

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 29, 2017

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1557 by Kolkhorst (relating to the administration of gasoline and diesel fuel motor fuels taxes and the fee on the delivery of certain petroleum products.), **Committee Report 1st House, Substituted**

Depending on the level of improved compliance induced by the bill, there could be an indeterminate amount of increase in the remittance of motor fuel taxes and petroleum product delivery fees.

The bill would amend Chapter 162 of the Tax Code and Chapter 26 of the Water Code, relating to the administration of gasoline and diesel fuel taxes, and the petroleum products delivery fee.

The bill would add a reporting requirement for fuel purchased tax-free for export that is subsequently sold prior to export. This would document the sale of tax-free fuel as it moved throughout the state prior to export. It would not change how these sales occur. The bill would impose various penalties for failure to comply with the new reporting requirements.

The bill would also impose the fuels tax on the sale of tax-free fuel to an unlicensed purchaser. The person who sold the fuel would be liable for the tax and would be required to collect the tax. If the fuel was subsequently exported, the unlicensed purchaser could submit a refund claim to the state within one year of the purchase. The unlicensed purchaser who exported the fuel would have to provide export documentation to validate the refund. The bill would add a penalty for failure to report a subsequent sale of tax-free fuel sold prior to export.

The bill would stipulate that the amendments made by the bill to Sections 162.101 and 162.201, Tax Code, are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the law as amended by the bill.

The bill would add a definition for a supplier to the Water Code as it relates to the petroleum products delivery fee. Currently under the Water Code, the operator of a bulk facility is required to remit the petroleum products delivery fee. The bill would require that the supplier who ordered a withdrawal from bulk of a petroleum product remit the petroleum products delivery fee. The bill would stipulate that when a petroleum product ceases to be in continuous movement to a destination outside of Texas, and that product was delivered to a destination in Texas, the person who directs the delivery shall pay the petroleum products delivery fee.

The bill would make conforming changes in the Tax Code and the Water Code.

The bill would repeal Tax Code Sections 162.104(c) and (e), relating to gasoline tax exemptions,

and Sections 162.204(c) and (e), relating to diesel fuel tax exemptions.

The fiscal impact cannot be estimated because it is not possible to determine how many dollars of motor fuels tax, or petroleum products delivery fees, if any, are being evaded under current law. The bill is likely to improve compliance and remittance of taxes and fees, but the amount of gain, if any, cannot be determined.

This bill would take effect January 1, 2018.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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