

CHAPTER 552

S.B. No. 522

AN ACT

relating to gasoline tax credits for gasoline and alcohol mixtures.

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

SECTION 1. Subsection (a), Section 153.123, Tax Code, as amended, is amended to read as follows:

(a) For a gasoline and alcohol mixture *that* ~~[which]~~ meets the requirements of Subsection (e) of this section and except as provided in Subsection (b), a credit may be claimed by a distributor, pursuant to Subsection (d) of this section. *The amount of the credit is*, ~~in the following amounts:~~

~~[(1) until January 1, 1987, five cents per gallon on the first sale or use of that mixture;~~

~~[(2) from January 1, 1987, through December 31, 1987,] four cents per gallon on the first sale or use of that mixture. *On*;~~

~~[(3) from January 1, 1988, through December 31, 1988, three cents per gallon on the first sale or use of that mixture;~~

~~[(4) from January 1, 1989, through December 31, 1989, two cents per gallon on the first sale or use of that mixture;~~

~~[(5) from January 1, 1990, through December 31, 1990, one cent per gallon on the first sale or use of that mixture; and~~

~~[(6) on] and after January 1, 1991, no credit may be claimed. *This section expires January 1, 1992.*~~

SECTION 2. Subdivisions (1), (2), (3), and (4), Subsection (b), Section 153.123, Tax Code, as amended, are amended to read as follows:

(1) On or before the 30th day preceding each calendar quarter, the comptroller shall estimate (based on the most recent data available) the total volume, in gallons, of first sales or uses of gasoline and alcohol mixture meeting the requirements of Subsection (e) of this section, and the total amount of credits *that [which]* will be allowed to distributors under Subsection (d), both for the next calendar quarter. If the total amount of that estimated credit exceeds \$2,712,500 *for a quarter of 1987, \$1,100,000 for each quarter of 1988, \$880,000 for each quarter of 1989, or \$704,000 for each quarter of 1990*, the comptroller shall estimate and publish in the Texas Register a credit per gallon (rounded to the nearest one-tenth cent) of mixture *that [which]*, if applied to first sales or uses of gasoline and alcohol mixture containing alcohol *not fermented and distilled in [produced from renewable sources produced outside]* the state, would limit the total of the credits allowed to *the applicable quarterly amount specified by this subdivision [\$2,712,500]* for the next calendar quarter. Such estimated amount shall be the maximum amount of the credit *that [which]* may be claimed for the next calendar quarter for first sales or uses of gasoline and alcohol mixture containing alcohol *not fermented and distilled in [produced from renewable sources produced outside]* the state.

(2) If the total amount of the estimated credit resulting from first sales or uses of gasoline and alcohol mixtures containing alcohol *fermented and distilled [from renewable sources produced]* in the state only exceeds *the applicable quarterly amount specified by Subdivision (1) of this subsection, [\$2,712,500]* for the next calendar quarter, then no credit may be claimed for such mixtures containing alcohol *not fermented and distilled in [produced from renewable sources from outside]* the state, and the comptroller shall estimate and publish in the Texas Register a credit per gallon (rounded to the nearest one-tenth cent) of mixture *that [which]*, if applied to first sales or uses of such mixtures containing alcohol *fermented and distilled [produced from renewable sources produced]* in the state, would limit the total of the credits allowed to *the applicable quarterly amount specified by Subdivision (1) of this subsection [\$2,712,500]* for the next calendar quarter. Such estimated amount shall be the maximum of the credit *that [which]* may be claimed for the next calendar quarter for first sales or uses of gasoline and alcohol mixture *containing alcohol fermented and distilled in [produced from renewable sources from within]* the state.

(3) In arriving at estimates of credits per gallon of mixture *that [which]* will limit *the total credits under this subsection, [to \$2,712,500 per calendar quarter,]* the comptroller shall consider actual total credits during the second preceding calendar quarter and shall, if necessary, include an adjustment in the estimate for the next calendar quarter to account for the difference between actual total credits during the second preceding calendar quarter and *the applicable quarterly amount specified by Subdivision (1) of this subsection for the quarter for which the estimate is made [\$2,712,500]*.

(4) Except as provided in this subdivision, no mixture that contains alcohol that was *fermented [produced]* or distilled in another state is eligible for a credit on its first sale or use in the state. If the comptroller certifies that another state provides an exemption from that state's taxes applicable to gasoline or a credit or refund for taxes collected or an amount in lieu of taxes collected on a mixture of gasoline and alcohol, and if the other state's exemption, credit, or refund allowance applies to a mixture that includes alcohol *fermented [produced]* or distilled in Texas, and if the alcohol *fermented or distilled [produced]* in the other state meets the specifications provided by Subdivisions (1), (2), and (3) of Subsection (e) of this section, then the specifications for the mixture for which *[the transfers shall be made to the gasoline and alcohol mixture fund and for which] credits [or payments]* shall be made shall include mixtures that include alcohol *fermented [produced]* and distilled in the other state or in Texas and the other state. However, if a mixture of alcohol *fermented [produced]* or distilled in another state and gasoline qualifies under this subsection for a *[transfer and a]* credit, the amount of the *[transfer and]* credit under this section for the mixture may not exceed the amount of the exemption, credit, or refund (stated in or converted to cents for each gallon of the mixture) provided by the state in which the alcohol was *fermented [produced]* or distilled.

SECTION 3. If adopted by a vote of two-thirds of all members elected to each house of the legislature, this Act takes effect June 1, 1987, and applies to credits granted under Section 153.123, Tax Code, beginning with the calendar quarter beginning July 1, 1987. Otherwise, this Act takes effect September 1, 1987, and applies to credits granted under Section 153.123, Tax Code, beginning with the calendar quarter beginning October 1, 1987.

SECTION 4. 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, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on April 6, 1987, by the following vote: Yeas 30, Nays 0; May 27, 1987, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 28, 1987, House granted request of the Senate; May 31, 1987, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 0. Passed the House, with amendment, on May 26, 1987, by the following vote: Yeas 137, Nays 0, two present not voting; May 28, 1987, House granted request of the Senate for appointment of Conference Committee; June 1, 1987, House adopted Conference Committee Report by a non-record vote.

Approved June 18, 1987.

Effective Sept. 1, 1987.