book or record
19 required by this chapter to be kept by a license holder, other user,
20 or person required to hold a license under this chapter;

21 (23) is a license holder, other user, or other person
22 required to hold a license under this chapter, or the agent or
23 employee of one of those persons, and makes a false entry or fails
24 to make an entry in the books and records required under this
25 chapter to be made by the person or fails to retain a document as
26 required by this chapter;

27 (24) transports in any manner motor fuel under a false

1 cargo manifest or shipping document, or transports in any manner
2 motor fuel to a location without delivering at the same time a
3 shipping document relating to that shipment;

4 (25) engages in a motor fuel transaction that requires
5 that the person have a license under this chapter without then and
6 there holding the required license;

7 (26) makes and delivers to the comptroller a report
8 required under this chapter to be made and delivered to the
9 comptroller, if the report contains false information;

10 (27) forges, falsifies, or alters an invoice or
11 shipping document prescribed by law;

12 (28) makes any statement, knowing said statement to be
13 false, in a claim for a tax refund filed with the comptroller;

14 (29) furnishes to a licensed supplier or distributor a
15 signed statement for purchasing diesel fuel tax-free and then uses
16 the tax-free diesel fuel to operate a diesel-powered motor vehicle
17 on a public highway;

18 (30) holds an aviation fuel dealer's license and makes
19 a taxable sale or use of any gasoline or diesel fuel;

20 (31) fails to remit any tax funds collected or
21 required to be collected by a license holder, another user, or any
22 other person required to hold a license under this chapter;

23 (32) makes a sale of dyed diesel fuel tax-free into a
24 storage facility of a person who:

25 (A) is not licensed as a distributor, as an
26 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

27 (B) does not furnish to the licensed supplier or

1 distributor a signed statement prescribed in Section 162.206;

2 (33) makes a sale of gasoline tax-free to any person
3 who is not licensed as an aviation fuel dealer;

4 (34) purchases any motor fuel tax-free when not
5 authorized to make a tax-free purchase under this chapter;

6 (35) purchases motor fuel with the intent to evade any
7 tax imposed by this chapter or accepts a delivery of motor fuel by
8 any means and does not at the same time accept or receive a shipping
9 document relating to the delivery;

10 (36) transports motor fuel for which a cargo manifest
11 or shipping document is required to be carried without possessing
12 or exhibiting on demand by an officer authorized to make the demand
13 a cargo manifest or shipping document containing the information
14 required to be shown on the manifest or shipping document;

15 (37) imports, sells, uses, blends, distributes, or
16 stores motor fuel within this state on which the taxes imposed by
17 this chapter are owed but have not been first paid to or reported by
18 a license holder, another user, or any other person required to hold
19 a license under this chapter;

20 (38) blends products together to produce a blended
21 fuel that is offered for sale, sold, or used and that expands the
22 volume of the original product to evade paying applicable motor
23 fuel taxes; ~~[or]~~

24 (39) evades or attempts to evade in any manner a tax
25 imposed on motor fuel by this chapter;

26 (40) delivers compressed natural gas or liquefied
27 natural gas into the fuel supply tank of a motor vehicle and the

1 person does not hold a valid compressed natural gas and liquefied
2 natural gas dealer's license; or

3 (41) makes a tax-free delivery of compressed natural
4 gas or liquefied natural gas into the fuel supply tank of a motor
5 vehicle, unless the delivery is exempt from tax under Section
6 162.356.

7 SECTION 8. Section 162.405(b), Tax Code, is amended to read
8 as follows:

9 (b) An offense under Section 162.403(9), (10), (11), (12),
10 (13), (14), (15), (16), (17), [~~or~~] (18), (40), or (41) is a Class B
11 misdemeanor.

12 SECTION 9. As soon as practicable before, on, or after the
13 effective date of this Act, the comptroller of public accounts
14 shall:

15 (1) adopt any rules necessary to implement the changes
16 in law made by this Act; and

17 (2) begin accepting applications for and issuing
18 compressed natural gas and liquefied natural gas dealer's licenses
19 and interstate trucker's licenses under Sections 162.357 and
20 162.358, Tax Code, as added by this Act, that become effective on or
21 after the effective date of this Act.

22 SECTION 10. A person who holds a liquefied gas tax decal
23 license under Section 162.305, Tax Code, that is valid on or after
24 the effective date of this Act, for a vehicle fueled by compressed
25 natural gas or liquefied natural gas may, not later than December
26 31, 2013, apply to the comptroller of public accounts for and obtain
27 a pro rata refund of the unused portion of the advanced taxes paid

1 for the period after the effective date of this Act. The comptroller
2 shall provide application forms for refunds under this section.

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

9 SECTION 12. This Act takes effect September 1, 2013.