

By: Reynolds

H.B. No. 4183

A BILL TO BE ENTITLED

AN ACT

relating to state and municipal motor fuel taxes; providing civil penalties; creating criminal offenses; requiring occupational licenses; authorizing the imposition of taxes; providing for increases and decreases in the rates of taxes.

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

SECTION 1. Title 3, Tax Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. LOCAL MOTOR FUEL TAXES

CHAPTER 401. MUNICIPAL MOTOR FUEL TAXES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 401.001. MEANINGS OF WORDS AND PHRASES. A word or phrase used in this chapter that is defined by Chapter 162 has the meaning assigned by that chapter.

SUBCHAPTER B. TAX AUTHORIZED; USE OF REVENUE

Sec. 401.051. MUNICIPAL MOTOR FUEL TAXES AUTHORIZED. (a) Notwithstanding Section 162.014, if approved by a majority of the votes cast in a municipality at an election held for that purpose, the municipality shall impose taxes at the rate of one cent per gallon on the sale of gasoline and diesel fuel that is sold in the municipality by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of the state. The rates of the taxes shall be adjusted as provided by

1 Sections 162.1026 and 162.2026 on January 1 of each year after the  
2 year in which the taxes are first imposed.

3 (b) The tax authorized by this section is in addition to the  
4 tax imposed by Chapter 162 and shall be collected in conjunction  
5 with that tax when gasoline or diesel fuel is removed from a  
6 terminal using the terminal rack, other than by bulk transfer, to be  
7 sold or delivered into a municipality that has imposed the tax  
8 authorized by this section.

9 Sec. 401.052. USE OF REVENUE. The revenue collected under  
10 this chapter may be used as provided by Section 7-a, Article VIII,  
11 Texas Constitution.

12 SUBCHAPTER C. ELECTION

13 Sec. 401.101. ELECTION. (a) The governing body of a  
14 municipality may call an election on the issue of imposing motor  
15 fuel taxes under this chapter by a vote of a majority of its  
16 members.

17 (b) An election called under this section must be held on  
18 the uniform election date in May or November.

19 Sec. 401.102. BALLOT WORDING. The ballot shall be printed  
20 to provide for voting for or against the proposition: "A motor fuel  
21 tax is adopted within the city at a rate of one cent per gallon of  
22 gasoline or diesel fuel sold in the city. The rate may be increased  
23 or decreased each year to account for inflation or deflation."

24 Sec. 401.103. OFFICIAL RESULTS OF ELECTION. (a) Not later  
25 than 10 days after an election in which the voters approve the  
26 adoption of a tax authorized by this chapter, the governing body of  
27 the municipality shall by resolution or ordinance entered in its

1 minutes of proceedings declare the results of the election. A  
2 resolution or ordinance under this section must include statements  
3 showing:

- 4 (1) the date of the election;  
5 (2) the proposition on which the vote was held;  
6 (3) the total number of votes cast for and against the  
7 proposition; and  
8 (4) the number of votes by which the proposition was  
9 approved.

10 (b) If the imposition of a tax under this chapter is  
11 approved by the voters, the municipal secretary shall send to the  
12 comptroller a certified copy of the resolution or the ordinance  
13 along with a map of the municipality clearly showing its  
14 boundaries.

15 (c) Not later than the 30th day after the date the  
16 comptroller receives a certified copy of an ordinance or resolution  
17 showing the adoption of the tax, the comptroller shall notify the  
18 municipal secretary of the date provided by Section 401.151(d) or  
19 (e) when the comptroller will begin collecting the tax.

20 SUBCHAPTER D. ADMINISTRATION

21 Sec. 401.151. DUTIES OF COMPTROLLER RELATING TO MUNICIPAL  
22 MOTOR FUEL TAXES. (a) The comptroller shall administer, collect,  
23 and enforce a tax imposed on the sale of gasoline or diesel fuel  
24 approved in accordance with the provisions of this chapter. The tax  
25 shall be exclusively administered, collected, and enforced in  
26 conformance with Chapter 162 governing the taxes imposed on the  
27 sale of gasoline and diesel fuel, except that Subchapter F, Chapter

1 162 does not apply. References in Chapter 162 to taxes imposed under  
2 that chapter also include taxes imposed under this chapter.

3 (b) The exemptions provided by Sections 162.104 and 162.204  
4 apply to taxes imposed under this chapter.

5 (c) The comptroller may adopt reasonable rules and  
6 prescribe forms that are consistent with this chapter and Chapter  
7 162 for the administration, collection, reporting, and enforcement  
8 of the taxes imposed under this chapter.

9 (d) Except as provided by Subsection (e), a tax authorized  
10 by this chapter takes effect on the first day of the first calendar  
11 quarter following the expiration of the first complete quarter  
12 occurring after the date of the election authorizing the tax under  
13 Section 401.051.

14 (e) If the comptroller determines that an effective date  
15 provided by Subsection (d) will occur before the comptroller can  
16 reasonably take the action required to begin collecting the tax,  
17 the comptroller may delay the effective date until the first day of  
18 the first calendar quarter following the date the comptroller  
19 declares that the comptroller is ready to begin collecting the tax.

20 (f) Before making a distribution to a municipality under  
21 Section 401.154, the comptroller shall deduct any costs incurred by  
22 the comptroller related to the comptroller's preparations to  
23 administer, collect, and enforce a tax on the sale of gasoline or  
24 diesel fuel approved in accordance with this chapter. Each  
25 municipality that approves the imposition of taxes on the sale of  
26 gasoline and diesel fuel shall pay a pro rata amount of the  
27 comptroller's costs in preparing to administer, collect, and

1 enforce the taxes. If only one municipality elects to approve the  
2 imposition of taxes on the sale of gasoline and diesel fuel in its  
3 jurisdiction, that municipality bears all of the costs incurred by  
4 the comptroller but may recover pro rata shares of this cost from  
5 other municipalities that approve the imposition of the taxes.

6 Sec. 401.152. ADOPTION OF RULES RELATING TO MOTOR FUEL  
7 TAXES. (a) Before the comptroller may adopt rules under Section  
8 401.151, the comptroller must consult with representatives of:

9 (1) the entities that would be required to:

10 (A) collect and remit a motor fuel tax imposed  
11 under this chapter; and

12 (B) file reports with the comptroller relating to  
13 a motor fuel tax imposed under this chapter; and

14 (2) municipalities in which the voters have approved  
15 the imposition of a motor fuel tax under this chapter.

16 (b) Rules adopted under Section 401.151 must provide for the  
17 uniform administration and reporting of all motor fuel taxes  
18 imposed by a municipality under this chapter. A municipality may  
19 not impose requirements on an entity required to collect a motor  
20 fuel tax under this chapter that are not specifically authorized by  
21 the rules adopted under Section 401.151.

22 (c) Rules adopted under Section 401.151:

23 (1) may require the comptroller to report sufficient  
24 information to each municipality imposing a motor fuel tax under  
25 this chapter to ensure proper allocation of revenue by the  
26 municipality under this chapter;

27 (2) may not require the comptroller to report

1 proprietary information collected from an individual taxpayer in a  
2 way that would be subject to public disclosure; and

3 (3) may not authorize a municipality imposing a motor  
4 fuel tax under this chapter to contract with a private entity to  
5 perform any duty or responsibility associated with the collection,  
6 enforcement, or administration of the tax.

7 Sec. 401.153. TRUST ACCOUNT. The comptroller shall deposit  
8 the municipal taxes collected by the comptroller under this chapter  
9 and Chapter 162 in trust in a separate suspense account of the  
10 municipality for which the taxes were collected.

11 Sec. 401.154. DISTRIBUTION OF TRUST FUNDS. The comptroller  
12 shall each month distribute to the municipality the municipality's  
13 share of the taxes collected by the comptroller under this chapter  
14 and Chapter 162.

15 Sec. 401.155. STATE'S SHARE. Before making a distribution  
16 to a municipality under Section 401.154, the comptroller also shall  
17 deduct an amount not to exceed two percent of the amount of the  
18 taxes collected for the municipality during the period for which a  
19 distribution is made as the state's charge for its services. The  
20 comptroller shall credit the amount deducted to the general revenue  
21 fund. The comptroller shall adjust the percentage of the amount  
22 deducted each state fiscal year considering the projected  
23 expenditures necessary for the collection, administrative, and  
24 enforcement functions related to the municipal motor fuel taxes.

25 Sec. 401.156. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The  
26 comptroller may retain in the suspense account of a municipality a  
27 portion of the municipality's share of the tax collected for the

1 municipality under this chapter and Chapter 162 not to exceed five  
2 percent of the amount distributed to the municipality.

3 (b) From the amounts retained in a municipality's suspense  
4 account, the comptroller may correct erroneous deposits to the  
5 account, make refunds for overpayments to the account, and redeem  
6 dishonored checks and drafts deposited to the credit of the  
7 account.

8 Sec. 401.157. INTEREST ON TRUST ACCOUNT. Interest earned  
9 on all deposits made by the comptroller under this subchapter shall  
10 be credited to the suspense account of the municipality.

11 SECTION 2. Section 162.001, Tax Code, is amended by adding  
12 Subdivisions (44-a), (44-b), (56-a), (56-b), and (57-a) to read as  
13 follows:

14 (44-a) "Municipal diesel fuel tax" means the tax  
15 imposed by Section 162.2011 or 162.2035.

16 (44-b) "Municipal gasoline tax" means the tax imposed  
17 by Section 162.1011 or 162.1035.

18 (56-a) "State diesel fuel tax" means the tax imposed  
19 by Section 162.201 or 162.203.

20 (56-b) "State gasoline tax" means the tax imposed by  
21 Section 162.101 or 162.103.

22 (57-a) "Taxing municipality" means a destination  
23 municipality that has adopted the taxes authorized by Chapter 401.

24 SECTION 3. Sections 162.004(e) and (g), Tax Code, are  
25 amended to read as follows:

26 (e) A person to whom a shipping document was issued shall:

27 (1) carry the shipping document in the barge, vessel,

1 railroad tank car, or other transport vehicle for which the  
2 document was issued when transporting the motor fuel described in  
3 the document;

4 (2) show the shipping document on request to any law  
5 enforcement officer, representative of the comptroller, or other  
6 authorized individual, when transporting the motor fuel described;

7 (3) deliver the motor fuel to the destination state  
8 printed on the shipping document unless the person:

9 (A) notifies the comptroller and the destination  
10 state, if a diversion program is in place, before transporting the  
11 motor fuel into a state other than the printed destination state,  
12 that the person has received instructions after the shipping  
13 document was issued to deliver the motor fuel to a different  
14 destination state;

15 (B) receives from the comptroller and  
16 destination state, if a diversion program is in place, a diversion  
17 number authorizing the diversion; and

18 (C) writes on the shipping document the change in  
19 destination state and the diversion number; ~~and~~

20 (4) if delivering the motor fuel into a municipality  
21 in this state, denote on the shipping document the municipality to  
22 which the motor fuel will be delivered or, in the case of a split  
23 load, each municipality in which a portion of the motor fuel will be  
24 delivered; and

25 (5) give a copy of the shipping document to the person  
26 to whom the motor fuel is delivered.

27 (g) The person to whom motor fuel is delivered by barge,



1 vessel, railroad tank car, or transport vehicle may not accept  
2 delivery of the motor fuel if the destination state shown on the  
3 shipping document for the motor fuel is a state other than this  
4 state, except that the person may accept the [~~that~~] delivery if the  
5 document contains a diversion number authorized by the comptroller  
6 and destination state, if applicable, and has received a properly  
7 completed shipping document listing the municipality, if  
8 applicable, in this state in which the person accepts delivery. The  
9 person to whom the motor fuel is delivered shall examine the  
10 shipping document to determine that the destination state is this  
11 state and, if applicable, that the municipality in this state is the  
12 municipality in which the person accepts delivery, and shall retain  
13 a copy of the shipping document at the delivery location or another  
14 place until the fourth anniversary of the date of delivery.

15 SECTION 4. Section 162.005(e), Tax Code, is amended to read  
16 as follows:

17 (e) The comptroller may revoke a license if the license  
18 holder:

19 (1) purchases for export motor fuel on which the tax  
20 was not paid under this chapter and subsequently diverts or causes  
21 the motor fuel to be diverted to a destination in this state or to  
22 any destination other than the originally designated state or  
23 country without first obtaining a diversion number; or

24 (2) delivers motor fuel on which the municipal  
25 gasoline tax or municipal diesel fuel tax is due without issuing a  
26 properly completed shipping document listing the taxing  
27 municipality in which the delivery occurred.

1 SECTION 5. Section 162.006(a), Tax Code, is amended to read  
2 as follows:

3 (a) The comptroller may suspend a person's license without  
4 notice or a hearing for the person's failure to comply with this  
5 chapter or a rule adopted under this chapter or Chapter 401 if the  
6 person's continued operation constitutes an immediate and  
7 substantial threat to the collection of taxes imposed by this  
8 chapter and attributable to the person's operation.

9 SECTION 6. Section 162.012, Tax Code, is amended to read as  
10 follows:

11 Sec. 162.012. PRESUMPTIONS. (a) A person licensed under  
12 this chapter or required to be licensed under this chapter, or other  
13 user, who fails to keep a record, issue an invoice, or file a return  
14 or report required by this chapter is presumed to have sold or used  
15 for taxable purposes all motor fuel shown by an audit by the  
16 comptroller to have been sold to the license holder or other  
17 user. Motor fuel unaccounted for is presumed to have been sold or  
18 used for taxable purposes.

19 (b) If an exporter claims an exemption under Section  
20 162.104(a)(4) or 162.204(a)(4) and fails to report subsequent  
21 tax-free sales in this state of the motor fuel for which the  
22 exemption was claimed as required by Section 162.1155 or 162.2165,  
23 or to produce proof of payment of tax to the destination state or  
24 proof that the transaction was exempt in the destination state, the  
25 exporter is presumed to have not paid the destination state's tax or  
26 this state's tax on the motor fuel and the comptroller shall assess  
27 the tax imposed by this chapter on the motor fuel against the

1 exporter.

2 (c) If a person claims an exemption from the municipal motor  
3 fuels tax and fails to produce proof of delivery to a nontaxing  
4 municipality or an unincorporated area of the state, the person is  
5 presumed to have delivered the motor fuel to a taxing municipality  
6 that imposes the tax on motor vehicle fuels authorized by Chapter  
7 401.

8 (d) The comptroller may fix or establish the amount of  
9 taxes, penalties, and interest due this state from the records of  
10 deliveries or from any records or information available. If a tax  
11 claim, as developed from this procedure, is not paid, after the  
12 opportunity to request a redetermination, the claim and any audit  
13 made by the comptroller or any report filed by the license holder or  
14 other user is evidence in any suit or judicial proceedings filed by  
15 the attorney general and is prima facie evidence of the correctness  
16 of the claim or audit. A prima facie presumption of the  
17 correctness of the claim may be overcome at the trial by evidence  
18 adduced by the license holder or other user.

19 (e) [~~(b)~~] In the absence of records showing the number of  
20 miles actually operated per gallon of motor fuel consumed, it is  
21 presumed that not less than one gallon of motor fuel was consumed  
22 for every four miles traveled. An interstate trucker may produce  
23 evidence of motor fuel consumption to establish another mileage  
24 factor. If an examination or audit made by the comptroller from the  
25 records of an interstate trucker shows that a greater amount of  
26 motor fuel was consumed than was reported by the interstate trucker  
27 for tax purposes, the interstate trucker is liable for the tax,

1 penalties, and interest on the additional amount shown or the  
2 trucker is entitled to a credit or refund on overpayments of tax  
3 established by the audit.

4 SECTION 7. Section 162.015, Tax Code, is amended to read as  
5 follows:

6 Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a)  
7 On the effective date of an increase in the rate [~~rates~~] of a tax  
8 [~~the taxes~~] imposed by this chapter, a distributor or dealer that  
9 possesses for the purpose of sale 2,000 or more gallons of gasoline  
10 or diesel fuel at each business location on which a tax [~~the taxes~~]  
11 imposed by this chapter at a previous rate has [~~have~~] been paid  
12 shall report to the comptroller the volume of that gasoline and  
13 diesel fuel, and at the time of the report shall pay a tax on that  
14 gasoline and diesel fuel at a rate equal to the rate of the tax  
15 increase.

16 (b) On the effective date of a reduction of the rate [~~rates~~]  
17 of a tax [~~taxes~~] imposed by this chapter, a distributor or dealer  
18 that possesses for the purpose of sale 2,000 or more gallons of  
19 gasoline or diesel fuel at each business location on which a tax  
20 [~~the taxes~~] imposed by this chapter at the previous rate has [~~have~~]  
21 been paid becomes entitled to a refund in an amount equal to the  
22 difference in the amount of the tax [~~taxes~~] paid on that gasoline or  
23 diesel fuel at the previous rate and at the rate in effect on the  
24 effective date of the reduction in the tax rate [~~rates~~]. The rules  
25 of the comptroller shall provide for the method of claiming a refund  
26 under this chapter and may require that the refund for the dealer be  
27 paid through the distributor or supplier from whom the dealer

1 received the fuel.

2 SECTION 8. Section 162.016, Tax Code, is amended by  
3 amending Subsection (a) and adding Subsection (g-1) to read as  
4 follows:

5 (a) A person may not import motor fuel to a destination in  
6 this state or export motor fuel to a destination outside this state  
7 by any means unless the person possesses a shipping document for  
8 that fuel. The shipping document must include:

9 (1) the name and physical address of the terminal or  
10 bulk plant from which the motor fuel was received for import or  
11 export;

12 (2) the name of the carrier transporting the motor  
13 fuel;

14 (3) the date the motor fuel was loaded;

15 (4) the type of motor fuel;

16 (5) the number of gallons:

17 (A) in temperature-adjusted gallons if purchased  
18 from a terminal for export or import; or

19 (B) in temperature-adjusted gallons or in gross  
20 gallons if purchased from a bulk plant;

21 (6) the destination state and, if the destination  
22 state is this state and the gasoline or diesel fuel will be  
23 delivered to a municipality, the municipality in this state to  
24 which the gasoline or diesel fuel will be delivered [~~of the motor~~  
25 ~~fuel~~] as represented by the purchaser of the motor fuel and the  
26 number of gallons of the fuel to be delivered, if delivery is to  
27 only one state;

1           (7) the name and physical address of the purchaser of  
2 the motor fuel;

3           (8) the name of the person responsible for paying the  
4 tax imposed by this chapter, as given to the terminal by the  
5 purchaser if different from the licensed supplier or distributor;

6           (9) the destination state of each portion of a split  
7 load of motor fuel if the motor fuel is to be delivered to more than  
8 one state and, if a destination state is this state and the gasoline  
9 or diesel fuel will be delivered to a municipality, the  
10 municipality in this state to which the gasoline or diesel fuel will  
11 be delivered; and

12           (10) any other information that, in the opinion of the  
13 comptroller, is necessary for the proper administration of this  
14 chapter.

15           (g-1) An importer or exporter who wants to deliver a single  
16 cargo tank of motor fuel to a municipality in this state must issue  
17 a properly completed shipping document denoting the municipality to  
18 which the motor fuel will be delivered or, in the case of a split  
19 load, each municipality to which a portion of the motor fuel will be  
20 delivered.

21           SECTION 9. The heading to Section 162.101, Tax Code, is  
22 amended to read as follows:

23           Sec. 162.101. POINT OF IMPOSITION OF STATE GASOLINE TAX.

24           SECTION 10. Sections 162.101(a), (b), (c), and (f), Tax  
25 Code, are amended to read as follows:

26           (a) A tax is imposed on the removal of gasoline from the  
27 terminal using the terminal rack, other than by bulk transfer. The

1 supplier or permissive supplier is liable for and shall collect the  
2 tax imposed by this section [~~subchapter~~] from the person who orders  
3 the withdrawal at the terminal rack.

4 (b) A tax is imposed at the time gasoline is imported into  
5 this state, other than by a bulk transfer, for delivery to a  
6 destination in this state. The supplier or permissive supplier is  
7 liable for and shall collect the tax imposed by this section  
8 [~~subchapter~~] from the person who imports the gasoline into this  
9 state. If the seller is not a supplier or permissive supplier,  
10 then the person who imports the gasoline into this state is liable  
11 for and shall pay the tax.

12 (c) A tax is imposed on the removal of gasoline from the bulk  
13 transfer/terminal system in this state. The supplier is liable for  
14 and shall collect the tax imposed by this section [~~subchapter~~] from  
15 the person who orders the removal from the bulk transfer terminal  
16 system.

17 (f) A terminal operator in this state is considered a  
18 supplier for the purpose of the tax imposed by [~~under~~] this section  
19 [~~subchapter~~] unless at the time of removal:

20 (1) the terminal operator has a terminal operator's  
21 license issued for the facility from which the gasoline is  
22 withdrawn;

23 (2) the terminal operator verifies that the person who  
24 removes the gasoline has a supplier's license; and

25 (3) the terminal operator does not have a reason to  
26 believe that the supplier's license is not valid.

27 SECTION 11. Subchapter B, Chapter 162, Tax Code, is amended

1 by adding Section 162.1011 to read as follows:

2 Sec. 162.1011. IMPOSITION OF MUNICIPAL GASOLINE TAX; POINT  
3 OF COLLECTION. (a) In a municipality that imposes taxes on motor  
4 vehicle fuel authorized by Chapter 401, a tax is imposed on the  
5 delivery of gasoline into the taxing municipality.

6 (b) A tax is imposed on gasoline that is otherwise exempt  
7 from taxation under Section 162.104(a)(4) or (7) if the gasoline is  
8 sold in this state to a person who does not hold a license under  
9 Section 162.105(1), (2), (3), (4), or (6) and the gasoline is  
10 subsequently delivered into a taxing municipality. The person who  
11 delivered the gasoline into the taxing municipality is liable for  
12 and shall collect the tax.

13 (c) A tax is imposed on gasoline that is otherwise exempt  
14 from taxation under Section 162.104(a)(4) or (7) if before export  
15 the gasoline is sold in this state to a person who holds a license  
16 under Section 162.105(1), (2), (3), (4), or (6) and the gasoline is  
17 delivered into a taxing municipality. The person who delivered the  
18 gasoline into the taxing municipality is liable for and shall pay  
19 the tax.

20 (d) The distributor shall collect the tax imposed by this  
21 section from each person on delivery of gasoline into a taxing  
22 municipality.

23 (e) In each subsequent sale of gasoline on which the tax has  
24 been paid, the tax imposed by this section shall be collected from  
25 the purchaser so that the tax is paid ultimately by the person who  
26 uses the gasoline. Gasoline is considered to be used when it is  
27 delivered into a fuel supply tank.



1 SECTION 12. Section 162.102, Tax Code, is amended to read as  
2 follows:

3 Sec. 162.102. TAX RATES [~~RATE~~]. (a) Except as provided by  
4 Section 162.1026, the state [~~The~~] gasoline tax rate is 20 cents for  
5 each net gallon or fractional part of a net gallon on which the tax  
6 is imposed under Section 162.101.

7 (b) In a taxing municipality, the municipal gasoline tax  
8 rate for each net gallon or fractional part of a net gallon is the  
9 rate established by Chapter 401, including the amount of  
10 adjustments under Section 162.1026.

11 SECTION 13. The heading to Section 162.1025, Tax Code, is  
12 amended to read as follows:

13 Sec. 162.1025. SEPARATE STATEMENT OF TAXES [~~TAX~~] COLLECTED  
14 FROM PURCHASER.

15 SECTION 14. Sections 162.1025(a), (b), and (c), Tax Code,  
16 are amended to read as follows:

17 (a) In each subsequent sale of gasoline on which the taxes  
18 imposed by this subchapter have [~~tax has~~] been paid, the taxes [~~tax~~  
19 ~~imposed by this subchapter~~] shall be collected from the purchaser  
20 so that the taxes are [~~tax is~~] paid ultimately by the person who  
21 uses the gasoline. Gasoline is considered to be used when it is  
22 delivered into a fuel supply tank.

23 (b) The taxes [~~tax~~] imposed by this subchapter must be  
24 stated separately from the sales price of gasoline and identified  
25 as gasoline taxes [~~tax~~] on the invoice or receipt issued to a  
26 purchaser. Backup gasoline taxes [~~tax~~] may be identified as  
27 gasoline taxes [~~tax~~]. The taxes [~~tax~~] must be separately stated and

1 identified in the same manner on a shipping document, if the  
2 shipping document includes the sales price of the gasoline.

3 (c) Except as provided by Subsection (d), the sales price of  
4 gasoline stated on an invoice, receipt, or shipping document is  
5 presumed to be exclusive of the taxes [~~tax~~] imposed by this  
6 subchapter. The seller or purchaser may overcome the presumption  
7 by using the seller's records to show that the taxes [~~tax~~] imposed  
8 by this subchapter were [~~was~~] included in the sales price.

9 SECTION 15. Subchapter B, Chapter 162, Tax Code, is amended  
10 by adding Section 162.1026 to read as follows:

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

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

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

23 (b) On January 1 of each year, the rates of state and  
24 municipal gasoline taxes imposed under this subchapter are  
25 increased or decreased by a percentage that is equal to the consumer  
26 price index percentage change for the preceding fiscal year.

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

1 shall:

2 (1) compute the new tax rates as provided by this  
3 section;

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

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

8 SECTION 16. The heading to Section 162.103, Tax Code, is  
9 amended to read as follows:

10 Sec. 162.103. BACKUP STATE GASOLINE TAX; LIABILITY.

11 SECTION 17. Sections 162.103(a) and (c), Tax Code, are  
12 amended to read as follows:

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

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

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

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

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

27 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also

1 imposed on the ultimate consumer.

2 SECTION 18. Subchapter B, Chapter 162, Tax Code, is amended  
3 by adding Section 162.1035 to read as follows:

4 Sec. 162.1035. BACKUP MUNICIPAL GASOLINE TAX; LIABILITY.

5 (a) A backup tax is imposed at the rate prescribed by Sections  
6 162.102(b) and 162.1026 on:

7 (1) a person who, in a taxing municipality:

8 (A) delivers gasoline into the fuel supply tank  
9 of a motor vehicle;

10 (B) purchases or receives gasoline from another  
11 person; or

12 (C) sells or delivers gasoline to another person;  
13 and

14 (2) a person who obtains a refund of the tax imposed by  
15 Section 162.1011 for gasoline that the person delivered into the  
16 fuel supply tank of a motor vehicle, purchased or acquired, or sold  
17 or delivered in a taxing municipality.

18 (b) A person who sells gasoline subject to the tax imposed  
19 by this section shall at the time of sale collect the tax from the  
20 purchaser or recipient of the gasoline in addition to the selling  
21 price and is liable to this state for the taxes collected at the  
22 time and in the manner provided by this chapter.

23 (c) The following are exempt from the tax imposed by this  
24 section:

25 (1) gasoline on which the tax imposed by Section  
26 162.1011 has been paid; and

27 (2) gasoline exempt under Section 162.104.

1        (d) The tax imposed by this section is in addition to any  
2 penalty imposed under this chapter.

3        SECTION 19. Section 162.104(a), Tax Code, is amended to  
4 read as follows:

5        (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not  
6 apply to gasoline:

7            (1) sold to the United States for its exclusive use,  
8 provided that the exemption does not apply with respect to fuel sold  
9 or delivered to a person operating under a contract with the United  
10 States;

11           (2) sold to a public school district in this state for  
12 the district's exclusive use;

13           (3) sold to a commercial transportation company or a  
14 metropolitan rapid transit authority operating under Chapter 451,  
15 Transportation Code, that provides public school transportation  
16 services to a school district under Section 34.008, Education Code,  
17 and that uses the gasoline only to provide those services;

18           (4) exported by either a licensed supplier or a  
19 licensed exporter from this state to any other state, provided that  
20 the bill of lading indicates the destination state and the supplier  
21 collects the destination state tax;

22           (5) moved by truck or railcar between licensed  
23 suppliers or licensed permissive suppliers and in which the  
24 gasoline removed from the first terminal comes to rest in the second  
25 terminal, provided that the removal from the second terminal rack  
26 is subject to the state gasoline tax imposed by this subchapter;

27           (6) delivered or sold into a storage facility of a

1 licensed aviation fuel dealer from which gasoline will be delivered  
2 solely into the fuel supply tanks of aircraft or aircraft servicing  
3 equipment, or sold from one licensed aviation fuel dealer to  
4 another licensed aviation fuel dealer who will deliver the aviation  
5 fuel exclusively into the fuel supply tanks of aircraft or aircraft  
6 servicing equipment;

7 (7) exported to a foreign country if the bill of lading  
8 or shipping documents indicate the foreign destination and the fuel  
9 is actually exported to the foreign country;

10 (8) sold to a volunteer fire department in this state  
11 for the department's exclusive use; or

12 (9) sold to a nonprofit entity that is organized for  
13 the sole purpose of and engages exclusively in providing emergency  
14 medical services and that uses the gasoline exclusively to provide  
15 emergency medical services, including rescue and ambulance  
16 services.

17 SECTION 20. Section 162.105, Tax Code, is amended to read as  
18 follows:

19 Sec. 162.105. PERSONS REQUIRED TO BE LICENSED. A person  
20 shall obtain the appropriate license or licenses issued by the  
21 comptroller before conducting the activities of:

22 (1) a supplier, who may also act as a distributor,  
23 importer, exporter, blender, motor fuel transporter, dealer, or  
24 aviation fuel dealer without securing a separate license, but who  
25 is subject to all other conditions, requirements, and liabilities  
26 imposed on those license holders;

27 (2) a permissive supplier, who may also act as a

1 distributor, importer, exporter, blender, motor fuel transporter,  
2 dealer, or aviation fuel dealer without securing a separate  
3 license, but who is subject to all other conditions, requirements,  
4 and liabilities imposed on those license holders;

5 (3) a distributor, who may also act as an importer,  
6 exporter, blender, [~~or~~] motor fuel transporter, or dealer without  
7 securing a separate license, but who is subject to all other  
8 conditions, requirements, and liabilities imposed on those license  
9 holders;

10 (4) an importer, who may also act as an exporter,  
11 blender, [~~or~~] motor fuel transporter, or dealer without securing a  
12 separate license, but who is subject to all other conditions,  
13 requirements, and liabilities imposed on those license holders;

14 (5) a terminal operator;

15 (6) an exporter;

16 (7) a blender;

17 (8) a motor fuel transporter;

18 (9) an aviation fuel dealer; [~~or~~]

19 (10) an interstate trucker; or

20 (11) a dealer.

21 SECTION 21. Sections 162.107(a) and (b), Tax Code, are  
22 amended to read as follows:

23 (a) A person may elect to obtain a permissive supplier  
24 license to collect the state gasoline tax imposed by [~~under~~] this  
25 subchapter for gasoline that is removed at a terminal in another  
26 state and has this state as the destination state.

27 (b) With respect to gasoline that is removed by the licensed

1 permissive supplier at a terminal located in another state and that  
2 has this state as the destination state, a licensed permissive  
3 supplier shall:

4 (1) collect the state gasoline tax due to this state on  
5 the gasoline;

6 (2) waive any defense that this state lacks  
7 jurisdiction to require the supplier to collect the state gasoline  
8 tax due to this state on the gasoline under this subchapter;

9 (3) report and pay the state gasoline tax and the  
10 municipal gasoline tax due on the gasoline in the same manner as if  
11 the removal had occurred at a terminal located in this state;

12 (4) keep records of the removal of the gasoline and  
13 submit to audits concerning the gasoline as if the removal had  
14 occurred at a terminal located in this state; and

15 (5) report sales by the permissive supplier to a  
16 person who is not licensed in this state.

17 SECTION 22. Section 162.108, Tax Code, is amended by adding  
18 Subsection (a-1) to read as follows:

19 (a-1) In addition to the information required by Subsection  
20 (a), an applicant for a license as a dealer must list on the  
21 application:

22 (1) the street address, municipality, county, and zip  
23 code of the location for which the applicant seeks a license to sell  
24 or dispense motor fuel at retail;

25 (2) the applicant's social security number, driver's  
26 license number, and federal employer identification number if the  
27 applicant is a natural person who is not licensed as a supplier,



1 permissive supplier, or terminal operator; and

2 (3) if the applicant is a corporation, limited  
3 liability company, professional association, partnership, or other  
4 entity that is not licensed as a supplier, permissive supplier, or  
5 terminal operator and is not wholly owned by an entity that is  
6 licensed as a supplier, permissive supplier, or terminal operator,  
7 the physical address, mailing address, social security number, and  
8 driver's license number of:

9 (A) each natural person responsible for the  
10 purchase of motor fuel for sale by the applicant; and

11 (B) each officer, director, manager, member,  
12 shareholder, and partner of the applicant.

13 SECTION 23. Section 162.110(a), Tax Code, is amended to  
14 read as follows:

15 (a) The license issued to a supplier, permissive supplier,  
16 distributor, importer, exporter, terminal operator, blender, [~~or~~]  
17 motor fuel transporter, or dealer is permanent and is valid during  
18 the period the license holder has in force and effect the required  
19 bond or security and furnishes timely reports and supplements as  
20 required, or until the license is surrendered by the holder or  
21 canceled by the comptroller. The comptroller shall cancel a  
22 license under this subsection if a purchase, sale, or use of  
23 gasoline has not been reported by the license holder during the  
24 previous nine months.

25 SECTION 24. Section 162.111(a), Tax Code, is amended to  
26 read as follows:

27 (a) The comptroller shall determine the amount of security

1 required of a supplier, permissive supplier, distributor,  
2 exporter, importer, dealer, or blender, taking into consideration  
3 the amount of tax that has or is expected to become due from the  
4 person, any past history of the person as a license holder under  
5 this chapter or its predecessor, and the necessity to protect this  
6 state against the failure to pay the tax as the tax becomes due.

7 SECTION 25. Sections 162.112(a) and (b), Tax Code, are  
8 amended to read as follows:

9 (a) The comptroller, on or before December 20 of each year,  
10 shall make available to all license holders an alphabetical list of  
11 licensed suppliers, permissive suppliers, distributors, aviation  
12 fuel dealers, importers, exporters, blenders, dealers, and  
13 terminal operators. A supplemental list of additions and deletions  
14 shall be made available to the license holders each month. A  
15 current and effective license or the list furnished by the  
16 comptroller is evidence of the validity of the license until the  
17 comptroller notifies license holders of a change in the status of a  
18 license holder.

19 (b) A licensed supplier, permissive supplier, dealer, or  
20 distributor who sells gasoline tax-free to a person whose  
21 supplier's, permissive supplier's, dealer's, or aviation fuel  
22 dealer's license has been canceled or revoked under this chapter is  
23 liable for any tax due on gasoline sold after receiving notice of  
24 the cancellation or revocation.

25 SECTION 26. Sections 162.113(d), (d-1), and (e), Tax Code,  
26 are amended to read as follows:

27 (d) The supplier or permissive supplier, after requesting a

1 credit under this section, shall terminate the ability of the  
2 licensed distributor or licensed importer to defer the payment of  
3 state gasoline tax. The supplier or permissive supplier may not  
4 reinstate the right of the licensed distributor or licensed  
5 importer to defer the payment of state gasoline tax until the first  
6 anniversary of the date the supplier or permissive supplier  
7 requested the credit, subject to Subsection (d-1).

8 (d-1) A supplier or permissive supplier may reinstate the  
9 right of a licensed distributor or licensed importer to defer the  
10 payment of state gasoline tax before the date prescribed by  
11 Subsection (d) if the comptroller determines that:

12 (1) the supplier or permissive supplier erroneously  
13 requested the credit that resulted in the termination of the  
14 licensed distributor's or licensed importer's right to defer  
15 payment; or

16 (2) the licensed distributor or licensed importer  
17 failed to pay state gasoline taxes due because of circumstances  
18 that may have been outside the distributor's or importer's control.

19 (e) A licensed distributor or licensed importer who makes  
20 timely payments of the state gasoline tax imposed by [~~under~~] this  
21 subchapter is entitled to retain an amount equal to 1.75 percent of  
22 the total state gasoline tax [~~taxes~~] to be paid to the supplier or  
23 permissive supplier to cover administrative expenses.

24 SECTION 27. Section 162.114(a), Tax Code, is amended to  
25 read as follows:

26 (a) Except as provided by Subsection (b), each person who is  
27 liable for the taxes [~~tax~~] imposed by this subchapter, a terminal

1 operator, a dealer, and a licensed distributor shall file a return  
2 on or before the 25th day of the month following the end of each  
3 calendar month.

4 SECTION 28. Sections 162.115(b), (c), (e), (g), and (h),  
5 Tax Code, are amended to read as follows:

6 (b) A distributor shall keep:

7 (1) a record showing the number of gallons of:

8 (A) all gasoline inventories on hand at the first  
9 of each month;

10 (B) all gasoline blended;

11 (C) all gasoline purchased or received, showing  
12 the name of the seller and the date of each purchase or receipt;

13 (D) all gasoline sold, distributed, or used,  
14 showing:

15 (i) the name of the purchaser;

16 (ii) if the gasoline was delivered to a  
17 municipality in this state, the municipality to which the gasoline  
18 was delivered;

19 (iii) the amount of municipal gasoline tax  
20 collected from the purchaser, if any; and

21 (iv) the date of the sale, distribution, or  
22 use; and

23 (E) all gasoline lost by fire, theft, or  
24 accident;

25 (2) an itemized statement showing by load the number  
26 of gallons of all gasoline:

27 (A) received during the preceding calendar month

1 for export and the location of the loading;

2 (B) sold, distributed, or used, showing:

3 (i) the name of the purchaser;

4 (ii) the municipality or municipalities in  
5 this state, if applicable;

6 (iii) the amount of municipal gasoline tax  
7 collected from the purchaser, if any; and

8 (iv) the date of the sale, distribution, or  
9 use;

10 (C) exported from this state by destination state  
11 or country; and

12 (D) [~~C~~] imported during the preceding calendar  
13 month by state or country of origin; [~~and~~]

14 (3) for gasoline exported from this state, proof of  
15 payment of tax to the destination state in a form acceptable to the  
16 comptroller; and

17 (4) all shipping documents.

18 (c) An importer shall keep:

19 (1) a record showing the number of gallons of:

20 (A) all gasoline inventories on hand at the first  
21 of each month;

22 (B) all gasoline compounded or blended;

23 (C) all gasoline purchased or received, showing  
24 the name of the seller and the date of each purchase or receipt;

25 (D) all gasoline sold, distributed, or used,  
26 showing the name of the purchaser, the municipality in this state,  
27 if applicable, and the date of the sale, distribution, or use; and

1 (E) all gasoline lost by fire, theft, or  
2 accident; and

3 (2) an itemized statement showing by load the number  
4 of gallons of all gasoline:

5 (A) received during the preceding calendar month  
6 for export and the location of the loading;

7 (B) sold, distributed, or used, showing the name  
8 of the purchaser, the municipality or municipalities in this state,  
9 if applicable, and the date of the sale, distribution, or use;

10 (C) exported from this state by destination state  
11 or country; and

12 (D) [~~(C)~~] imported during the preceding calendar  
13 month by state or country of origin.

14 (e) A blender shall keep a record showing the number of  
15 gallons of:

16 (1) all gasoline inventories on hand at the first of  
17 each month;

18 (2) all gasoline compounded or blended;

19 (3) all gasoline purchased or received, showing the  
20 name of the seller and the date of each purchase or receipt;

21 (4) all gasoline sold, distributed, or used, showing  
22 the name of the purchaser, the municipality in this state, if  
23 applicable, and the date of the sale or use; and

24 (5) all gasoline lost by fire, theft, or accident.

25 (g) A motor fuel transporter shall keep a complete and  
26 separate record of each intrastate and interstate transportation of  
27 gasoline, showing:

- 1 (1) the date of transportation;
- 2 (2) the name of the consignor and consignee;
- 3 (3) the means of transportation;
- 4 (4) the quantity and kind of gasoline transported;
- 5 (5) full data concerning the diversion of shipments,  
6 including the municipality in this state, if applicable, and the  
7 number of gallons diverted from interstate to intrastate and  
8 intrastate to interstate commerce; and
- 9 (6) the points of origin and destination, the  
10 municipality in this state, if applicable, the number of gallons  
11 shipped or transported, the date, the consignee and the consignor,  
12 and the kind of gasoline that has been diverted.

13 (h) A dealer shall keep all shipping documents and a record  
14 showing the number of gallons of:

- 15 (1) gasoline inventories on hand at the first of each  
16 month;
- 17 (2) all gasoline purchased or received, showing the  
18 name of the seller and the date of each purchase or receipt;
- 19 (3) all gasoline sold or used, showing the date of the  
20 sale or use; and
- 21 (4) all gasoline lost by fire, theft, or accident.

22 SECTION 29. Section 162.116(c), Tax Code, is amended to  
23 read as follows:

24 (c) A supplier or permissive supplier may take a credit for  
25 any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a  
26 previous period to the supplier or permissive supplier by a  
27 licensed distributor or licensed importer as required by Section

1 162.113. The supplier or permissive supplier is eligible to take  
2 the credit if the comptroller is notified of the default within 15  
3 days after the default occurs. If a license holder pays to a  
4 supplier or permissive supplier the tax owed, but the payment  
5 occurs after the supplier or permissive supplier has taken a credit  
6 on its return, the supplier or permissive supplier shall remit the  
7 payment to the comptroller with the next monthly return after  
8 receipt of the tax, plus a penalty of 10 percent of the amount of  
9 unpaid taxes and interest at the rate provided by Section 111.060  
10 beginning on the date the credit was taken.

11 SECTION 30. Section 162.118, Tax Code, is amended to read as  
12 follows:

13 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S  
14 RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return  
15 and supplements of each distributor shall contain for the period  
16 covered by the return:

17 (1) the number of net gallons of gasoline received by  
18 the distributor during the month, sorted by product code, seller,  
19 point of origin, destination state, carrier, and receipt date;

20 (2) the number of net gallons of gasoline removed at a  
21 terminal rack by the distributor during the month, sorted by  
22 product code, seller, terminal code, and carrier;

23 (3) the number of net gallons of gasoline removed by  
24 the distributor during the month for export, sorted by product  
25 code, terminal code, bulk plant address, destination state, and  
26 carrier;

27 (4) the number of net gallons of gasoline removed by



1 the distributor during the month from a terminal located in another  
2 state for conveyance to this state, as indicated on the shipping  
3 document for the gasoline, sorted by product code, seller, terminal  
4 code, bulk plant address, and carrier;

5 (5) the number of net gallons of gasoline the  
6 distributor sold during the month in transactions exempt under  
7 Section 162.104, sorted by product code and purchaser; ~~and~~

8 (6) the number of net gallons delivered into a taxing  
9 municipality sorted by taxing municipality and purchaser; and

10 (7) any other information required by the comptroller.

11 (b) A distributor or importer who makes timely payments of  
12 the municipal tax imposed by this subchapter is entitled to retain  
13 an amount equal to two percent of the total municipal gasoline taxes  
14 remitted to the comptroller to cover administrative expenses.

15 SECTION 31. Section 162.123, Tax Code, is amended to read as  
16 follows:

17 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.  
18 The monthly return and supplements of each blender shall contain  
19 for the period covered by the return:

20 (1) the number of net gallons of gasoline received by  
21 the blender during the month, sorted by product code, seller, point  
22 of origin, carrier, and receipt date;

23 (2) the number of net gallons of product blended with  
24 gasoline during the month, sorted by product code, type of blending  
25 agent if no product code exists, seller, and carrier;

26 (3) the number of net gallons of blended gasoline sold  
27 during the month and the license number or name, ~~and~~ address, and,

1 if applicable, municipality of the entity receiving the blended  
2 gasoline; and

3 (4) any other information required by the comptroller.

4 SECTION 32. Subchapter B, Chapter 162, Tax Code, is amended  
5 by adding Section 162.1235 to read as follows:

6 Sec. 162.1235. INFORMATION REQUIRED ON DEALER'S RETURN.

7 The monthly return and supplements of each dealer shall contain for  
8 the period covered by the return:

9 (1) the number of gallons of gasoline inventories on  
10 hand at the first of each month, sorted by product code;

11 (2) the number of gallons of gasoline received by the  
12 dealer during the month, sorted by seller;

13 (3) the number of gallons of gasoline inventories on  
14 hand at the end of each month; and

15 (4) any other information required by the comptroller.

16 SECTION 33. Sections 162.125(g-1) and (g-2), Tax Code, are  
17 amended to read as follows:

18 (g-1) A volunteer fire department exempt from the taxes  
19 [~~tax~~] imposed under this subchapter that paid a tax on the purchase  
20 of gasoline is entitled to a refund of the tax paid, and the  
21 volunteer fire department may file a refund claim with the  
22 comptroller for that amount.

23 (g-2) A nonprofit entity exempted under Section  
24 162.104(a)(9) from the taxes [~~tax~~] imposed under this subchapter  
25 that paid a tax on the purchase of gasoline is entitled to a refund  
26 of the tax paid, and the entity may file a refund claim with the  
27 comptroller for that amount.

1 SECTION 34. Sections 162.127(a) and (d), Tax Code, are  
2 amended to read as follows:

3 (a) A refund claim must be filed on a form provided by the  
4 comptroller, be supported by the original invoice issued by the  
5 seller, and contain:

6 (1) the stamped or preprinted name and address,  
7 including, if applicable, municipality of the seller;

8 (2) the name and address of the purchaser;

9 (3) the date of delivery of the gasoline;

10 (4) the date of the issuance of the invoice, if  
11 different from the date of fuel delivery;

12 (5) the number of gallons of gasoline delivered;

13 (6) the amount of state or municipal gasoline taxes  
14 paid [~~tax~~], either separately stated from the selling price or  
15 stated with a notation that both state and municipal taxes are  
16 included if both apply [~~the selling price includes the tax~~]; and

17 (7) the type of vehicle or equipment, such as a  
18 motorboat, railway engine, motor vehicle, off-highway vehicle, or  
19 refrigeration unit or stationary engine, into which the fuel is  
20 delivered.

21 (d) A distributor or person who does not hold a license who  
22 files a valid refund claim with the comptroller shall be paid by a  
23 warrant issued by the comptroller. For purposes of this section, a  
24 distributor meets the requirement of filing a valid refund claim  
25 for state and municipal gasoline taxes if the distributor  
26 designates the gallons of gasoline sold or used that are the subject  
27 of the refund claim on the monthly report submitted by the

1 distributor to the comptroller.

2 SECTION 35. The heading to Section 162.201, Tax Code, is  
3 amended to read as follows:

4 Sec. 162.201. POINT OF IMPOSITION OF STATE DIESEL FUEL TAX.

5 SECTION 36. Sections 162.201(a), (b), (c), and (f), Tax  
6 Code, are amended to read as follows:

7 (a) A tax is imposed on the removal of diesel fuel from the  
8 terminal using the terminal rack other than by bulk transfer. The  
9 supplier or permissive supplier is liable for and shall collect the  
10 tax imposed by this section [~~subchapter~~] from the person who orders  
11 the withdrawal at the terminal rack.

12 (b) A tax is imposed at the time diesel fuel is imported into  
13 this state, other than by a bulk transfer, for delivery to a  
14 destination in this state. The supplier or permissive supplier is  
15 liable for and shall collect the tax imposed by this section  
16 [~~subchapter~~] from the person who imports the diesel fuel into this  
17 state. If the seller is not a supplier or permissive supplier, the  
18 person who imports the diesel fuel into this state is liable for and  
19 shall pay the tax.

20 (c) A tax is imposed on the removal of diesel fuel from the  
21 bulk transfer/terminal system in this state. The supplier is  
22 liable for and shall collect the tax imposed by this section  
23 [~~subchapter~~] from the person who orders the removal from the bulk  
24 transfer/terminal system.

25 (f) The terminal operator in this state is considered a  
26 supplier for the purpose of the tax imposed under this section  
27 [~~subchapter~~] unless at the time of removal:

1           (1) the terminal operator has a terminal operator's  
2 license issued for the facility from which the diesel fuel is  
3 withdrawn;

4           (2) the terminal operator verifies that the person who  
5 removes the diesel fuel has a supplier's license; and

6           (3) the terminal operator does not have a reason to  
7 believe that the supplier's license is not valid.

8           SECTION 37. Subchapter C, Chapter 162, Tax Code, is amended  
9 by adding Section 162.2011 to read as follows:

10           Sec. 162.2011. IMPOSITION OF MUNICIPAL DIESEL FUEL TAX;  
11 POINT OF COLLECTION. (a) In a municipality that imposes taxes on  
12 motor vehicle fuel authorized by Chapter 401, a tax is imposed on  
13 the delivery of diesel fuel into the taxing municipality.

14           (b) The distributor shall collect the tax imposed by this  
15 section from each person on delivery of diesel fuel into a taxing  
16 municipality.

17           (c) A tax is imposed on diesel fuel that is otherwise exempt  
18 from taxation under Section 162.204(a)(4) or (7) if the diesel fuel  
19 is sold in this state to a person who does not hold a license under  
20 Section 162.205(a)(1), (2), (3), (4), or (6) and the diesel fuel is  
21 subsequently delivered into a taxing municipality. The person who  
22 delivered the diesel fuel into the taxing municipality is liable  
23 for and shall collect the tax.

24           (d) A tax is imposed on diesel fuel that is otherwise exempt  
25 from taxation under Section 162.204(a)(4) or (7) if before export  
26 the diesel fuel is sold in this state to a person who holds a license  
27 under Section 162.205(a)(1), (2), (3), (4), or (6) and the diesel

1 fuel is subsequently delivered to a taxing municipality. The  
2 person who delivered the diesel fuel into the taxing municipality  
3 is liable for and shall pay the tax.

4 (e) In each subsequent sale of diesel fuel on which the tax  
5 has been paid, the tax imposed by this section shall be collected  
6 from the purchaser so that the tax is paid ultimately by the person  
7 who uses the diesel fuel. Diesel fuel is considered to be used when  
8 it is delivered into a fuel supply tank.

9 SECTION 38. Section 162.202, Tax Code, is amended to read as  
10 follows:

11 Sec. 162.202. TAX RATES [~~RATE~~]. (a) Except as provided by  
12 Section 162.2026, the state [The] diesel fuel tax rate is 20 cents  
13 for each net gallon or fractional part of a net gallon on which the  
14 tax is imposed under Section 162.201.

15 (b) In a taxing municipality, the municipal diesel fuel tax  
16 rate for each net gallon or fractional part of a net gallon is the  
17 rate established by Chapter 401, including the amount of  
18 adjustments under Section 162.2026.

19 SECTION 39. The heading to Section 162.2025, Tax Code, is  
20 amended to read as follows:

21 Sec. 162.2025. SEPARATE STATEMENT OF TAXES [~~TAX~~] COLLECTED  
22 FROM PURCHASER.

23 SECTION 40. Sections 162.2025(a), (b), and (c), Tax Code,  
24 are amended to read as follows:

25 (a) In each subsequent sale of diesel fuel on which the  
26 taxes imposed by this subchapter have [~~tax has~~] been paid, the taxes  
27 [~~tax imposed by this subchapter~~] shall be collected from the

1 purchaser so that the taxes are [~~tax is~~] paid ultimately by the  
2 person who uses the diesel fuel. Diesel fuel is considered to be  
3 used when it is delivered into a fuel supply tank.

4 (b) The taxes [~~tax~~] imposed by this subchapter must be  
5 stated separately from the sales price of diesel fuel and  
6 identified as diesel fuel taxes [~~tax~~] on the invoice or receipt  
7 issued to a purchaser. Backup diesel fuel taxes [~~tax~~] may be  
8 identified as diesel fuel taxes [~~tax~~]. The taxes [~~tax~~] must be  
9 separately stated and identified in the same manner on a shipping  
10 document, if the shipping document includes the sales price of the  
11 diesel fuel.

12 (c) Except as provided by Subsection (d), the sales price of  
13 diesel fuel stated on an invoice, receipt, or shipping document is  
14 presumed to be exclusive of the taxes [~~tax~~] imposed by this  
15 subchapter. The seller or purchaser may overcome the presumption  
16 by using the seller's records to show that the taxes [~~tax~~] imposed  
17 by this subchapter were [~~was~~] included in the sales price.

18 SECTION 41. Subchapter C, Chapter 162, Tax Code, is amended  
19 by adding Section 162.2026 to read as follows:

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

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

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

5           (b) On January 1 of each year, the rates of state and  
6 municipal diesel fuel taxes imposed under this subchapter are  
7 increased or decreased by a percentage that is equal to the consumer  
8 price index percentage change for the preceding fiscal year.

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

11           (1) compute the new tax rates as provided by this  
12 section;

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

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

17           SECTION 42. The heading to Section 162.203, Tax Code, is  
18 amended to read as follows:

19           Sec. 162.203. BACKUP STATE DIESEL FUEL TAX; LIABILITY.

20           SECTION 43. Sections 162.203(a) and (c), Tax Code, are  
21 amended to read as follows:

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

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



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

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

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

9 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also  
10 imposed on the ultimate consumer.

11 SECTION 44. Subchapter C, Chapter 162, Tax Code, is amended  
12 by adding Section 162.2035 to read as follows:

13 Sec. 162.2035. BACKUP MUNICIPAL DIESEL FUEL TAX; LIABILITY.

14 (a) A backup tax is imposed at the rate prescribed by Sections  
15 162.202(b) and 162.2026 on:

16 (1) a person who, in a taxing municipality:

17 (A) delivers diesel fuel into the fuel supply  
18 tank of a motor vehicle;

19 (B) purchases or receives diesel fuel from  
20 another person; or

21 (C) sells or delivers diesel fuel to another  
22 person; and

23 (2) a person who obtains a refund of the tax imposed by  
24 Section 162.2011 for diesel fuel that the person delivered into the  
25 fuel supply tank of a motor vehicle, purchased or acquired, or sold  
26 or delivered in a taxing municipality.

27 (b) A person who sells diesel fuel subject to the tax

1 imposed by this section shall at the time of sale collect the tax  
2 from the purchaser or recipient of the diesel fuel in addition to  
3 the selling price and is liable to this state for the taxes  
4 collected at the time and in the manner provided by this chapter.

5 (c) The following are exempt from the tax imposed by this  
6 section:

7 (1) diesel fuel on which the tax imposed by Section  
8 162.2011 had been paid; and

9 (2) diesel fuel exempt under Section 162.204.

10 (d) The tax imposed by this section is in addition to any  
11 penalty imposed under this chapter.

12 SECTION 45. Sections 162.204(a) and (g), Tax Code, are  
13 amended to read as follows:

14 (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not  
15 apply to:

16 (1) diesel fuel sold to the United States for its  
17 exclusive use, provided that the exemption does not apply to diesel  
18 fuel sold or delivered to a person operating under a contract with  
19 the United States;

20 (2) diesel fuel sold to a public school district in  
21 this state for the district's exclusive use;

22 (3) diesel fuel sold to a commercial transportation  
23 company or a metropolitan rapid transit authority operating under  
24 Chapter 451, Transportation Code, that provides public school  
25 transportation services to a school district under Section 34.008,  
26 Education Code, and that uses the diesel fuel only to provide those  
27 services;

1           (4) diesel fuel exported by either a licensed supplier  
2 or a licensed exporter from this state to any other state, provided  
3 that the bill of lading indicates the destination state and the  
4 supplier collects the destination state tax;

5           (5) diesel fuel moved by truck or railcar between  
6 licensed suppliers or licensed permissive suppliers and in which  
7 the diesel fuel removed from the first terminal comes to rest in the  
8 second terminal, provided that the removal from the second terminal  
9 rack is subject to the state diesel fuel tax imposed by this  
10 subchapter;

11           (6) diesel fuel delivered or sold into a storage  
12 facility of a licensed aviation fuel dealer from which the diesel  
13 fuel will be delivered solely into the fuel supply tanks of aircraft  
14 or aircraft servicing equipment, or sold from one licensed aviation  
15 fuel dealer to another licensed aviation fuel dealer who will  
16 deliver the diesel fuel exclusively into the fuel supply tanks of  
17 aircraft or aircraft servicing equipment;

18           (7) diesel fuel exported to a foreign country if the  
19 bill of lading or shipping documents indicate the foreign  
20 destination and the fuel is actually exported to the foreign  
21 country;

22           (8) dyed diesel fuel sold or delivered by a supplier to  
23 another supplier and dyed diesel fuel sold or delivered by a  
24 supplier or distributor into the bulk storage facility of a dyed  
25 diesel fuel bonded user or to a purchaser who provides a signed  
26 statement as provided by Section [162.206](#);

27           (9) the volume of water, fuel ethanol, renewable

1 diesel, biodiesel, or mixtures thereof that are blended together  
2 with taxable diesel fuel when the finished product sold or used is  
3 clearly identified on the retail pump, storage tank, and sales  
4 invoice as a combination of diesel fuel and water, fuel ethanol,  
5 renewable diesel, biodiesel, or mixtures thereof;

6 (10) dyed diesel fuel sold by a supplier or permissive  
7 supplier to a distributor, or by a distributor to another  
8 distributor;

9 (11) dyed diesel fuel delivered by a license holder  
10 into the fuel supply tanks of railway engines, motorboats, or  
11 refrigeration units or other stationary equipment powered by a  
12 separate motor from a separate fuel supply tank;

13 (12) dyed kerosene when delivered by a supplier,  
14 distributor, or importer into a storage facility at a retail  
15 business from which all deliveries are exclusively for heating,  
16 cooking, lighting, or similar nonhighway use;

17 (13) diesel fuel used by a person, other than a  
18 political subdivision, who owns, controls, operates, or manages a  
19 commercial motor vehicle as defined by Section [548.001](#),  
20 Transportation Code, if the fuel:

21 (A) is delivered exclusively into the fuel supply  
22 tank of the commercial motor vehicle; and

23 (B) is used exclusively to transport passengers  
24 for compensation or hire between points in this state on a fixed  
25 route or schedule;

26 (14) diesel fuel sold to a volunteer fire department  
27 in this state for the department's exclusive use; or

1           (15) diesel fuel sold to a nonprofit entity that is  
2 organized for the sole purpose of and engages exclusively in  
3 providing emergency medical services and that uses the diesel fuel  
4 exclusively to provide emergency medical services, including  
5 rescue and ambulance services.

6           (g) In lieu of claiming the exemption and complying with the  
7 labeling requirements provided by Subsection (a)(9), a person to  
8 whom Section 162.201 applies may elect to collect and remit the  
9 taxes [~~tax~~] otherwise imposed by [~~under~~] this subchapter on the  
10 materials described by Subsection (a)(9) as if the materials were  
11 taxable diesel fuel. The labeling requirements provided by  
12 Subsection (a)(9) do not apply to a dealer who sells taxable diesel  
13 fuel blended with materials described by Subsection (a)(9) on which  
14 a tax has been paid as provided by this subsection. Materials  
15 described by Subsection (a)(9) on which a tax has been paid as  
16 provided by this subsection are not exempt from taxation [~~tax~~]  
17 under Subsection (a)(9) on a subsequent sale, and a license holder  
18 or other purchaser is not entitled to a refund or credit under  
19 Subsection (a)(9) for a purchase of taxable diesel fuel blended  
20 with those materials.

21           SECTION 46. Section 162.205(a), Tax Code, is amended to  
22 read as follows:

23           (a) A person shall obtain the appropriate license or  
24 licenses issued by the comptroller before conducting the activities  
25 of:

26           (1) a supplier, who may also act as a distributor,  
27 importer, exporter, blender, motor fuel transporter, dealer, or

1 aviation fuel dealer without securing a separate license, but who  
2 is subject to all other conditions, requirements, and liabilities  
3 imposed on those license holders;

4 (2) a permissive supplier, who may also act as a  
5 distributor, importer, exporter, blender, motor fuel transporter,  
6 dealer, or aviation fuel dealer without securing a separate license  
7 but who is subject to all other conditions, requirements, and  
8 liabilities imposed on those license holders;

9 (3) a distributor, who may also act as an importer,  
10 exporter, blender, [~~or~~] motor fuel transporter, or dealer without  
11 securing a separate license, but who is subject to all other  
12 conditions, requirements, and liabilities imposed on those license  
13 holders;

14 (4) an importer, who may also act as an exporter,  
15 blender, [~~or~~] motor fuel transporter, or dealer without securing a  
16 separate license, but who is subject to all other conditions,  
17 requirements, and liabilities imposed on those license holders;

18 (5) a terminal operator;

19 (6) an exporter;

20 (7) a blender;

21 (8) a motor fuel transporter;

22 (9) an aviation fuel dealer;

23 (10) an interstate trucker; [~~or~~]

24 (11) a dyed diesel fuel bonded user; or

25 (12) a dealer.

26 SECTION 47. Section 162.206(d), Tax Code, is amended to  
27 read as follows:

1 (d) Any gallons purchased or sold in excess of the  
2 limitations prescribed by Subsection (c) constitute a [~~taxable~~  
3 ~~purchase or~~] sale subject to the taxes imposed by this chapter. A  
4 purchaser that exceeds the limitations prescribed by Subsection (c)  
5 shall be required to obtain a dyed diesel fuel bonded user license.

6 SECTION 48. Sections 162.208(a) and (b), Tax Code, are  
7 amended to read as follows:

8 (a) A person may elect to obtain a permissive supplier  
9 license to collect the state diesel fuel tax imposed by [~~under~~]  
10 this subchapter for diesel fuel that is removed at a terminal in another  
11 state and has this state as the destination state.

12 (b) With respect to diesel fuel that is removed by the  
13 licensed permissive supplier at a terminal located in another state  
14 and that has this state as the destination state, a licensed  
15 permissive supplier shall:

16 (1) collect the state diesel fuel tax due to this state  
17 on the diesel fuel;

18 (2) waive any defense that this state lacks  
19 jurisdiction to require the supplier to collect the state diesel  
20 fuel tax due to this state on the diesel fuel under this subchapter;

21 (3) report and pay the state diesel fuel tax due on the  
22 diesel fuel in the same manner as if the removal had occurred at a  
23 terminal located in this state;

24 (4) keep records of the removal of the diesel fuel and  
25 submit to audits concerning the diesel fuel as if the removal had  
26 occurred at a terminal located in this state; and

27 (5) report sales by the permissive supplier to a

1 person who is not licensed in this state.

2 SECTION 49. Section 162.209, Tax Code, is amended by adding  
3 Subsection (a-1) to read as follows:

4 (a-1) In addition to the information required by Subsection  
5 (a), an applicant for a license as a dealer must list on the  
6 application:

7 (1) the street address, municipality, county, and zip  
8 code of the location for which the applicant seeks a license to sell  
9 or dispense motor fuel at retail;

10 (2) the applicant's social security number, driver's  
11 license number, and federal employer identification number if the  
12 applicant is a natural person who is not licensed as a supplier,  
13 permissive supplier, or terminal operator; and

14 (3) if the applicant is a corporation, limited  
15 liability company, professional association, partnership or other  
16 entity that is not licensed as a supplier, permissive supplier, or  
17 terminal operator and is not wholly owned by an entity that is  
18 licensed as a supplier, permissive supplier, or terminal operator,  
19 the physical address, mailing address, social security number, and  
20 driver's license number of:

21 (A) each natural person responsible for the  
22 purchase of motor fuel for sale by the applicant; and

23 (B) each officer, director, manager, member,  
24 shareholder, and partner of the applicant.

25 SECTION 50. Section 162.211(a), Tax Code, is amended to  
26 read as follows:

27 (a) The license issued to a supplier, permissive supplier,



1 distributor, importer, terminal supplier, exporter, blender,  
2 dealer, motor fuel transporter, or dyed diesel fuel bonded user is  
3 permanent and is valid during the period the license holder has in  
4 force and effect the required bond or security and furnishes timely  
5 reports and supplements as required, or until the license is  
6 surrendered by the holder or canceled by the comptroller. The  
7 comptroller shall cancel a license under this subsection if a  
8 purchase, sale, or use of diesel fuel has not been reported by the  
9 license holder during the previous nine months.

10 SECTION 51. Section 162.212(a), Tax Code, is amended to  
11 read as follows:

12 (a) The comptroller shall determine the amount of security  
13 required of a supplier, permissive supplier, distributor,  
14 exporter, importer, dealer, blender, or dyed diesel fuel bonded  
15 user, taking into consideration the amount of tax that has or is  
16 expected to become due from the person, any past history of the  
17 person as a license holder under this chapter and its predecessor,  
18 and the necessity to protect this state against the failure to pay  
19 the tax as the tax becomes due.

20 SECTION 52. Section 162.213(a), Tax Code, is amended to  
21 read as follows:

22 (a) The comptroller, on or before December 20 of each year,  
23 shall make available to all license holders an alphabetical list of  
24 licensed suppliers, permissive suppliers, distributors, aviation  
25 fuel dealers, importers, exporters, blenders, dealers, terminal  
26 operators, and dyed diesel fuel bonded users. A supplemental list  
27 of additions and deletions shall be made available to the license

1 holders each month. A current and effective license or the list  
2 furnished by the comptroller is evidence of the validity of the  
3 license until the comptroller notifies license holders of a change  
4 in the status of a license holder.

5 SECTION 53. Sections 162.214(c), (d), (d-1), and (e), Tax  
6 Code, are amended to read as follows:

7 (c) If the supplier or permissive supplier cannot secure  
8 from the licensed distributor or licensed importer payment of taxes  
9 due for state diesel fuel removed from the terminal during the  
10 previous reporting period and the supplier elects to take a credit  
11 against a subsequent payment of diesel fuel tax to this state for  
12 the taxes not remitted to the supplier or permissive supplier by the  
13 licensed distributor or licensed importer, the supplier or  
14 permissive supplier shall notify the comptroller of the licensed  
15 distributor's or licensed importer's failure to remit tax in  
16 conjunction with the report requesting a credit.

17 (d) The supplier or permissive supplier, after requesting a  
18 credit under this section, shall terminate the ability of the  
19 licensed distributor or licensed importer to defer the payment of  
20 state diesel fuel tax. The supplier or permissive supplier may not  
21 reinstate the right of the licensed distributor or licensed  
22 importer to defer the payment of state diesel fuel tax until the  
23 first anniversary of the date the supplier or permissive supplier  
24 requested the credit, subject to Subsection (d-1).

25 (d-1) A supplier or permissive supplier may reinstate the  
26 right of a licensed distributor or licensed importer to defer the  
27 payment of state diesel fuel tax before the date prescribed by

1 Subsection (d) if the comptroller determines that:

2 (1) the supplier or permissive supplier erroneously  
3 requested the credit that resulted in the termination of the  
4 licensed distributor's or licensed importer's right to defer  
5 payment; or

6 (2) the licensed distributor or licensed importer  
7 failed to pay state diesel fuel taxes due because of circumstances  
8 that may have been outside the distributor's or importer's control.

9 (e) A licensed distributor or licensed importer who makes  
10 timely payments of the state diesel fuel tax imposed by [~~under~~] this  
11 subchapter is entitled to retain an amount equal to 1.75 percent of  
12 the total state diesel fuel tax [~~taxes~~] to be paid to the supplier  
13 or permissive supplier to cover administrative expenses.

14 SECTION 54. Section 162.215(a), Tax Code, is amended to  
15 read as follows:

16 (a) Except as provided by Subsection (b), each person who is  
17 liable for the taxes [~~tax~~] imposed by this subchapter, a terminal  
18 operator, a dealer, and a licensed distributor shall file a return  
19 on or before the 25th day of the month following the end of each  
20 calendar month.

21 SECTION 55. Sections 162.216(b), (c), (e), (g), and (h),  
22 Tax Code, are amended to read as follows:

23 (b) A distributor shall keep:

24 (1) a record showing the number of gallons of:

25 (A) all diesel fuel inventories on hand at the  
26 first of each month;

27 (B) all diesel fuel blended;

1 (C) all diesel fuel purchased or received,  
2 showing the name of the seller and the date of each purchase or  
3 receipt;

4 (D) all diesel fuel sold, distributed, or used,  
5 showing:

6 (i) the name of the purchaser;

7 (ii) if the diesel fuel is delivered to a  
8 municipality in this state, the municipality to which the diesel  
9 fuel was delivered;

10 (iii) the amount of municipal diesel fuel  
11 tax collected from the purchaser, if any; and

12 (iv) the date of the sale, distribution, or  
13 use; and

14 (E) all diesel fuel lost by fire, theft, or  
15 accident;

16 (2) an itemized statement showing by load the number  
17 of gallons of all diesel fuel:

18 (A) received during the preceding calendar month  
19 for export and the location of the loading;

20 (B) sold, distributed, or used, showing:

21 (i) the name of the purchaser;

22 (ii) the municipality or municipalities in  
23 this state, if applicable;

24 (iii) the amount of municipal diesel fuel  
25 tax collected from the purchaser, if any; and

26 (iv) the date of the sale, distribution, or  
27 use;

1                    (C) exported from this state by destination state  
2 or country; and

3                    (D) [~~(C)~~] imported during the preceding calendar  
4 month, by state or country of origin; [~~and~~]

5                    (3) for diesel fuel exported outside this state, proof  
6 of payment of tax to the destination state, in a form acceptable to  
7 the comptroller; and

8                    (4) all shipping documents.

9                    (c) An importer shall keep:

10                    (1) a record showing the number of gallons of:

11                    (A) all diesel fuel inventories on hand at the  
12 first of each month;

13                    (B) all diesel fuel compounded or blended;

14                    (C) all diesel fuel purchased or received,  
15 showing the name of the seller and the date of each purchase or  
16 receipt;

17                    (D) all diesel fuel sold, distributed, or used,  
18 showing the name of the purchaser, the municipality in this state,  
19 if applicable, and the date of the sale, distribution, or use; and

20                    (E) all diesel fuel lost by fire, theft, or  
21 accident; and

22                    (2) an itemized statement showing by load the number  
23 of gallons of all diesel fuel:

24                    (A) received during the preceding calendar month  
25 for export and the location of the loading;

26                    (B) sold, distributed, or used, showing the name  
27 of the purchaser, the municipality or municipalities in this state,

1 if applicable, and the date of sale, distribution, or use;

2           (C) exported from this state, by destination  
3 state or country; and

4           (D) [~~(C)~~] imported during the preceding calendar  
5 month, by state or country of origin.

6           (e) A blender shall keep a record showing the number of  
7 gallons of:

8           (1) all diesel fuel inventories on hand at the first of  
9 each month;

10           (2) all diesel fuel compounded or blended;

11           (3) all diesel fuel purchased or received, showing the  
12 name of the seller and the date of each purchase or receipt;

13           (4) all diesel fuel sold, distributed, or used,  
14 showing the name of the purchaser, the municipality in this state,  
15 if applicable, and the date of the sale, distribution, or use; and

16           (5) all diesel fuel lost by fire, theft, or accident.

17           (g) A motor fuel transporter shall keep a complete and  
18 separate record of each intrastate and interstate transportation of  
19 diesel fuel, showing:

20           (1) the date of transportation;

21           (2) the name of the consignor and consignee;

22           (3) the method of transportation;

23           (4) the quantity and kind of diesel fuel transported;

24           (5) full data concerning the diversion of shipments,  
25 including the municipality in this state, if applicable, and the

26 number of gallons diverted from interstate to intrastate and  
27 intrastate to interstate commerce; and

1           (6) the points of origin and destination, the  
2 municipality in this state, if applicable, the number of gallons  
3 shipped or transported, the date, the consignee and the consignor,  
4 and the kind of diesel fuel that has been diverted.

5           (h) A dealer shall keep all shipping documents and a record  
6 showing the number of gallons of:

7           (1) diesel fuel inventories on hand at the first of  
8 each month;

9           (2) all diesel fuel purchased or received, showing the  
10 name of the seller and the date of each purchase or receipt;

11           (3) all diesel fuel sold or used, showing the date of  
12 the sale or use; and

13           (4) all diesel fuel lost by fire, theft, or accident.

14           SECTION 56. Section [162.217\(c\)](#), Tax Code, is amended to  
15 read as follows:

16           (c) A supplier or permissive supplier may take a credit for  
17 any state diesel fuel tax [~~taxes~~] that was [~~were~~] not remitted in a  
18 previous period to the supplier or permissive supplier by a  
19 licensed distributor or licensed importer as required by Section  
20 [162.214](#). The supplier or permissive supplier is eligible to take  
21 this credit if the comptroller is notified of the default within 15  
22 days after the default occurs. If a license holder pays to a  
23 supplier or permissive supplier the tax owed, but the payment  
24 occurs after the supplier or permissive supplier has taken a credit  
25 on its return, the supplier or permissive supplier shall remit the  
26 payment to the comptroller with the next monthly return after  
27 receipt of the tax, plus a penalty of 10 percent of the amount of

1 unpaid taxes and interest at the rate provided by Section 111.060  
2 beginning on the date the credit is taken.

3 SECTION 57. Section 162.219, Tax Code, is amended to read as  
4 follows:

5 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S  
6 RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return and  
7 supplements of each distributor shall contain for the period  
8 covered by the return:

9 (1) the number of net gallons of diesel fuel received  
10 by the distributor during the month, sorted by product code,  
11 seller, point of origin, destination state, carrier, and receipt  
12 date;

13 (2) the number of net gallons of diesel fuel removed at  
14 a terminal rack by the distributor during the month, sorted by  
15 product code, seller, terminal code, and carrier;

16 (3) the number of net gallons of diesel fuel removed by  
17 the distributor during the month for export, sorted by product  
18 code, terminal code, bulk plant address, destination state, and  
19 carrier;

20 (4) the number of net gallons of diesel fuel removed by  
21 the distributor during the month from a terminal located in another  
22 state for conveyance to this state, as indicated on the shipping  
23 document for the diesel fuel, sorted by product code, seller,  
24 terminal code, bulk plant address, and carrier;

25 (5) the number of net gallons of diesel fuel the  
26 distributor sold during the month in transactions exempt under  
27 Section 162.204, dyed diesel fuel sold to a purchaser under a signed



1 statement, or dyed diesel fuel sold to a dyed diesel fuel bonded  
2 user, sorted by product code and by the entity receiving the diesel  
3 fuel; ~~and~~

4 (6) the number of net gallons delivered into a taxing  
5 municipality sorted by taxing municipality and purchaser; and

6 (7) any other information required by the comptroller.

7 (b) A distributor or importer who makes timely payments of  
8 the municipal tax imposed by this subchapter is entitled to retain  
9 an amount equal to two percent of the total municipal diesel fuel  
10 taxes remitted to the comptroller to cover administrative expenses.

11 SECTION 58. Section 162.224, Tax Code, is amended to read as  
12 follows:

13 Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN.  
14 The monthly return and supplements of each blender shall contain  
15 for the period covered by the return:

16 (1) the number of net gallons of diesel fuel received  
17 by the blender during the month, sorted by product code, seller,  
18 point of origin, carrier, and receipt date;

19 (2) the number of net gallons of product blended with  
20 diesel fuel during the month, sorted by product code, type of  
21 blending agent if no product code exists, seller, and carrier;

22 (3) the number of net gallons of blended diesel fuel  
23 sold during the month and the license number or name, ~~and~~ address,  
24 and, if applicable, municipality of the entity receiving the  
25 blended diesel fuel; and

26 (4) any other information required by the comptroller.

27 SECTION 59. Subchapter C, Chapter 162, Tax Code, is amended

1 by adding Section 162.2245 to read as follows:

2 Sec. 162.2245. INFORMATION REQUIRED ON DEALER'S RETURN. The  
3 monthly return and supplements of each dealer shall contain for the  
4 period covered by the return:

5 (1) the number of gallons of diesel fuel inventories  
6 on hand at the first of each month, sorted by product code;

7 (2) the number of gallons of diesel fuel received by  
8 the dealer during the month, sorted by seller;

9 (3) the number of gallons of diesel fuel inventories  
10 on hand at the end of each month; and

11 (4) any other information required by the comptroller.

12 SECTION 60. Sections 162.227(f-1) and (f-2), Tax Code, are  
13 amended to read as follows:

14 (f-1) A volunteer fire department exempt from the taxes  
15 [~~tax~~] imposed under this subchapter that paid a tax on the purchase  
16 of diesel fuel is entitled to a refund of the tax paid, and the  
17 volunteer fire department may file a refund claim with the  
18 comptroller for that amount.

19 (f-2) A nonprofit entity exempted under Section  
20 162.204(a)(15) from the taxes [~~tax~~] imposed under this subchapter  
21 that paid a tax on the purchase of diesel fuel is entitled to a  
22 refund of the tax paid, and the entity may file a refund claim with  
23 the comptroller for that amount.

24 SECTION 61. Sections 162.229(a) and (d), Tax Code, are  
25 amended to read as follows:

26 (a) A refund claim must be filed on a form provided by the  
27 comptroller, be supported by the original invoice issued by the

1 seller, and contain:

2 (1) the stamped or preprinted name and address,  
3 including, if applicable, municipality of the seller;

4 (2) the name and address of the purchaser;

5 (3) the date of delivery of the diesel fuel;

6 (4) the date of the issuance of the invoice, if  
7 different from the date of fuel delivery;

8 (5) the number of gallons of diesel fuel delivered;

9 (6) the amount of state or municipal diesel fuel taxes  
10 paid [~~tax~~], either separately stated from the selling price or  
11 stated with a notation that both state and municipal taxes are  
12 included if both apply [~~the selling price includes the tax~~]; and

13 (7) the type of vehicle or equipment into which the  
14 fuel is delivered.

15 (d) A distributor or person who does not hold a license who  
16 files a valid refund claim with the comptroller shall be paid by a  
17 warrant issued by the comptroller. For purposes of this section, a  
18 distributor meets the requirement of filing a valid refund claim  
19 for state and municipal diesel fuel taxes if the distributor  
20 designates the gallons of diesel fuel sold or used that are the  
21 subject of the refund claim on the monthly report submitted by the  
22 distributor to the comptroller.

23 SECTION 62. Sections [162.401\(b\)](#), (c), and (f), Tax Code,  
24 are amended to read as follows:

25 (b) The comptroller may add a penalty of 75 percent of the  
26 amount of taxes, penalties, and interest due if failure to file the  
27 report or pay the tax when it becomes due is attributable to fraud

1 or an intent to evade the application of this chapter or a rule  
2 adopted under this chapter or Chapter 111 or 401.

3 (c) The penalties provided by Subsection (b) are intended to  
4 be remedial in nature and are provided for the protection of state  
5 and taxing municipality revenue and to reimburse the state and  
6 taxing municipalities for expenses incurred as a result of fraud,  
7 including expenses incurred in conducting an investigation.

8 (f) In addition to any other penalty authorized by this  
9 section, a person who fails to pay the tax imposed by Section  
10 162.101(e-2), 162.1011(c), [ex] 162.201(e-2), or 162.2011(d) when  
11 due shall pay a penalty equal to the greater of \$2,000 or five times  
12 the amount of the taxes [~~tax~~] due on the motor fuel.

13 SECTION 63. Sections 162.402(a), (c), and (d), Tax Code,  
14 are amended to read as follows:

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

17 (1) refuses to stop and permit the inspection and  
18 examination of a motor vehicle transporting or using motor fuel on  
19 demand of a peace officer or the comptroller;

20 (2) operates a motor vehicle in this state without a  
21 valid interstate trucker's license or a trip permit when the person  
22 is required to hold one of those licenses or permits;

23 (3) transports gasoline or diesel fuel in any cargo  
24 tank that has a connection by pipe, tube, valve, or otherwise with  
25 the fuel injector or carburetor of, or with the fuel supply tank  
26 feeding the fuel injector or carburetor of, the motor vehicle  
27 transporting the product;

1           (4) sells or delivers gasoline or diesel fuel from any  
2 fuel supply tank connected with the fuel injector or carburetor of a  
3 motor vehicle;

4           (5) owns or operates a motor vehicle for which reports  
5 or mileage records are required by this chapter without an  
6 operating odometer or other device in good working condition to  
7 record accurately the miles traveled;

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

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

14           (8) fails or refuses to comply with or violates a  
15 comptroller's rule for administering or enforcing this chapter;

16           (9) is an importer who does not obtain an import  
17 verification number when required by this chapter;

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

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

1           (12) makes a tax-free delivery of compressed natural  
2 gas or liquefied natural gas into the fuel supply tank of a motor  
3 vehicle, unless the delivery is exempt from tax under Section  
4 [162.356](#);

5           (13) transports motor fuel to a municipality in this  
6 state other than the municipality stated on the shipping document;  
7 or

8           (14) transports motor fuel to a municipality in this  
9 state if the shipping document does not state a municipality.

10           (c) A person receiving motor fuel who accepts a shipping  
11 document that does not conform with the requirements of Section  
12 [162.004](#) or [162.016](#)(a) is liable to this state for a civil penalty of  
13 \$2,000 or five times the amount of the unpaid tax, whichever is  
14 greater, for each occurrence.

15           (d) A person who issues a shipping document that does not  
16 conform with the requirements of Section [162.004](#) or [162.016](#)(a) is  
17 liable to this state for a civil penalty of \$2,000 or five times the  
18 amount of the unpaid tax, whichever is greater, for each  
19 occurrence.

20           SECTION 64. Section [162.403](#), Tax Code, is amended to read as  
21 follows:

22           Sec. 162.403. CRIMINAL OFFENSES. Except as provided by  
23 Section [162.404](#), a person commits an offense if the person:

24           (1) refuses to stop and permit the inspection and  
25 examination of a motor vehicle transporting or using motor fuel on  
26 the demand of a peace officer or the comptroller;

27           (2) is required to hold a valid trip permit or

1 interstate trucker's license, but operates a motor vehicle in this  
2 state without a valid trip permit or interstate trucker's license;

3 (3) transports gasoline or diesel fuel in any cargo  
4 tank that has a connection by pipe, tube, valve, or otherwise with  
5 the fuel injector or carburetor or with the fuel supply tank feeding  
6 the fuel injector or carburetor of the motor vehicle transporting  
7 the product;

8 (4) sells or delivers gasoline or diesel fuel from a  
9 fuel supply tank that is connected with the fuel injector or  
10 carburetor of a motor vehicle;

11 (5) owns or operates a motor vehicle for which reports  
12 or mileage records are required by this chapter without an  
13 operating odometer or other device in good working condition to  
14 record accurately the miles traveled;

15 (6) sells or delivers dyed diesel fuel for the  
16 operation of a motor vehicle on a public highway;

17 (7) uses dyed diesel fuel for the operation of a motor  
18 vehicle on a public highway except as allowed under Section  
19 [162.235](#);

20 (8) refuses to permit the comptroller or the attorney  
21 general to inspect, examine, or audit a book or record required to  
22 be kept by a license holder, other user, or any person required to  
23 hold a license under this chapter;

24 (9) refuses to permit the comptroller or the attorney  
25 general to inspect or examine any plant, equipment, materials, or  
26 premises where motor fuel is produced, processed, blended, stored,  
27 sold, delivered, or used;

1           (10) refuses to permit the comptroller, the attorney  
2 general, an employee of either of those officials, a peace officer,  
3 an employee of the Texas Commission on Environmental Quality, or an  
4 employee of the Texas Department of Licensing and Regulation to  
5 measure or gauge the contents of or take samples from a storage tank  
6 or container on premises where motor fuel is produced, processed,  
7 blended, stored, sold, delivered, or used;

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

12           (12) is an importer who does not obtain an import  
13 verification number when required by this chapter;

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

20           (13-a) transports motor fuel to a municipality in this  
21 state other than the municipality stated on the shipping document;

22           (13-b) transports motor fuel to a municipality in this  
23 state if the shipping document does not state a municipality;

24           (14) conceals motor fuel with the intent of engaging  
25 in any conduct proscribed by this chapter or refuses to make sales  
26 of motor fuel on the volume-corrected basis prescribed by this  
27 chapter;



1           (15) refuses, while transporting motor fuel, to stop  
2 the motor vehicle the person is operating when called on to do so by  
3 a person authorized to stop the motor vehicle;

4           (16) refuses to surrender a motor vehicle and cargo  
5 for impoundment after being ordered to do so by a person authorized  
6 to impound the motor vehicle and cargo;

7           (17) mutilates, destroys, or secretes a book or record  
8 required by this chapter to be kept by a license holder, other user,  
9 or person required to hold a license under this chapter;

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

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

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

23          (21) makes and delivers to the comptroller a report  
24 required under this chapter to be made and delivered to the  
25 comptroller, if the report contains false information;

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

1           (23) makes any statement, knowing said statement to be  
2 false, in a claim for a tax refund filed with the comptroller;

3           (24) furnishes to a licensed supplier or distributor a  
4 signed statement for purchasing diesel fuel tax-free and then uses  
5 the tax-free diesel fuel to operate a diesel-powered motor vehicle  
6 on a public highway;

7           (25) holds an aviation fuel dealer's license and makes  
8 a taxable sale or use of any gasoline or diesel fuel;

9           (26) fails to remit any tax funds collected or  
10 required to be collected by a license holder, another user, or any  
11 other person required to hold a license under this chapter;

12           (27) makes a sale of dyed diesel fuel tax-free into a  
13 storage facility of a person who:

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

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

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

20           (29) purchases any motor fuel tax-free when not  
21 authorized to make a tax-free purchase under this chapter;

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

26           (31) transports motor fuel for which a cargo manifest  
27 or shipping document is required to be carried without possessing

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

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

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

13 (34) evades or attempts to evade in any manner a tax  
14 imposed on motor fuel by this chapter;

15 (35) delivers compressed natural gas or liquefied  
16 natural gas into the fuel supply tank of a motor vehicle and the  
17 person does not hold a valid compressed natural gas and liquefied  
18 natural gas dealer's license; or

19 (36) makes a tax-free delivery of compressed natural  
20 gas or liquefied natural gas into the fuel supply tank of a motor  
21 vehicle, unless the delivery is exempt from tax under Section  
22 [162.356](#).

23 SECTION 65. Section [162.405](#)(d), Tax Code, is amended to  
24 read as follows:

25 (d) An offense under Section [162.403](#)(6), (13-a), (13-b),  
26 (17), (18), (19), (20), (21), (22), (23), or (24) is a felony of the  
27 third degree.

1 SECTION 66. Section 20.002(d), Transportation Code, is  
2 amended to read as follows:

3 (d) The fee imposed by this section is equal to 25 percent of  
4 the diesel fuel tax rate imposed under Section 162.202(a)  
5 [~~162.202~~], Tax Code.

6 SECTION 67. (a) A municipality may not impose a motor fuel  
7 tax under Chapter 401, Tax Code, as added by this Act, before the  
8 effective date of rules adopted by the comptroller of public  
9 accounts under Section 401.151, Tax Code, as added by this Act.

10 (b) The comptroller of public accounts shall adopt the rules  
11 required by Section 401.151, Tax Code, as added by this Act, not  
12 later than December 1, 2021.

13 SECTION 68. The comptroller shall compute the initial  
14 adjusted tax rates as required by Sections 162.1026(c) and  
15 162.2026(c), Tax Code, as added by this Act, not later than November  
16 1, 2022. The initial adjusted rates take effect January 1, 2023.

17 SECTION 69. The change in law made by this Act does not  
18 affect tax liability accruing before the effective date of this  
19 Act. That liability continues in effect as if this Act had not been  
20 enacted, and the former law is continued in effect for the  
21 collection of taxes due and for civil and criminal enforcement of  
22 the liability for those taxes.

23 SECTION 70. If the constitution of this state requires that  
24 one-fourth of the municipal motor fuels tax authorized by this Act  
25 be allocated to the available school fund, the municipality shall  
26 deposit that money into an account separate from the money  
27 collected under other provisions of this Act and shall allocate the

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1 money to the comptroller of public accounts for deposit in the state  
2 treasury for the purpose required by the constitution.

3 SECTION 71. This Act takes effect September 1, 2021.