

By: Hilderbran

H.B. No. 2148

Substitute the following for H.B. No. 2148:

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C.S.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) 1.7 gallons of liquefied natural gas; or

20 (B) 6.035 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 5.660  
6 pounds of compressed natural gas.

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

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

15 (40-a) "Liquefied natural gas" mean natural gas that  
16 has been cooled to a liquid state and is advertised, offered for  
17 sale, sold, suitable for use, or used as an engine motor fuel.

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

23 (43) "Motor fuel transporter" means a person who  
24 transports gasoline, diesel fuel, gasoline blended fuel, aviation  
25 fuel, or any other motor fuel, except liquefied gas, compressed  
26 natural gas, or liquefied natural gas, outside the bulk  
27 transfer/terminal system by means of a transport vehicle, a

1 railroad tank car, or a marine vessel. The term does not include a  
2 person who:

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

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

9 SECTION 3. Chapter 162, Tax Code, is amended by adding  
10 Subchapter D-1 to read as follows:

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

12 TAX

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

18 (b) The dealer is liable for the tax imposed under this  
19 section.

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

23 (1) it becomes a part of the sales price;

24 (2) it is a debt of the purchaser to the dealer; and

25 (3) if unpaid, it is recoverable at law in the same  
26 manner as the original sales price.

27 (d) The dealer shall provide to the purchaser an invoice or

1 receipt that states the rate and amount of tax added to the selling  
2 price or indicates that no tax was added to the selling price.

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

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

11 Sec. 162.353. TAX RATE. The rate of the tax under Sections  
12 162.351 and 162.352 is 15 cents for each:

13 (1) gasoline gallon equivalent or fractional part of  
14 compressed natural gas; or

15 (2) diesel gallon equivalent or fractional part of  
16 liquefied natural gas.

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

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

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

26 (3) a person who sells compressed natural gas or  
27 liquefied natural gas that is delivered into the fuel supply tank of

1 a motor vehicle, on which tax was not paid, and who knew or had  
2 reason to know that the fuel would be used for a taxable purpose;  
3 and

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

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

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

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

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

18 Sec. 162.355. FUEL PRESUMED SUBJECT TO TAX. (a) All  
19 compressed natural gas and liquefied natural gas sold by a dealer  
20 and delivered into the fuel supply tank of a motor vehicle is  
21 presumed to be subject to tax, and the dealer is liable for the tax  
22 under Section 162.351(b) unless the dealer maintains adequate  
23 records to establish that the fuel was exempt from tax under Section  
24 162.356.

25 (b) All compressed natural gas and liquefied natural gas  
26 delivered into the fuel supply tank of a motor vehicle by a fleet  
27 user or other dealer not in connection with a sale is presumed to be

1 subject to tax, and the fleet user or other dealer is liable for the  
2 tax under Section 162.352(b) unless the fleet user or other dealer  
3 maintains adequate records to establish that the fuel was exempt  
4 from tax under Section 162.356.

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

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

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

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

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

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

24 (6) a motor vehicle operated exclusively by a  
25 nonprofit electric cooperative corporation organized under Chapter  
26 161, Utilities Code;

27 (7) a motor vehicle operated exclusively by a

1 nonprofit telephone cooperative corporation organized under  
2 Chapter 162, Utilities Code;

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

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

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

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

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

27 (d) A compressed natural gas and liquefied natural gas



1 dealer's license is permanent and is valid during the period the  
2 license holder has in force and effect the required bond or security  
3 and furnishes timely reports and supplements as required, or until  
4 the license is surrendered by the license holder or canceled by the  
5 comptroller. The comptroller shall cancel a license under this  
6 subsection if the license holder has not reported a delivery of  
7 compressed natural gas or liquefied natural gas during the previous  
8 nine months.

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

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

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

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

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

27 (1) the name under which the applicant transacts or

1 intends to transact business;

2 (2) the applicant's principal office, residence, or  
3 place of business in this state, or other location of the applicant;

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

8 (4) other information required by the comptroller.

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

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

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

27 (b) The comptroller may require a license holder to post a

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

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

26 (d) A bond must be a continuing instrument, must constitute  
27 a new and separate obligation in the penal sum named in the bond for

1 each calendar year or portion of a year while the bond is in force,  
2 and must remain in effect until the surety on the bond is released  
3 and discharged.

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

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

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

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

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

21 (g) A surety bond or other form of security may not be  
22 released until the comptroller determines by examination or audit  
23 that a tax, penalty, or interest liability does not exist. The  
24 comptroller shall release the cash or securities not later than the  
25 60th day after the date the comptroller determines that liability  
26 does not exist.

27 (h) The comptroller may use the cash or certificate of

1 deposit security to satisfy a final determination of delinquent  
2 liability or a judgment secured in any action by this state to  
3 recover compressed natural gas or liquefied natural gas taxes,  
4 costs, penalties, and interest found to be due to this state by a  
5 person on whose behalf the cash or certificate of deposit security  
6 was deposited.

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

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

1 contain a statement that the issuer agrees to respond to the  
2 comptroller's notice of liability with amounts to satisfy the  
3 comptroller's delinquency claim against the license holder.

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

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

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

21 (c) A licensed interstate trucker, on or before the 25th day  
22 of the month following the end of each calendar quarter, shall file  
23 a report and remit the amount of tax due. A report shall be filed  
24 with the comptroller on forms provided for that purpose and must  
25 contain the number of miles traveled in this state, the number of  
26 miles traveled outside this state, and other information required  
27 by the comptroller. An interstate trucker who is required to file a

1 report under this section and who has not made interstate trips or  
2 used compressed natural gas or liquefied natural gas in motor  
3 vehicles in this state during the reporting period shall file with  
4 the comptroller a report that includes those facts or that  
5 information.

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

17 Sec. 162.363. RECORDS. (a) A dealer shall keep a record  
18 showing:

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

21 (2) the amount of natural gas compressed by the dealer  
22 and the amount of natural gas liquefied by the dealer;

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

26 (4) all compressed natural gas and liquefied natural  
27 gas sold and delivered into the fuel supply tank of a motor vehicle,

1 showing the date of the sale;

2 (5) all compressed natural gas and liquefied natural  
3 gas sold but not delivered into the fuel supply tank of a motor  
4 vehicle, showing the date of the sale;

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

8 (7) all compressed natural gas and liquefied natural  
9 gas delivered into the fuel supply tank of a motor vehicle or other  
10 equipment exempt from tax under Section 162.356, showing the name  
11 of the operator of the vehicle or the owner of the equipment and the  
12 date of the delivery; 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 by  
25 the United States, provided that a credit or refund is not allowed  
26 for fuel delivered into the fuel supply tank of a motor vehicle  
27 operated by a license holder or person operating under a contract

1 with 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 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 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 by  
15 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 by  
19 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 by  
23 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 amount of tax, either separately stated from  
21 the selling price or stated with a notation that the selling price  
22 includes the tax; and

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

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

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

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

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

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

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

1 natural gas delivered into the fuel supply tank of a motor vehicle  
2 used to provide services under the contract and may file a refund  
3 claim with the comptroller for the amount of those taxes.

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

6 (1) vehicle mileage;

7 (2) hours of service provided;

8 (3) fuel consumed;

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

10 and

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

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

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

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

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

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

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

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

24 SECTION 4. Subchapter F, Chapter 162, Tax Code, is amended  
25 by adding Section 162.506 to read as follows:

26 Sec. 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND  
27 LIQUEFIED NATURAL GAS TAX. On or before the fifth workday after the



1 end of each month, the comptroller, after making deductions for  
2 refund purposes and for the administration and enforcement of this  
3 chapter, shall allocate the remainder of the taxes collected under  
4 Subchapter D-1 as follows:

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

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

9 SECTION 5. Section 162.402(a), Tax Code, is amended to read  
10 as follows:

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

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

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

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

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

27 (5) makes a taxable sale or delivery of liquefied gas

1 without holding a valid dealer's license;

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

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

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

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

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

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

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

27 (13) fails or refuses to comply with or violates a

1 comptroller's rule for administering or enforcing this chapter;

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

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

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

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

18 SECTION 6. Section 162.403, Tax Code, is amended to read as  
19 follows:

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

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

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

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

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

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

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

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

20           (8) uses dyed diesel fuel for the operation of a motor  
21 vehicle on a public highway except as allowed under Section  
22 162.235;

23           (9) 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           (10) makes a sale or delivery of liquefied gas on which  
27 the person knows the tax is required to be collected, if at the time

1 the sale is made the person does not hold a valid dealer's license;

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

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

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

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

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

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

1           (17) is an importer who does not obtain an import  
2 verification number when required by this chapter;

3           (18) 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           (19) conceals motor fuel with the intent of engaging  
10 in any conduct proscribed by this chapter or refuses to make sales  
11 of motor fuel on the volume-corrected basis prescribed by this  
12 chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (B) does not furnish to the licensed supplier or  
2 distributor a signed statement prescribed in Section 162.206;

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

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

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

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

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

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

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

27 (40) delivers compressed natural gas or liquefied



1 natural gas into the fuel supply tank of a motor vehicle and the  
2 person does not hold a valid compressed natural gas and liquefied  
3 natural gas dealer's license; or

4 (41) makes a tax-free delivery of compressed natural  
5 gas or liquefied natural gas into the fuel supply tank of a motor  
6 vehicle, unless the delivery is exempt from tax under Section  
7 162.356.

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

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

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

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

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

23 SECTION 9. A person who holds a liquefied gas tax decal  
24 license under Section 162.305, Tax Code, that is valid on or after  
25 the effective date of this Act, for a vehicle fueled by compressed  
26 natural gas or liquefied natural gas may, not later than December  
27 31, 2013, apply to the comptroller of public accounts for and obtain

1 a pro rata refund of the unused portion of the advanced taxes paid  
2 for the period after the effective date of this Act. The comptroller  
3 shall provide application forms for refunds under this section.

4 SECTION 10. The changes in law made by this Act do not  
5 affect tax liability accruing before the effective date of this  
6 Act. That liability continues in effect as if this Act had not been  
7 enacted, and the former law is continued in effect for the  
8 collection of taxes due and for civil and criminal enforcement of  
9 the liability for those taxes.

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