

House Bill 1905
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 34.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 34.04. EXEMPTION FROM TAXES. ~~[(a) The taxes imposed by this code shall be paid on all alcoholic beverages on a commercial passenger aircraft departing from an airport in this state, in accordance with rules and regulations prescribed by the commission.~~

~~[(b)] The preparation and service of alcoholic beverages by the holder of an airline beverage permit is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code [the Limited Sales, Excise and Use Tax Act]. [An airline beverage service fee of five cents is imposed on each individual serving of an alcoholic beverage served by the permittee inside the state. The fee accrues at the time the container containing an alcoholic beverage is delivered to the passenger. The permittee may absorb the cost of the fee or may collect it from the passenger. The permittee shall remit the fees to the commission each month under a reporting system prescribed by the commission.]~~

SECTION 2. Section 48.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 48.04. EXEMPTION FROM TAXES. ~~[(a) The taxes imposed by this code shall be paid on all alcoholic beverages on a commercial passenger train departing from a depot in this state in accordance with the rules prescribed by the commission.~~

~~[(b)] The preparation and service of alcoholic beverages by the holder of a passenger train beverage permit is exempt from a tax imposed by this chapter and from the tax imposed by Chapter 151, Tax Code [the Limited Sales, Excise, and Use~~

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

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~~Tax Act (Section 151.001 et seq., Tax Code)]. [A passenger train service fee of five cents is imposed on each individual serving of an alcoholic beverage served by the permittee inside the state. The fee accrues at the time the container containing an alcoholic beverage is delivered to the passenger. The permittee shall remit the fees to the commission each month under a reporting system prescribed by the commission.]~~

SECTION 3. The following are repealed:
(1) Section 411.109(c), Government Code;
(2) Section 111.021(j), Tax Code; and
(3) Chapter 159, Tax Code.

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

No equivalent provision.

SENATE VERSION (IE)

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION __. Sections 162.001(38), (39), and (42), Tax Code, are amended to read as follows:
(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, [~~162.304, 162.305, 162.306,~~] 162.357, or 162.358.
(39) "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include

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compressed natural gas, liquefied natural gas, gasoline, or diesel fuel. Liquefied gas is considered a special fuel for purposes of Section 151.308.

(42) "Motor fuel" means gasoline, diesel fuel, [~~liquefied gas,~~] gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine. [FA1]

No equivalent provision.

SECTION __. Section 162.356, Tax Code, is amended to read as follows:

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

- (1) a motor vehicle operated exclusively by the United States, provided that the exemption does not apply with respect to fuel delivered into the fuel supply tank of a motor vehicle of a person operating under a contract with the United States;
- (2) a motor vehicle operated exclusively by a public school district in this state;
- (3) a motor vehicle operated exclusively by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the fuel only to provide those services;
- (4) a motor vehicle operated exclusively by a volunteer fire department in this state;
- (5) a motor vehicle operated exclusively by a municipality or county in this state;
- (6) a motor vehicle operated exclusively by a nonprofit

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electric cooperative corporation organized under Chapter 161, Utilities Code;

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

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

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

(10) except as provided by Subsection (b), a motor vehicle:

(A) used to provide the services of a transit company, including a metropolitan rapid transit authority under Chapter 451, Transportation Code, or a regional transportation authority under Chapter 452, Transportation Code; and

(B) operated by a person who on January 1, 2015, paid tax on compressed natural gas or liquefied natural gas as provided by Section 162.312, as that section existed on that date.

(b) The exemption provided by Subsection (a)(10) does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor vehicles other than those described by Subsection (a)(10)(A). [FA1]

No equivalent provision.

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

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

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- (1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;
- (2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;
- (3) ~~operates a liquefied gas propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;~~
- ~~[(4) makes a tax free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;~~
- ~~[(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license;~~
- ~~[(6) makes a tax free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out of state license plates;~~
- ~~[(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;~~
- ~~[(8)]~~ transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;
- ~~(4)~~ ~~[(9)]~~ sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;
- ~~(5)~~ ~~[(10)]~~ owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an

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operating odometer or other device in good working condition to record accurately the miles traveled;

(6) [~~(11)~~] furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(7) [~~(12)~~] fails or refuses to comply with or violates a provision of this chapter;

(8) [~~(13)~~] fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

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

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

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

(12) [~~(17)~~] makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356. [FA1]

No equivalent provision.

SECTION __. Section 162.403, Tax Code, is amended to read as follows:

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

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person:

- (1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;
- (2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;
- (3) ~~operates a liquefied gas propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;~~
- ~~[(4)]~~ transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;
- ~~(4)~~ ~~[(5)]~~ sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;
- ~~(5)~~ ~~[(6)]~~ owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;
- ~~(6)~~ ~~[(7)]~~ sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;
- ~~(7)~~ ~~[(8)]~~ uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;
- ~~(8)~~ ~~[(9)]~~ ~~makes a tax free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;~~
- ~~[(10)]~~ ~~makes a sale or delivery of liquefied gas on which the~~

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~~person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;~~

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

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

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

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

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

(11) ~~[(16)]~~ is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(12) ~~[(17)]~~ is an importer who does not obtain an import verification number when required by this chapter;

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

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

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

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

(17) [~~(22)~~] mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

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

(19) [~~(24)~~] transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(20) [~~(25)~~] engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

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(21) [~~(26)~~] makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(22) [~~(27)~~] forges, falsifies, or alters an invoice or shipping document prescribed by law;

(23) [~~(28)~~] makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(24) [~~(29)~~] furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(25) [~~(30)~~] holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

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

(27) [~~(32)~~] makes a sale of dyed diesel fuel tax-free into a storage facility of a person who:

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

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

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

(29) [~~(34)~~] purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

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

(31) [~~(36)~~] transports motor fuel for which a cargo manifest or shipping document is required to be carried without

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possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

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

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

(34) [~~(39)~~] evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter;

(35) [~~(40)~~] delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or

(36) [~~(41)~~] makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356. [FA1]

No equivalent provision.

SECTION __. Section 162.404, Tax Code, is amended to read as follows:

Sec. 162.404. CRIMINAL OFFENSES: SPECIAL PROVISIONS AND EXCEPTIONS. (a) A person does not commit an offense under Section 162.403 unless the person intentionally or knowingly engaged in conduct as the definition of the offense requires, except that no culpable

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mental state is required for an offense under Section 162.403(5) [~~162.403(6)~~].

(b) Each day that a refusal prohibited under Section 162.403(8), (9), or (10) [~~162.403(13), (14), or (15)~~] continues is a separate offense.

(c) The prohibition under Section 162.403(27) [~~162.403(32)~~] does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(1), (2), or (3).

(d) The prohibition under Section 162.403(28) [~~162.403(33)~~] does not apply to the tax-free sale or distribution of gasoline under Section 162.104(1), (2), or (3). [FA1]

No equivalent provision.

SECTION __. Section 162.405, Tax Code, is amended to read as follows:

Sec. 162.405. CRIMINAL PENALTIES. (a) An offense under Section 162.403(1), (2), (3), (4), (5), [~~(6)~~] or (7) [~~(8)~~] is a Class C misdemeanor.

(b) An offense under Section 162.403(8), (9) [~~162.403(9)~~], (10), (11), (12), (13), (35), or (36) [~~(14), (15), (16), (17), (18), (40), or (41)~~] is a Class B misdemeanor.

(c) An offense under Section 162.403(14), (15), or (16) [~~162.403(19), (20), or (21)~~] is a Class A misdemeanor.

(d) An offense under Section 162.403(6), (17), (18), (19), (20), (21) [~~162.403(7)~~], (22), (23), or (24) [~~(25), (26), (27), (28), or (29)~~] is a felony of the third degree.

(e) An offense under Section 162.403(25), (26), (27), (28), (29), (30) [~~162.403(30)~~], (31), (32), (33), or (34) [~~(35), (36), (37), (38), or (39)~~] is a felony of the second degree.

(f) Violations of three or more separate offenses under the following sections committed pursuant to one scheme or continuous course of conduct may be considered as one

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offense and punished as a felony of the second degree:

- (1) Section 162.403(6) [~~162.403(7)~~];
- (2) Sections 162.403(8) [~~162.403(13)~~] through (11) [~~(16)~~]; or
- (3) Sections 162.403(17) [~~162.403(22)~~] through (24) [~~(29)~~].
[FA1]

No equivalent provision.

SECTION __. Section 548.051(a), Transportation Code, is amended to read as follows:

(a) A motor vehicle, trailer, semitrailer, pole trailer, or mobile home, registered in this state, must have the following items inspected at an inspection station or by an inspector:

- (1) tires;
- (2) wheel assembly;
- (3) safety guards or flaps, if required by Section 547.606;
- (4) brake system, including power brake unit;
- (5) steering system, including power steering;
- (6) lighting equipment;
- (7) horns and warning devices;
- (8) mirrors;
- (9) windshield wipers;
- (10) sunscreening devices, unless the vehicle is exempt from sunscreen device restrictions under Section 547.613;
- (11) front seat belts in vehicles on which seat belt anchorages were part of the manufacturer's original equipment;
- (12) [~~tax decal, if required by Section 548.104(d)(1)~~];
- (13) [~~(13)~~] exhaust system;
- (13) [~~(14)~~] exhaust emission system;
- (14) [~~(15)~~] fuel tank cap, using pressurized testing equipment approved by department rule; and
- (15) [~~(16)~~] emissions control equipment as designated by department rule. [FA1]

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No equivalent provision.

SECTION __. Section 548.104(d), Transportation Code, is amended to read as follows:

(d) An inspection station or inspector may not issue a passing vehicle inspection report for a vehicle equipped with:

(1) ~~[a carburetion device permitting the use of liquefied gas alone or interchangeably with another fuel, unless a valid liquefied gas tax decal issued by the comptroller is attached to the lower right hand corner of the front windshield of the vehicle on the passenger side;~~

~~[(2)]~~ a suncreening device prohibited by Section 547.613, except that the department by rule shall provide procedures for issuance of a passing vehicle inspection report for a vehicle exempt under Section 547.613(c); or

(2) ~~[(3)]~~ a compressed natural gas container unless the owner demonstrates in accordance with department rules proof:

(A) that:

(i) the container has met the inspection requirements under 49 C.F.R. Section 571.304; and

(ii) the manufacturer's recommended service life for the container, as stated on the container label required by 49 C.F.R. Section 571.304, has not expired; or

(B) that the vehicle is a fleet vehicle for which the fleet operator employs a technician certified to inspect the container. [FA1]

No equivalent provision.

SECTION __. The following provisions of the Tax Code are repealed:

(1) Section 162.001(40);

(2) Subchapter D, Chapter 162; and

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(3) Section 162.505. [FA1]

No equivalent provision.

SECTION ___. The change in law made by this Act to Section 162.402(a), Tax Code, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurred before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. [FA1]

No equivalent provision.

SECTION ___. The change in law made by this Act to Section 162.403, Tax Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. [FA1]

No equivalent provision.

SECTION ___. A person who holds a liquefied gas tax decal license under Section 162.305, Tax Code, that is valid on or after the effective date of this Act will receive a pro rata refund of the unused portion of the advanced taxes paid for the period after the effective date of this Act. [FA1]

SECTION 5. This Act takes effect September 1, 2015.

SECTION 5. Same as House version.