

CHAPTER 588

S.B. No. 894

AN ACT

relating to the administration and enforcement of motor fuel taxes; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 153.001, Tax Code, is amended to read as follows:

Sec. 153.001. DEFINITIONS. In this chapter:

(1) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline or diesel fuel exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline or diesel fuel on which a fuel tax is required to be collected or paid to this state.

(2) "*Bulk user*" means a person who owns or leases a bulk storage tank from which gasoline or diesel fuel is delivered into the fuel supply tanks of a motor vehicle or other equipment owned or operated by the person.

(3) "Cargo tank" means an assembly that is used for transporting, hauling, or delivering liquids and that consists of a tank having one or more compartments mounted on a wagon, automobile, truck, trailer, or wheels, and includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(4) [(3)] "Dealer" means a person who is the operator of a service station or other retail outlet and who delivers motor fuel into the fuel supply tanks of motor vehicles or motorboats.

(5) [(4)] "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, number two fuel oil, distillate fuel, cutter stock, or heating oil, but does not include gasoline or liquefied gas.

(6) "Diesel fuel jobber" means a person who:

(A) purchases tax-paid diesel fuel from a permitted supplier, another jobber, or a dealer; and

(B) makes a sale with the tax included to a permitted supplier, another jobber, a dealer, or a bulk user.

(7) [(5)] "Diesel bulk delivery" means a delivery of a quantity of diesel fuel in excess of five gallons, but does not include a delivery into the fuel supply tanks of a motor vehicle.

(8) [(6)] "Diesel tax prepaid user" means a person:

(A) whose purchases of diesel fuel are predominantly for nonhighway use;

(B) whose only diesel-powered motor vehicles are passenger cars or light trucks; and

(C) who elects to prepay an annual diesel fuel tax to the comptroller on each diesel-powered motor vehicle.

(9) [(7)] "~~Diesel user~~" ~~means a person who delivers, or causes to be delivered, diesel fuel into the fuel supply tanks of motor vehicles owned or operated by him.~~

[(8)] "Distributor" means a person who:

(A) regularly makes sales or distributions of gasoline that are not into the fuel supply tanks of motor vehicles, motorboats, or aircraft;

(B) refines, distills, manufactures, produces, or blends for sale or distribution gasoline in this state;

(C) imports or exports gasoline other than in the fuel supply tanks of motor vehicles; or

(D) in any other manner acquires or possesses tax-free gasoline.

(10) [(9)] "Gasoline" means any liquid or combination of liquids blended together offered for sale, sold, or used as the fuel for a gasoline-powered engine. The term includes blending agents, but excludes diesel fuel and liquefied gas.

(11) "Gasoline jobber" means a person who:

(A) purchases tax-paid gasoline from a permitted distributor, another jobber, or a dealer; and

(B) makes a sale with the tax included to a permitted distributor, another jobber, a dealer, or a bulk user.

(12) [(10)] "Interstate trucker" means a person who for commercial purposes operates in this state, other states, or countries a motor vehicle that:

(A) has two axles and a registered gross weight in excess of 26,000 pounds;

(B) has three or more axles; or

(C) is used in combination and the registered gross weight of the combination exceeds 26,000 pounds [~~imports motor fuel in the fuel supply tanks of a motor vehicle having an aggregate fuel tank capacity of 60 or more gallons, operated for commercial purposes, for taxable use on the public highways of this state, but who does not sell or distribute motor fuel to other persons within this state, except as provided in Subchapter D of this chapter~~].

(13) "Jobber" includes a diesel fuel jobber or a gasoline jobber.

(14) [(11)] "Lessor" means a person:

(A) whose principal business is the leasing or renting of motor vehicles for compensation to the general public;

(B) who maintains established places of business; and

(C) whose lease or rental contracts require the motor vehicles to be returned to the established places of business at the termination of the lease.

(15) [(12)] "Light truck" means a pickup truck, panel delivery truck, carryall truck, or other motor vehicle that is designed, used, or maintained primarily for the transportation of property and that has a manufacturer's rated carrying capacity not exceeding 2,000 pounds.

(16) [(13)] "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include gasoline or diesel fuel.

(17) [(14)] "Liquefied gas tax decal user" means a person who owns or operates on the public highways of this state a motor vehicle:

(A) equipped with a liquefied gas carburetion system;

(B) required to be licensed by the State Department of Highways and Public Transportation; and

(C) required to have a Texas certificate of inspection.

(18) [(15)] "Motorboat" means a vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(19) [(16)] "Motor fuel" includes gasoline, diesel fuel, liquefied gas, and other products that are usable as propellants of a motor vehicle.

(20) [(17)] "Motor vehicle" means a self-propelled vehicle licensed for highway use or used on the highway.

(21) [(18)] "Passenger car" means a motor vehicle designed for carrying 10 or fewer passengers and used for the transportation of persons.

(22) [(19)] "Public highway" means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

(23) [(20)] "Registered gross weight" or "RGW" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the State Department of Highways and Public Transportation.

(24) [(21)] "Sale" means a transfer of title, exchange, or barter of motor fuel, but does not include transfer of possession of motor fuel on consignment.

(25) [(22)] "Supplier" means a person who:

(A) refines, distills, manufactures, produces, or blends for sale or distribution diesel fuel in this state;

(B) imports or exports diesel fuel other than in the fuel supply tanks of motor vehicles;

(C) sells or delivers diesel fuel in bulk quantities to dealers, users, aviation fuel dealers, or other suppliers; or

(D) is engaged in the business of selling or delivering diesel fuel in bulk quantities to consumers for nonhighway uses.

(26) [(23)] "Transit company" means a business that:

(A) transports in a political subdivision persons in carriers designed for 12 or more passengers;

(B) holds a franchise from a political subdivision; and

(C) has its rates regulated by the subdivision or is owned or operated by the political subdivision.

(27) "User" means a person who owns or operates a motor vehicle having fuel supply tanks into which gasoline or diesel fuel is delivered.

SECTION 2. Subsection (d), Section 153.004, Tax Code, is amended to read as follows:

(d) Each person, other than a common carrier transporting motor fuel under this chapter, shall also carry a copy of the supplier, distributor, *jobber*, or user permit, or proof of tax payment on the motor fuel being transported, unless the person is an end user transporting the person's own motor fuel purchased under a signed statement as provided by Section 153.205.

SECTION 3. Section 153.008, Tax Code, is amended to read as follows:

Sec. 153.008. INSPECTION OF PREMISES AND RECORDS. For the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing

and due, and whether a tax liability has been incurred under this chapter, the comptroller may:

(1) inspect any premises where motor fuel; crude petroleum; natural gas; derivatives or condensates of crude petroleum, natural gas, or their products; methyl alcohol; ethyl alcohol; or other blending agents are produced, made, prepared, stored, transported, sold, or offered for sale or exchange;

(2) examine the books and records required to be kept and records incident to the business of any distributor, supplier, dealer, *jobber*, or any person receiving or possessing, delivering, or selling motor fuel, crude oil, derivatives or condensates of crude petroleum, natural gas, or their products, or any blending agents;

(3) examine and either gauge or measure the contents of all storage tanks, containers, and other property or equipment; and

(4) take samples of any and all of these products stored on the premises.

SECTION 4. Section 153.010, Tax Code, is amended to read as follows:

Sec. 153.010. **AUTHORITY TO STOP AND EXAMINE.** In order to enforce the provisions of this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel in order to examine the cargo manifest or invoices required to be carried, examine a permit or copy of a permit that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for by a distributor, supplier, dealer, user, *jobber*, or any person required to be so permitted.

SECTION 5. Subsection (a), Section 153.013, Tax Code, is amended to read as follows:

(a) A distributor, supplier, dealer, interstate trucker, *jobber*, or user who fails to keep a record, issue an invoice, or file a report required by this chapter, is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller to have been sold to the distributor, supplier, dealer, interstate trucker, *jobber*, or user. Motor fuel unaccounted for is presumed to have been sold or used for taxable purposes. The comptroller may fix or establish the amount of taxes, penalties, and interest due the state from the records of deliveries or from any records or information available to him. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit made by the comptroller or any report filed by the distributor, supplier, dealer, interstate trucker, *jobber*, or user, are evidence in any suit or judicial proceedings filed by the attorney general, and are prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the distributor, supplier, dealer, interstate trucker, *jobber*, or user.

SECTION 6. Section 153.016, Tax Code, is amended to read as follows:

Sec. 153.016. **ADDITIONAL TAX APPLIES TO DEALER AND JOBBER INVENTORIES.** (a) On the effective date of an increase in the rates of the taxes imposed by this chapter, a dealer or *jobber* that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at a previous rate have been paid shall report to the comptroller the volume of that gasoline and diesel fuel, and at the time of the report shall pay a tax on that gasoline and diesel fuel at a rate equal to the rate of the tax increase.

(b) On the effective date of a reduction of the rates of taxes imposed by this chapter, a dealer or *jobber* that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at the previous rate have been paid becomes entitled to a refund in an amount equal to the difference in the amount of taxes paid on that gasoline or diesel fuel at the previous rate and at the rate in effect on the effective date of the reduction in the tax rates. The rules of the comptroller shall provide for the method of claiming a refund under this chapter and may require that the refund be paid through the distributor or supplier from whom the dealer received the fuel.

SECTION 7. Section 153.104, Tax Code, is amended to read as follows:

Sec. 153.104. EXCEPTIONS. The tax imposed by this subchapter does not apply to gasoline:

(1) brought into this state in the fuel *supply* tank of a motor vehicle operated by a person not required to be permitted as an interstate trucker ~~[with a capacity of less than 60 gallons when the tank is connected to the carburetor or fuel injection system of the power plant providing the propulsion of the vehicle];~~

(2) delivered by a permitted distributor to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or a barge for export from this state if the gasoline is moved forthwith outside the state;

(3) sold by a permitted distributor to another permitted distributor;

(4) sold to the federal government for its exclusive use;

(5) delivered by a permitted distributor into a storage facility of a permitted aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(6) sold by one aviation fuel dealer to another aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(7) sold to a public school district in this state for its exclusive use.

SECTION 8. Subsection (a), Section 153.106, Tax Code, is amended to read as follows:

(a) A distributor, interstate trucker, *gasoline jobber*, or aviation fuel dealer shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

SECTION 9. Subchapter B, Chapter 153, Tax Code, is amended by adding Section 153.1071 to read as follows:

Sec. 153.1071. *GASOLINE JOBBER'S PERMIT. A person performing the functions of a gasoline jobber shall obtain a gasoline jobber's permit.*

SECTION 10. Section 153.112, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) *A gasoline jobber's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security or until the permit is surrendered by the holder or canceled by the comptroller.*

SECTION 11. Section 153.108, Tax Code, is amended to read as follows:

Sec. 153.108. *INTERSTATE TRUCKER'S PERMIT. An interstate trucker's permit authorizes a person who imports gasoline into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [vehicles having an aggregate capacity of 60 or more gallons] to report and pay the tax due on the gasoline imported into this state or to claim a credit or refund of the tax paid on gasoline purchased in Texas and used in other states.*

SECTION 12. Subsections (a) and (c), Section 153.109, Tax Code, are amended to read as follows:

(a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle described by Section 153.001(12)(A), (B), or (C) into this state for commercial purposes ~~[with fuel supply tanks having an aggregate capacity of 60 or more gallons]~~ may obtain a trip permit. The trip permit must be obtained *before* ~~[prior to entry into the state]~~ or at the time of entry into this state.

(c) A fee for each trip permit shall be collected from the applicant and shall be *in the amount of \$50 for each vehicle for each trip* ~~[an amount equivalent to the tax payable on the quantity of gasoline that could be imported in the fuel supply tanks of the motor vehicle, but not less than \$5].~~

SECTION 13. Section 153.111, Tax Code, is amended to read as follows:

Sec. 153.111. *DISTRIBUTOR MAY PERFORM OTHER FUNCTIONS. A distributor may operate under the distributor's permit as [an interstate trucker or] an aviation fuel*

dealer without securing a separate permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

SECTION 14. Section 153.114, Tax Code, is amended to read as follows:

Sec. 153.114. LIST OF DISTRIBUTORS, [AND] AVIATION FUEL DEALERS, AND GASOLINE JOBBERS. The comptroller, on or before December 20 of each year, shall mail or distribute to all permitted distributors a printed alphabetical list of permitted distributors, [and] aviation fuel dealers, and gasoline jobbers [~~who are qualified to purchase gasoline tax free during the ensuing calendar year~~]. *A distributor and an aviation fuel dealer on the list are qualified to purchase gasoline tax free during the following calendar year. A gasoline jobber on the list is qualified to purchase gasoline tax-paid during the following calendar year.* A supplemental list of additions and deletions shall be delivered to the distributors each month. A current and effective permit or the list furnished by the comptroller is evidence of the validity of the permit until the comptroller notifies distributors of a change in the status of a permit holder.

SECTION 15. Subsection (a), Section 153.115, Tax Code, is amended to read as follows:

(a) An interstate trucker who imports gasoline into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [~~vehicles having an aggregate capacity of 60 or more gallons for each vehicle~~] shall report and pay the tax at the imposed rate on gasoline that is imported and used on Texas highways. The number of gallons of gasoline used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of gasoline delivered into the fuel supply tanks of the motor vehicle [~~vehicles~~] in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of gasoline used in Texas.

SECTION 16. Subsections (a), (b), and (c), Section 153.116, Tax Code, are amended to read as follows:

(a) The comptroller shall determine the amount of security required of a distributor or a gasoline jobber taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a distributor or a gasoline jobber, and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) If it is determined that the posting of security is necessary to protect the state, the comptroller may require a distributor or a gasoline jobber to post a [surety] bond [equal to two times the highest tax that could accrue on tax-free gasoline purchased or acquired during a reporting period]. *A distributor shall post a bond equal to two times the most amount of tax that could accrue on tax-free gasoline purchased or acquired during a reporting period. A gasoline jobber shall post a bond in an amount determined by the comptroller according to the past tax payment history of the gasoline jobber.* The minimum bond is \$30,000. The maximum bond is \$600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event he may require one or more bonds or securities in a total amount exceeding \$600,000.

(c) A distributor or a gasoline jobber who has filed a bond or other security under this subchapter is exempted from the bond or other security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security, and may reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of the state.

SECTION 17. Section 153.117, Tax Code, is amended by amending Subsection (f) and adding Subsection (h) to read as follows:

(f) The comptroller may require selective schedules from a distributor, dealer, aviation fuel dealer, interstate trucker, gasoline jobber, or common or contract carrier for any purchases, sales, or deliveries of gasoline when the schedules are not inconsistent with the requirements of this chapter.

(h) *A gasoline jobber shall keep a record showing the number of gallons of:*

- (1) all gasoline inventories on hand at the first of each month;
- (2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;
- (3) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and
- (4) all gasoline lost by fire or other accident.

SECTION 18. Section 153.118, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A gasoline jobber is not required to file a report with the comptroller.

SECTION 19. Subsection (d), Section 153.206, Tax Code, is amended to read as follows:

(d) An interstate trucker who imports diesel fuel into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [having an aggregate capacity of 60 or more gallons for each vehicle] shall report and pay the tax at the rate imposed on diesel fuel that is imported and used on Texas highways. The number of gallons of diesel fuel used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of diesel fuel delivered into the fuel supply tanks of the motor vehicle [vehicles] in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of diesel fuel used in Texas. An interstate trucker shall remit all taxes due by him based on the diesel fuel tax rate for each gallon on diesel fuel consumed within the state at the time of the filing of the quarterly report.

SECTION 20. Subsection (a), Section 153.207, Tax Code, is amended to read as follows:

(a) A supplier, bonded user, interstate trucker, diesel tax prepaid user, [or] aviation fuel dealer, or diesel fuel jobber shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

SECTION 21. Subchapter C, Chapter 153, Tax Code, is amended by adding Section 153.2081 to read as follows:

Sec. 153.2081. DIESEL FUEL JOBBER'S PERMIT. A person performing the functions of a diesel fuel jobber shall obtain a diesel fuel jobber's permit.

SECTION 22. Section 153.211, Tax Code, is amended to read as follows:

Sec. 153.211. INTERSTATE TRUCKER'S PERMIT. An interstate trucker's permit authorizes a person who imports diesel fuel into the state in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [vehicles having an aggregate capacity of 60 or more gallons for each vehicle] to report and pay the tax due on diesel fuel imported into this state or to claim a credit or a refund of the tax paid on diesel fuel purchased in this state and then used in other states. An interstate trucker may not make tax-free purchases of diesel fuel.

SECTION 23. Section 153.212, Tax Code, is amended to read as follows:

Sec. 153.212. TRIP PERMITS. (a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle described by Section 153.001(12)(A), (B), or (C) [vehicles] into this state for commercial purposes [with fuel supply tanks having an aggregate capacity of 60 or more gallons for each vehicle] may obtain a trip permit. *The trip permit must be obtained before or at the time of entry into this state.*

(b) ~~[The trip permit must be obtained before entry into the state or at the time of entry.]~~ No more than five trip permits may be issued during a calendar year to a person operating interstate.

(c) A fee for each trip permit shall be collected from the applicant *and be in the amount of \$50 for each vehicle for each trip*. ~~The fee is an amount equal to the tax payable on the quantity of diesel fuel that could be imported in the fuel supply tanks of the motor vehicle, but not less than \$5.~~

(d) A report is not required with respect to the vehicle.

(e) Operating a motor vehicle without a valid interstate trucker's or trip permit may subject the operator to a penalty under Section 153.402.

SECTION 24. Section 153.214, Tax Code, is amended to read as follows:

Sec. 153.214. SUPPLIER MAY PERFORM OTHER FUNCTIONS. A supplier may operate under the supplier's permit as a user, dealer, ~~[interstate trucker,]~~ or aviation fuel dealer without securing a separate permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

SECTION 25. Subchapter C, Chapter 153, Tax Code, is amended by adding Section 153.2141 to read as follows:

Sec. 153.2141. DIESEL FUEL JOBBER MAY PERFORM OTHER FUNCTIONS. *A diesel fuel jobber may operate under the jobber's permit as a nonpermitted user or dealer but is subject to all other conditions, requirements, and liabilities imposed on a nonpermitted user or dealer.*

SECTION 26. Section 153.215, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A diesel fuel jobber's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security or until the permit is surrendered by the holder or canceled by the comptroller.

SECTION 27. Section 153.217, Tax Code, is amended to read as follows:

Sec. 153.217. LIST OF SUPPLIERS, BONDED USERS, ~~[AND] AVIATION FUEL DEALERS, AND DIESEL FUEL JOBBERS.~~ (a) The comptroller, on or before December 20 of each calendar year, shall mail or distribute to each supplier a printed alphabetical list of permitted suppliers, bonded users, ~~[and] aviation fuel dealers, and diesel fuel jobbers [who are qualified to purchase diesel fuel tax free during the ensuing calendar year]. A permitted supplier, a bonded user, and an aviation fuel dealer on the list are qualified to purchase diesel fuel tax free during the following calendar year. A diesel fuel jobber on the list is qualified to purchase diesel fuel tax-paid during the following calendar year.~~ A supplemental list of additions and deletions shall be delivered to each supplier each month.

(b) The comptroller, on or before January 31 of each calendar year, shall mail or distribute to each supplier a printed alphabetical list of diesel tax prepaid user permittees who are qualified to purchase diesel fuel tax free during the ensuing calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

SECTION 28. Subsections (a), (b), and (c), Section 153.218, Tax Code, are amended to read as follows:

(a) The comptroller shall determine the amount of security required of a supplier, ~~[or]~~ bonded user, *or diesel fuel jobber* taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a supplier, ~~[or]~~ bonded user, *or diesel fuel jobber* and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) If it is determined that the posting of security is necessary to protect the state, the comptroller may require a supplier or bonded user to post a surety bond equal to two times the *most amount of [highest] tax that could accrue on tax-free diesel fuel purchased or acquired during a reporting period. A diesel fuel jobber shall post a bond in an amount determined by the comptroller according to the past payment history of the jobber.* The minimum bond for a supplier *or diesel fuel jobber* is \$30,000, and the maximum bond is \$600,000. The minimum bond for a bonded user is \$10,000, and the maximum bond is \$600,000. However, if the comptroller determines there is undue risk of loss of tax revenues, the comptroller may require one or more bonds or securities in a total amount exceeding \$600,000.

(c) A supplier, ~~[or]~~ bonded user, *or diesel fuel jobber* who has filed a bond or other security under this subchapter is exempted from the bond or other security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security, and may reimpose a requirement

of a bond or other security as the comptroller determines is necessary to protect the revenues of the state.

SECTION 29. Section 153.219, Tax Code, is amended by amending Subsection (g) and adding Subsection (i) to read as follows:

(g) The comptroller may require selective schedules from a supplier, dealer, aviation fuel dealer, interstate trucker, *diesel fuel jobber*, or common or contract carrier for a purchase, sale, or delivery of diesel fuel if the schedules are not inconsistent with the requirements of this chapter.

(i) *A diesel fuel jobber shall keep a record showing the number of gallons of:*

- (1) *all diesel fuel inventories on hand at the first of each month;*
- (2) *all diesel fuel purchased or received, showing the name of the seller and date of each purchase or receipt;*
- (3) *all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and*
- (4) *all diesel fuel lost by fire or other accident.*

SECTION 30. Subsection (c), Section 153.221, Tax Code, is amended to read as follows:

(c) No report is required to be filed by:

- (1) an aviation fuel dealer;
- (2) a trip permit user;
- (3) a diesel tax prepaid user;
- (4) a person issuing signed statements; ~~or~~
- (5) a common or contract carrier; *or*
- (6) *a diesel fuel jobber.*

SECTION 31. Subsection (a), Section 153.222, Tax Code, is amended to read as follows:

(a) A dealer or *diesel fuel jobber* who has paid tax on diesel fuel that has been used or sold for use by the dealer or *diesel fuel jobber* for any purpose other than propelling a motor vehicle on the public highways of this state or that has been sold to the United States or a public school district in this state for the exclusive use of the purchaser without adding the amount of the tax to his selling price, and a user who has paid tax on any diesel fuel that has been used by him for a purpose other than propelling a motor vehicle on the public highways or who is a public school district and has paid the tax on diesel fuel purchased for its exclusive use may file a claim for a refund of taxes paid, less the deduction allowed vendors and a filing fee.

SECTION 32. Subsection (a), Section 153.302, Tax Code, is amended to read as follows:

(a) A person using a liquefied gas-propelled motor vehicle, including a motor vehicle equipped to use liquefied gas interchangeably with another motor fuel, that is required to be licensed in Texas for use on the public highways of Texas, shall prepay the liquefied gas tax to the comptroller on an annual basis; except that a person holding a motor vehicle dealer's liquefied gas tax decal or *an interstate trucker whose vehicle is registered in Texas but may operate in other states under a multistate tax agreement* shall pay the tax to a permitted dealer at the time the fuel is delivered into the fuel supply tank of a motor vehicle.

SECTION 33. Section 153.402, Tax Code, is amended to read as follows:

Sec. 153.402. PROHIBITED ACTS; CIVIL PENALTIES. A person forfeits to the state a civil penalty of not less than \$25 nor more than \$200 if the person:

- (1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;
- (2) operates a motor vehicle in this state without a valid interstate trucker's or a trip permit when the person is required to hold one of those permits;
- (3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or *multistate fuels tax agreement decal*;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's permit;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

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

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

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

(11) furnishes a signed statement to a supplier for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

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

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter.

SECTION 34. Section 153.403, Tax Code, is amended to read as follows:

Sec. 153.403. CRIMINAL OFFENSES. Except as provided by Section 153.404 of this code, a person commits an offense if the person:

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

(2) is required to hold a valid trip permit or interstate trucker's permit, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's permit;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal;

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

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

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

(7) as a diesel tax prepaid user fails to prepay the tax on every diesel-powered motor vehicle owned or operated by him;

(8) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(9) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's permit;

(10) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(11) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

(12) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a distributor, supplier, user, dealer, interstate

trucker, aviation fuel dealer, *jobber*, common or contract carrier, or any person required to hold a permit under this chapter;

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

(14) refuses to permit the comptroller or the attorney general to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(15) is a distributor, bonded user, interstate trucker, or supplier and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

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

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

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

(19) transports motor fuel for which a cargo manifest is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest containing the information required to be shown on the manifest;

(20) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, *jobber*, or person required to hold a permit under this chapter;

(21) is a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, *jobber*, or other person required to hold a permit under this chapter, or the agent or employee of one of those persons and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person;

(22) transports in any manner motor fuel under a false cargo manifest;

(23) engages in a motor fuel transaction that requires that the person have a permit under this chapter without then and there holding the required permit;

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

(25) forges, falsifies, or alters an invoice prescribed by law;

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

(27) furnishes to a supplier a signed statement for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(28) holds an aviation fuel dealer's permit and makes a taxable sale or use of any gasoline or diesel fuel;

(29) fails to remit any tax funds collected by a distributor, supplier, user, dealer, interstate trucker, *jobber*, or any other person required to hold a permit under this chapter;

(30) makes a sale of diesel fuel tax free into a storage facility of a person who:

(A) is not permitted as a supplier, as an aviation fuel dealer, as a bonded user, or as a diesel tax prepaid user of diesel fuel; or

(B) does not furnish to the permitted supplier a signed statement prescribed in Section 153.205 of this code;

(31) makes a sale of gasoline tax free to any person who is not permitted as either a distributor or an aviation fuel dealer;

(32) is a dealer who purchases any motor fuel tax free when not authorized to make a tax-free purchase under this chapter; or

(33) is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter.

SECTION 35. Subsection (c), Section 153.118, and Subsection (d), Section 153.221, Tax Code, are repealed.

SECTION 36. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1993.

(b) Sections 13, 24, and 35 of this Act take effect July 1, 1995.

SECTION 37. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 28, 1993, by a viva-voce vote; the Senate concurred in House amendment on May 27, 1993, by a viva-voce vote; passed the House, with amendment, on May 26, 1993, by a non-record vote.

Approved June 12, 1993.

Effective Sept. 1, 1993, except §§ 13, 24, and 35 effective July 1, 1995.