87R2173 SMT-D

By:  Lopez H.B. No. 207

A BILL TO BE ENTITLED

AN ACT

relating to the rates of the state gasoline and diesel fuel taxes; increasing tax rates; authorizing a change in tax rates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102.  TAX RATE. Except as provided by Section 162.1026, the [~~The~~] gasoline tax rate is 22 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

SECTION 2.  Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1026 to read as follows:

Sec. 162.1026.  ANNUAL RATE CHANGE ACCORDING TO CONSUMER PRICE INDEX. (a) In this section:

(1)  "Consumer price index" means the consumer price index for all urban consumers for all items and for all regions of the United States combined, as determined by the United States Department of Labor, Bureau of Labor Statistics, or, if that index is discontinued or superseded, a similar index selected or calculated by the comptroller.

(2)  "Consumer price index percentage change" means the percentage increase or decrease in the consumer price index of a given state fiscal year from the consumer price index of the preceding state fiscal year.

(b)  On January 1 of each year, the rate of the gasoline tax imposed under this subchapter is increased or decreased by a percentage that is equal to the consumer price index percentage change for the preceding fiscal year.

(c)  Not later than November 1 of each year, the comptroller shall:

(1)  compute the new tax rate as provided by this section;

(2)  give the new tax rate to the secretary of state for publication in the Texas Register; and

(3)  notify each license holder under this subchapter of the applicable new tax rate.

SECTION 3.  Section 162.103(a), Tax Code, is amended to read as follows:

(a)  A backup tax is imposed at the rate prescribed by Sections [~~Section~~] 162.102 and 162.1026 on:

(1)  a person who obtains a refund of tax on gasoline by claiming the gasoline was used for an off-highway purpose, but actually uses the gasoline to operate a motor vehicle on a public highway;

(2)  a person who operates a motor vehicle on a public highway using gasoline on which tax has not been paid;

(3)  a person who sells to the ultimate consumer gasoline on which tax has not been paid and who knew or had reason to know that the gasoline would be used for a taxable purpose; and

(4)  a person, other than a person exempted under Section 162.104, who acquires gasoline on which tax has not been paid from any source in this state.

SECTION 4.  Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202.  TAX RATE. Except as provided by Section 162.2026, the [~~The~~] diesel fuel tax rate is 22 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.201.

SECTION 5.  Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2026 to read as follows:

Sec. 162.2026.  ANNUAL RATE CHANGE ACCORDING TO CONSUMER PRICE INDEX. (a) In this section:

(1)  "Consumer price index" means the consumer price index for all urban consumers for all items and for all regions of the United States combined, as determined by the United States Department of Labor, Bureau of Labor Statistics, or, if that index is discontinued or superseded, a similar index selected or calculated by the comptroller.

(2)  "Consumer price index percentage change" means the percentage increase or decrease in the consumer price index of a given state fiscal year from the consumer price index of the preceding state fiscal year.

(b)  On January 1 of each year, the rate of the diesel fuel tax imposed under this subchapter is increased or decreased by a percentage that is equal to the consumer price index percentage change for the preceding fiscal year.

(c)  Not later than November 1 of each year, the comptroller shall:

(1)  compute the new tax rate as provided by this section;

(2)  give the new tax rate to the secretary of state for publication in the Texas Register; and

(3)  notify each license holder under this subchapter of the applicable new tax rate.

SECTION 6.  Section 162.203(a), Tax Code, is amended to read as follows:

(a)  A backup tax is imposed at the rate prescribed by Sections [~~Section~~] 162.202 and 162.2026 on:

(1)  a person who obtains a refund of tax on diesel fuel by claiming the diesel fuel was used for an off-highway purpose, but actually uses the diesel fuel to operate a motor vehicle on a public highway;

(2)  a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid;

(3)  a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose; and

(4)  a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid from any source in this state.

SECTION 7.  The comptroller shall compute the initial adjusted tax rates as required by Sections 162.1026(c) and 162.2026(c), Tax Code, as added by this Act, not later than November 1, 2022. The initial adjusted rates take effect January 1, 2023.

SECTION 8.  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.

SECTION 9.  This Act takes effect January 1, 2022.