

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.

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) 6.310 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 two or more motor vehicles owned or leased  
26 by that person.

27 (29) "Gasoline" means any liquid or combination of

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

6 (29-a) "Gasoline gallon equivalent" means

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

8 (B) 5.370 pounds of liquefied natural gas.

9 (38) "License holder" means a person licensed by the  
10 comptroller under Section 162.105, 162.205, 162.304, 162.305, [~~or~~]  
11 162.306, 162.357, or 162.358.

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

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

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

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

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

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

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

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

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

14 TAX

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

20 (b) The dealer is liable for the tax imposed under this  
21 section, including a delivery of compressed natural gas or  
22 liquefied natural gas delivered into the fuel supply tank of a motor  
23 vehicle at no cost to the motor vehicle owner unless a documented  
24 exemption pursuant to this sub-chapter applies.

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. The rate of the tax under Sections  
17 162.351 and 162.352 is 15 cents for each:

- 18           (1) gasoline gallon equivalent or fractional part of  
19 compressed natural gas; or  
20           (2) diesel gallon equivalent or fractional part of  
21 liquefied natural gas.

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

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

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

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

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

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

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

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

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

23           Sec. 162.355. FUEL PRESUMED SUBJECT TO TAX. (a) All  
24 compressed natural gas and liquefied natural gas sold by a dealer  
25 and delivered into the fuel supply tank of a motor vehicle is  
26 presumed to be subject to tax, and the dealer is liable for the tax  
27 under Section 162.351(b) and in accordance with Section 162.012

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

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

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

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

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

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

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

27 (5) a motor vehicle operated exclusively by a county

1 in this state;

2 (6) a motor vehicle operated exclusively by a  
3 nonprofit electric cooperative corporation organized under Chapter  
4 161, Utilities Code;

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

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

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

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

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



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

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

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

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

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

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

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

5 (1) the name under which the applicant transacts or  
6 intends to transact business;

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

9 (3) if the applicant is not an individual, the names of  
10 the principal officers of an applicant corporation, or the names of  
11 the members of an applicant partnership, and the office, street, or  
12 post office addresses of each; and

13 (4) other information required by the comptroller.

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

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

25 Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES. (a) The  
26 comptroller shall determine the amount of security required of a  
27 dealer, taking into consideration the amount of tax that has or is

1 expected to become due from the person, any past history of the  
2 person as a license holder under this chapter or its predecessor,  
3 and the necessity to protect this state against the failure to pay  
4 the tax as the tax becomes due.

5 (b) The comptroller may require a license holder to post a  
6 bond if the comptroller determines it is necessary for the license  
7 holder to post security to protect the revenues of this state. A  
8 license holder must post a bond equal to two times the maximum  
9 amount of tax that could accrue on compressed natural gas or  
10 liquefied natural gas produced, purchased, acquired, sold, or  
11 delivered during a reporting period. The minimum bond for a person  
12 described by Section 162.357(a) is \$30,000. The comptroller shall  
13 prescribe the minimum bond for a person described by Section  
14 162.357(b) or (c) who is not described by Section 162.357(a). The  
15 maximum bond is \$600,000 unless the comptroller believes there is  
16 undue risk of loss of tax revenues, in which event the comptroller  
17 may require one or more bonds or securities in a total amount  
18 exceeding \$600,000.

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

1 release the bond or security and may reimpose a requirement of a  
2 bond or other security as the comptroller determines necessary to  
3 protect the revenues of this state.

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

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

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

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

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

22 (f) If the amount of an existing bond becomes insufficient  
23 or a security becomes unsatisfactory or unacceptable, the  
24 comptroller may require the license holder to file a new or an  
25 additional bond or security.

26 (g) A surety bond or other form of security may not be  
27 released until the comptroller determines by examination or audit

1 that a tax, penalty, or interest liability does not exist. The  
2 comptroller shall release the cash or securities not later than the  
3 60th day after the date the comptroller determines that liability  
4 does not exist.

5 (h) The comptroller may use the cash or certificate of  
6 deposit security to satisfy a final determination of delinquent  
7 liability or a judgment secured in any action by this state to  
8 recover compressed natural gas or liquefied natural gas taxes,  
9 costs, penalties, and interest found to be due to this state by a  
10 person on whose behalf the cash or certificate of deposit security  
11 was deposited.

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

26 (j) The comptroller shall immediately notify the issuer of a  
27 letter of credit of a final determination of the license holder's

1 delinquent liability or a judgment secured in any action by this  
2 state to recover compressed natural gas or liquefied natural gas  
3 taxes, costs, penalties, and interest found to be due this state by  
4 a license holder on whose behalf the letter of credit was issued.  
5 The letter of credit allowed as security under this section must  
6 contain a statement that the issuer agrees to respond to the  
7 comptroller's notice of liability with amounts to satisfy the  
8 comptroller's delinquency claim against the license holder.

9 (k) A license holder may request an examination or audit to  
10 obtain release of the security when the license holder relinquishes  
11 the license or when the license holder wants to substitute one form  
12 of security for an existing one.

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

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

26 (c) A licensed interstate trucker, on or before the 25th day  
27 of the month following the end of each calendar quarter, shall file

1 a report and remit the amount of tax due. A report shall be filed  
2 with the comptroller on forms provided for that purpose and must  
3 contain the number of miles traveled in this state, the number of  
4 miles traveled outside this state, and other information required  
5 by the comptroller. An interstate trucker who is required to file a  
6 report under this section and who has not made interstate trips or  
7 used compressed natural gas or liquefied natural gas in motor  
8 vehicles in this state during the reporting period shall file with  
9 the comptroller a report that includes those facts or that  
10 information.

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

22 Sec. 162.363. RECORDS. (a) A dealer shall keep a record  
23 showing:

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

26 (2) the amount of natural gas compressed by the dealer  
27 and the amount of natural gas liquefied by the dealer;

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

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

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

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

13           (7) all compressed natural gas and liquefied natural  
14 gas sold or delivered into the fuel supply tank of a motor vehicle  
15 or other equipment exempt from tax under Section 162.356, showing  
16 the name of the operator of the vehicle or the owner of the  
17 equipment and the date of the delivery; and

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

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

21           (1) the total miles traveled in all states by all  
22 vehicles traveling to or from this state and the total quantity of  
23 compressed natural gas and liquefied natural gas consumed in those  
24 vehicles; and

25           (2) the total miles traveled in this state and the  
26 total quantity of compressed natural gas or liquefied natural gas  
27 purchased and delivered into the fuel supply tanks of motor



1 vehicles in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 exclusively by the telephone cooperative;

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

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

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

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

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

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

4       Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT. (a) A  
5 licensed dealer may take a credit on a return filed under this  
6 subchapter if:

7           (1) the dealer paid the taxes imposed by this  
8 subchapter on compressed natural gas or liquefied natural gas sold  
9 on account;

10           (2) the dealer determines that the account is  
11 uncollectible and worthless; and

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

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

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

1 date the taxes and penalty are paid.

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

5 (e) A credit under this section must be taken at the time the  
6 account is written off as a bad debt, but may only be taken before  
7 the expiration of the applicable limitation period as provided by  
8 Chapter 111.

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

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

15 (1) the stamped or preprinted name and address of the  
16 dealer;

17 (2) the name of the purchaser or person who received  
18 the delivery of fuel;

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

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

22 (5) the number of gasoline gallon equivalents of  
23 compressed natural gas or diesel gallon equivalents of liquefied  
24 natural gas delivered;

25 (6) the rate and the amount of tax added to the selling  
26 price; and

27 (7) the type of vehicle or equipment into which the

1 fuel is delivered.

2 (b) The purchaser or person who received the delivery of  
3 compressed natural gas or liquefied natural gas must obtain the  
4 original invoice from the dealer not later than the 30th day after  
5 the date the fuel is delivered. If the purchase or delivery of fuel  
6 is made through an automated method in which the purchase or  
7 delivery is automatically applied to the purchaser or recipient's  
8 account, one invoice may be issued at the time of billing that  
9 covers multiple purchases or deliveries made during a 30-day  
10 billing cycle.

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

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

22 (e) After examining the refund claim and before issuing a  
23 refund warrant, the comptroller shall deduct from the amount of the  
24 refund the one percent originally deducted by the dealer under  
25 Section 162.362(b).

26 Sec. 162.368. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT  
27 AUTHORITIES. (a) Except as otherwise provided by this section, a

1 metropolitan rapid transit authority operating under Chapter 451,  
2 Transportation Code, that is a party to a contract governed by  
3 Section 34.008, Education Code, is entitled to a refund of taxes  
4 paid under this subchapter for compressed natural gas or liquefied  
5 natural gas delivered into the fuel supply tank of a motor vehicle  
6 used to provide services under the contract and may file a refund  
7 claim with the comptroller for the amount of those taxes.

8 (b) The refund claim under Subsection (a) must contain  
9 information regarding:

- 10 (1) vehicle mileage;  
11 (2) hours of service provided;  
12 (3) fuel consumed;  
13 (4) the total number of student passengers per route;  
14 and  
15 (5) the total number of non-student passengers per  
16 route.

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

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

27 Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED

1 NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED. (a) Except as  
2 otherwise provided by this section, a claim for a refund must be  
3 filed with the comptroller before the first anniversary of the  
4 first day of the calendar month following the purchase, use, or  
5 delivery of compressed natural gas or liquefied natural gas,  
6 whichever period expires latest.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           (9) sells or delivers gasoline or diesel fuel from any  
19 fuel supply tank connected with the fuel injector or carburetor of a  
20 motor vehicle;

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

25           (11) furnishes to a licensed supplier or distributor a  
26 signed statement for purchasing diesel fuel tax-free and then uses  
27 the tax-free diesel fuel to operate a diesel-powered motor vehicle

1 on a public highway;

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

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

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

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

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

18 (17) makes a tax-free delivery of compressed natural  
19 gas or liquefied natural gas into the fuel supply tank of a motor  
20 vehicle, unless the delivery is exempt from tax under Section  
21 162.356.

22 SECTION 6. Section 162.403, Tax Code, is amended to read as  
23 follows:

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

26 (1) refuses to stop and permit the inspection and  
27 examination of a motor vehicle transporting or using motor fuel on

1 the demand of a peace officer or the comptroller;

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

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

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

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

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

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

24 (8) uses dyed diesel fuel for the operation of a motor  
25 vehicle on a public highway except as allowed under Section  
26 162.235;

27 (9) makes a tax-free sale or delivery of liquefied gas

1 into the fuel supply tank of a motor vehicle that does not display a  
2 current Texas liquefied gas tax decal;

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

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

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

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

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

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

1           (16) is a license holder, a person required to be  
2 licensed, or another user and fails or refuses to make or deliver to  
3 the comptroller a report required by this chapter to be made and  
4 delivered to the comptroller;

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

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

13           (19) conceals motor fuel with the intent of engaging  
14 in any conduct proscribed by this chapter or refuses to make sales  
15 of motor fuel on the volume-corrected basis prescribed by this  
16 chapter;

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

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

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

26           (23) is a license holder, other user, or other person  
27 required to hold a license under this chapter, or the agent or

1 employee of one of those persons, and makes a false entry or fails  
2 to make an entry in the books and records required under this  
3 chapter to be made by the person or fails to retain a document as  
4 required by this chapter;

5 (24) transports in any manner motor fuel under a false  
6 cargo manifest or shipping document, or transports in any manner  
7 motor fuel to a location without delivering at the same time a  
8 shipping document relating to that shipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (38) blends products together to produce a blended  
26 fuel that is offered for sale, sold, or used and that expands the  
27 volume of the original product to evade paying applicable motor



1 fuel taxes; [~~or~~]

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

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

8 (41) makes a tax-free delivery of compressed natural  
9 gas or liquefied natural gas into the fuel supply tank of a motor  
10 vehicle, unless the delivery is exempt from tax under Section  
11 162.356.

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

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

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

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

22 (2) begin accepting applications for and issuing  
23 compressed natural gas and liquefied natural gas dealer's licenses  
24 and interstate trucker's licenses under Sections 162.357 and  
25 162.358, Tax Code, as added by this Act, that become effective on or  
26 after the effective date of this Act.

27 SECTION 9. A person who holds a liquefied gas tax decal

1 license under Section 162.305, Tax Code, that is valid on or after  
2 the effective date of this Act, for a vehicle fueled by compressed  
3 natural gas or liquefied natural gas may, not later than December  
4 31, 2013, apply to the comptroller of public accounts for and obtain  
5 a pro rata refund of the unused portion of the advanced taxes paid  
6 for the period after the effective date of this Act. The comptroller  
7 shall provide application forms for refunds under this section.

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

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