87R14878 BEF-F

By:  Thierry H.B. No. 3474

Substitute the following for H.B. No. 3474:

By:  Cole C.S.H.B. No. 3474

A BILL TO BE ENTITLED

AN ACT

relating to motor fuel taxes.

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

SECTION 1.  Section 162.001, Tax Code, is amended by amending Subdivisions (1), (14), (42), (43), (56), and (61) and adding Subdivisions (16-a) and (17-a) to read as follows:

(1)  "Agricultural purpose" means a purpose associated with the following activities:

(A)  cultivating the soil;

(B)  producing crops for human food, animal feed, or planting seed or for the production of fibers;

(C)  floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in potting containers or nonsoil media;

(D)  raising, feeding, or keeping livestock or other animals for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(E)  wildlife management; and

(F)  planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(14)  "Cargo tank" means an assembly that is used to transport, haul, or deliver liquids and that consists of a tank having one or more compartments [~~mounted~~] on a wagon, automobile, truck, trailer, or wheels. The term includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(16-a)  "Container" means any receptacle used to store motor fuel.

(17-a)  "Delivery" means any transfer of motor fuel:

(A)  into a fuel supply tank, cargo tank, or container; or

(B)  to a location or into a receptacle, as specified by this chapter in connection with the term.

(42)  "Motor fuel" means gasoline, diesel fuel, 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 motor vehicle licensed for use on a public highway [~~gasoline-powered engine or a diesel-powered engine~~].

(43)  "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, compressed natural gas, or liquefied natural gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who[~~:~~

[~~(A)~~]  is licensed under this chapter as a supplier, permissive supplier, or distributor [~~;~~] and:

(A) [~~(B)~~]  exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person; or

(B)  lawfully acquires motor fuel and retains ownership of the fuel while the fuel is being transported.

(56)  "Solid waste refuse vehicle" means a motor vehicle equipped with a power takeoff or auxiliary power unit that provides power to compact the refuse, open the back of the refuse container before ejection, and eject the compacted refuse.

(61)  "Transport vehicle" means any [~~a~~] vehicle [~~designed or~~] used to carry motor fuel over a public highway and includes a motor vehicle, straight truck, straight truck/trailer combination, [~~and~~] semitrailer combination rig, and motor vehicle/trailer combination.

SECTION 2.  Section 162.101, Tax Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g)  In each subsequent sale of gasoline on which the tax has been paid, the amount of the tax shall be added to the selling price so that the tax is paid by each person receiving the gasoline until it is paid ultimately by the person using or consuming the gasoline.

(h)  Gasoline is considered to be used when it is delivered into a fuel supply tank.

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 Section 162.102 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:

(A)  in an original or subsequent sale; or

(B)  from any source in this state; and

(5)  a person who acquires gasoline by any unlawful means, including by purchase through the unauthorized use of a credit card, a debit card, or other money, regardless of whether tax was previously paid on the gasoline or was added to the selling price of the gasoline.

SECTION 4.  Section 162.201, Tax Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g)  In each subsequent sale of diesel fuel on which the tax has been paid, the amount of the tax shall be added to the selling price so that the tax is paid by each person receiving the diesel fuel until it is paid ultimately by the person using or consuming the diesel fuel.

(h)  Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

SECTION 5.  Section 162.203(a), Tax Code, is amended to read as follows:

(a)  A backup tax is imposed at the rate prescribed by Section 162.202 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:

(A)  in an original or subsequent sale; or

(B)  from any source in this state; and

(5)  a person who acquires diesel fuel by any unlawful means, including by purchase through the unauthorized use of a credit card, a debit card, or other money, regardless of whether tax was previously paid on the diesel fuel or was added to the selling price of the diesel fuel.

SECTION 6.  The changes in law made by this Act do 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 7.  This Act takes effect September 1, 2021.