

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 17, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3474 by Thierry (Relating to motor fuel taxes.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>

The bill would amend Chapter 162, Tax Code, regarding definitions, points of imposition of motor fuel taxes, and backup tax liabilities.

The bill would amend Section 162.001 by making the following definition changes:

- 1) Subdivision (1-c): Add the term “potting” in reference to containers used for the cultivation of plants;
- 2) Subdivision (14): Delete the term “mounted” from in reference to cargo tanks on wagons, automobiles, trucks, trailers, or wheels;
- 3) Subdivision (16-a): New subdivision defining “containers” as any receptacle used to store motor fuels;
- 4) Subdivision (17-a): New subdivision defining “delivery” as the transfer of motor fuel into the supply tank, cargo tank, container, location, or into a receptable as specified in Chapter 162;
- 5) Subdivision (42): Delete the terms “gasoline-powered engine or diesel-powered engine” and replaced with “motor vehicle licensed for use on a public highway;”
- 6) Subdivision (43-b): New subdivision expanding the definition of who is not a motor fuel transporter to include those who lawfully acquire motor fuel and retain ownership of the fuel while it is being transported;
- 7) Subdivision (56): Add the term “refuse” to emphasize that the container being used is for a solid waste refuse vehicle; and,
- 8) Subdivision (61): Expands the definition of a transport vehicle that carries motor fuel over a public highway to include motor vehicles and motor vehicle/trailer combinations.

The bill would amend Subsection (g) of Sections 162.101 and 162.201 by stipulating that in each subsequent sale of gasoline or diesel fuel on which tax has been paid, the amount of the tax is added to the selling price so that the tax is paid by each person receiving the motor fuel until it is paid ultimately by the person using or consuming the motor fuel. Subsection (h) is added to both sections to state that motor fuel is considered used when it is delivered into a fuel supply tank.

The bill would amend Subsection (a) of Sections 162.103 and 162.203 by adding language stating that a backup tax is imposed on a person, other than those exempted under Sections 162.104 and 162.204, who acquires gasoline or diesel fuel on which tax has not been paid in an original or subsequent sale. In addition, Sections 162.103(a)(5) and 162.203(a)(5) would be added stating that a backup tax is imposed on a person who purchases gasoline or diesel fuel by unlawful means. These unlawful means include the unauthorized use of a credit card, debit card, or other money, regardless of whether the tax has been previously paid or was added to

the selling price of the motor fuel.

The bill makes clarifying changes to definitions involving the taxation of motor fuels and adds provisions clarifying upon whom motor fuel taxes are imposed and who is liable for the payment of backup taxes. The Comptroller indicates that the clarifications may improve enforcement but would not have significant fiscal implications for the state.

The bill would take effect September 1, 2021.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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