

By: Lopez of Bexar

H.B. No. 326

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 in the preceding year 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 (1) compute the new tax rate as provided by this
2 section;
3 (2) provide the new tax rate to the secretary of state
4 for publication in the Texas Register; and
5 (3) notify each license holder under this subchapter
6 of the new tax rate.

7 (b) The comptroller shall compute the initial adjusted tax
8 rate as required by Section 162.1021(c), Tax Code, as added by this
9 section, not later than December 1, 2025. The initial adjusted rate
10 takes effect January 1, 2026.

11 SECTION 2. Effective January 1, 2026, Section 162.103(a),
12 Tax Code, is amended to read as follows:

13 (a) A backup tax is imposed at the rate prescribed by
14 Section 162.102 or 162.1021 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;

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:

27 (A) in an original or subsequent sale; or

1 (B) from any source in this state; and

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

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

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

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

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

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

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

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

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

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

5 (b) The comptroller shall compute the initial adjusted tax
6 rate as required by Section 162.2021(c), Tax Code, as added by this
7 section, not later than December 1, 2025. The initial adjusted rate
8 takes effect January 1, 2026.

9 SECTION 4. Effective January 1, 2026, Section 162.203(a),
10 Tax Code, is amended to read as follows:

11 (a) A backup tax is imposed at the rate prescribed by
12 Section 162.202 or 162.2021 on:

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

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

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

22 (4) a person, other than a person exempted under
23 Section 162.204, who acquires diesel fuel on which tax has not been
24 paid:

25 (A) in an original or subsequent sale; or

26 (B) from any source in this state; and

27 (5) a person who acquires diesel fuel by any unlawful

1 means, including by purchase through the unauthorized use of a
2 credit card, a debit card, or other money, regardless of whether tax
3 was previously paid on the diesel fuel or was added to the selling
4 price of the diesel fuel.

5 SECTION 5. Effective January 1, 2026, Section 20.002(d),
6 Transportation Code, is amended to read as follows:

7 (d) The fee imposed by this section is equal to 25 percent of
8 the diesel fuel tax rate prescribed by [~~imposed under~~] Section
9 162.202 or 162.2021, Tax Code.

10 SECTION 6. Except as otherwise provided by this Act, this
11 Act takes effect September 1, 2025.