

BILL ANALYSIS

Senate Research Center
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S.B. 1728
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Finance
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, 2003, passed a comprehensive motor fuels tax update that moved the point of collection of the tax to the highest point in the motor fuel distribution system, the terminal loading rack. The objective of the new law was to increase revenue from motor fuels tax and federal highway matching funds through a combination of efficiency measures, including the use of automated systems and a reduction in the number of taxpayers. A few of the provisions that were enacted have proven inefficient or unworkable in practice.

S.B. 1728 further streamlines motor fuels tax administration and compliance for both the comptroller and industry, and corrects problems that have become apparent during the last two years, as the new motor fuels tax law has been implemented.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 162.001(20) and (43), Tax Code, to redefine "distributor" and "motor fuel transporter."

SECTION 2. Amends Section 162.116(d), Tax Code, to prohibit the comptroller of public accounts (comptroller) from requiring a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION 3. Amends Section 162.118, Tax Code, to delete existing text requiring the monthly return and supplements of each distributor to contain, for the period covered by the return, the point of origin, destination state, carrier, and receipt date. Makes a conforming change.

SECTION 4. Amends Section 162.126(d), Tax Code, to require that if, after a refund is received under Subsection (a) or a credit is taken under Subsection (b), the account on which the refund, rather than refund or credit, was based is paid or the comptroller determines that the refund or credit was not authorized by Subsection (a) or (b), the unpaid taxes be paid by the distributor receiving the refund or the supplier or permissive supplier taking the credit, plus a penalty of ten percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 beginning on the day the refund was issued.

SECTION 5. Amends Section 162.127, Tax Code, by adding Subsection (g), to require the comptroller to issue a refund warrant to a distributor not later than the 30th day after the date the comptroller receives a valid refund claim for the distributor. Provides that, if the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 31st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 6. Amends Section 162.128(a), Tax Code, to require that a claim for a refund, except as otherwise provided by this section, be filed with the comptroller before the fourth, rather than first, anniversary of the first day of the calendar month following the purchase, use delivery, or export, or loss by fire, theft, or accident of gasoline, whichever period expires latest.

SECTION 7. Amends Section 162.206, Tax Code, by amending Subsection (c) and adding Subsection (h-1), as follows:

(c) Deletes existing text prohibiting a person from making a tax-free purchase and a licensed supplier or distributor from making a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the purchase or the sale of more than 7,400 gallons of dyed diesel fuel in a single delivery.

(h-1) Provides that, for purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. Authorizes the licensed supplier or distributor to use the comptroller's Internet website to verify this information.

SECTION 8. Amends Section 162.217(d), Tax Code, to prohibit the comptroller from requiring a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION 9. Amends Section 162.219, Tax Code, to make conforming changes.

SECTION 10. Amends Section 162.228(d), Tax Code, to make conforming changes.

SECTION 11. Amends Section 162.229, Tax Code, by adding Subsection (g), to make conforming changes.

SECTION 12. Amends Section 162.230(a), Tax Code, to make a conforming change.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2005.