

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 28, 2015**

**TO:** Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1693** by Isaac (Relating to a prohibition on the sale of motor fuel mixed with ethanol; imposing civil and criminal penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1693, As Introduced: a negative impact of (\$39,761,000) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2016	(\$18,893,000)
2017	(\$20,868,000)
2018	(\$21,056,000)
2019	(\$21,245,000)
2020	(\$21,437,000)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from Available School Fund 2</b>	<b>Probable Revenue (Loss) from State Highway Fund 6</b>
2016	(\$18,893,000)	(\$56,679,000)
2017	(\$20,868,000)	(\$62,604,000)
2018	(\$21,056,000)	(\$63,168,000)
2019	(\$21,245,000)	(\$63,736,000)
2020	(\$21,437,000)	(\$64,310,000)

## **Fiscal Analysis**

The bill would amend the Agriculture Code regarding the sale and regulation of certain fuel mixtures. The bill would prohibit a motor fuel dealer who operates a service station or other retail outlet, and who delivers motor fuel into the fuel tanks of motor vehicles or motor boats, from selling or offering for sale motor fuel that is mixed with ethanol. The bill would provide for a civil penalty for violations of this prohibition of from \$200 to \$10,000, and would establish a criminal offense for violations of this prohibition or a rule adopted to implement this prohibition.

The bill would take effect September 1, 2015.

## **Methodology**

The Comptroller indicates it used data from the U.S. Energy Information Administration (EIA) as a beginning source for the estimated revenue losses under bill provisions. That data was applied to gasoline tax revenue estimates in the Comptroller's 2016-17 Biennial Revenue Estimate to arrive at a reduction in gasoline tax revenues.

The reduction is due to the EIA estimates that vehicle fuel economy may increase by up to 3.3 percent from using 100 percent petroleum gasoline instead of a blend of 90 percent gasoline with 10 percent ethanol. This 90/10 blend is in near-universal usage in the U.S. The Comptroller in its analysis assumed that the Texas motoring public would not change their driving patterns due to the ethanol ban, and thus less gasoline would be sold due to the higher vehicle fuel economy. An allowance was made in the first year for the statutory lag in motor fuel tax remittances.

Under the federal Clean Air Act and the Energy Independence and Security Act, the EPA sets an annual standard for the Renewable Fuel Standard Program. The standard for 2015 requires that about 13 billion gallons of ethanol be blended into the U.S. motor fuel supply. As a result, effectively all gasoline sold in the U.S. is blended with 10 percent ethanol.

The Comptroller indicates its estimate does not include any effects of possible conflicts with federal law. Significantly, if the operation of federal law precludes the changes which would be made by this bill, current sales of gasoline blended with ethanol (i.e. E-10 and E-85) would continue and the bill would have no fiscal impact.

In its analysis, the Comptroller indicates revenue impacts from penalties, costs and fines associated with violations of this bill's provisions cannot be determined and an estimate of possible new revenues has not been included.

The Texas Department of Agriculture indicates the agency can implement bill provisions regarding the new fuel standards within the agency's existing resources.

## **Local Government Impact**

The bill would modify a Class C misdemeanor. A Class C misdemeanor is punishable by a fine of not more than \$500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact. In addition to the fine, punishment can include up to 180 days of deferred disposition.

**Source Agencies:** 304 Comptroller of Public Accounts, 551 Department of Agriculture

**LBB Staff:** UP, SZ, MW, TB, KVe