

By: Lopez of Bexar

H.B. No. 321

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the increase or decrease of the rates of the gasoline and diesel fuel taxes based on the cost of certain highway projects.

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

SECTION 1. (a) Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1021 to read as follows:

Sec. 162.1021. ANNUAL RATE CHANGE ACCORDING TO HIGHWAY COST INDEX. (a) In this section:

(1) "Highway cost index" means the 12-month moving average of the price of materials and labor compiled by the Texas Department of Transportation and incorporated into state highway projects.

(2) "Highway cost index percentage change" means the percentage increase or decrease in the highway cost index of a given state fiscal year from the highway cost index of the preceding state fiscal year.

(b) Notwithstanding Section 162.102, on January 1 of each year, the rate of the gasoline tax imposed under this subchapter is increased or decreased by a percentage equal to the highway cost index percentage change for the preceding state fiscal year.

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

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

1 section;

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

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

6 (b) The comptroller shall compute the initial adjusted tax
7 rate as required by Section 162.1021(c), Tax Code, as added by this
8 section, not later than December 1, 2019. The initial adjusted rate
9 takes effect January 1, 2020.

10 SECTION 2. Effective January 1, 2020, Section 162.103(a),
11 Tax Code, is amended to read as follows:

12 (a) A backup tax is imposed at the rate prescribed by
13 Section 162.102 or 162.1021 on:

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

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

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

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

26 SECTION 3. (a) Subchapter C, Chapter 162, Tax Code, is
27 amended by adding Section 162.2021 to read as follows:

1 Sec. 162.2021. ANNUAL RATE CHANGE ACCORDING TO HIGHWAY COST
2 INDEX. (a) In this section:

3 (1) "Highway cost index" means the 12-month moving
4 average of the price of materials and labor compiled by the Texas
5 Department of Transportation and incorporated into state highway
6 projects.

7 (2) "Highway cost index percentage change" means the
8 percentage increase or decrease in the highway cost index of a given
9 state fiscal year from the highway cost index of the preceding state
10 fiscal year.

11 (b) Notwithstanding Section 162.202, on January 1 of each
12 year, the rate of the diesel fuel tax imposed under this subchapter
13 is increased or decreased by a percentage equal to the highway cost
14 index percentage change for the preceding state fiscal year.

15 (c) Not later than December 1 of each year, the comptroller
16 shall:

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

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

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

23 (b) The comptroller shall compute the initial adjusted tax
24 rate as required by Section 162.2021(c), Tax Code, as added by this
25 section, not later than December 1, 2023. The initial adjusted rate
26 takes effect January 1, 2024.

27 SECTION 4. Effective January 1, 2024, Section 162.203(a),

1 Tax Code, is amended to read as follows:

2 (a) A backup tax is imposed at the rate prescribed by
3 Section [162.202](#) or [162.2021](#) on:

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

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

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

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

16 SECTION 5. Except as otherwise provided by this Act, this
17 Act takes effect September 1, 2023.