

BILL ANALYSIS

C.S.H.B. 2212
By: Wray
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concern regarding an estimate by the comptroller of public accounts that the collection costs of the tax imposed on the rental of a hall for the purpose of bingo and the tax imposed on vehicles that operate using liquefied natural gas exceed the revenue that those taxes produce. The parties contend that the state's tax collection resources could be better used to collect more cost-effective revenue instead of administering those taxes. C.S.H.B. 2212 seeks to enhance the cost-efficiency of state tax collections.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2212 repeals Occupations Code provisions imposing a gross rentals tax on the rental of premises for the conduct of bingo and amends the Occupations Code to clarify the applicability of certain provisions governing the payment and reporting of bingo prize fees, penalties for failure to pay or report such fees, and recomputation of such fees.

C.S.H.B. 2212 repeals Tax Code provisions imposing a liquefied gas tax on the use of liquefied gas for the propulsion of motor vehicles on Texas public highways. The bill authorizes a person who holds a liquefied gas tax decal license that is valid on or after the bill's effective date, not later than December 31, 2015, to apply to the comptroller of public accounts for and obtain a pro rata refund of the unused portion of the advanced taxes paid for the period after the bill's effective date. The bill requires the comptroller to provide application forms for the refunds.

C.S.H.B. 2212 amends the Tax Code to exempt from the compressed natural gas and liquefied natural gas tax compressed or liquefied natural gas delivered into the fuel supply tank of a motor vehicle used to provide the services of a transit company, including a metropolitan rapid transit authority or a regional transportation authority, and operated by a person who on January 1, 2015, paid tax on compressed natural gas or liquefied natural gas under statutory provisions governing the liquefied gas tax as provided by applicable law as it existed on that date. The bill excludes from this exemption compressed or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor vehicles other than a motor vehicle used to provide the services of a transit company. The bill designates liquefied gas as a special fuel for purposes of the sales and use tax exemption for certain items taxed by other law.

C.S.H.B. 2212 amends the Transportation Code to make conforming changes.

C.S.H.B. 2212 repeals Section 2001.501, Occupations Code, and the following provisions of the Tax Code:

- Section 162.001(40)
- Subchapter D, Chapter 162
- Section 162.505

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2212 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
ARTICLE 1. BINGO GROSS RENTALS TAX	Same as introduced version.
SECTION 1.01. Section 2001.103(d), Occupations Code, is amended.	SECTION 1.01. Same as introduced version.
SECTION 1.02. Section 2001.312, Occupations Code, is amended.	SECTION 1.02. Same as introduced version.
SECTION 1.03. Section 2001.355(b), Occupations Code, is amended.	SECTION 1.03. Same as introduced version.
SECTION 1.04. Section 2001.437(a), Occupations Code, is amended.	SECTION 1.04. Same as introduced version.
SECTION 1.05. Section 2001.438(f), Occupations Code, is amended.	SECTION 1.05. Same as introduced version.
SECTION 1.06. The heading to Subchapter K, Chapter 2001, Occupations Code, is amended.	SECTION 1.06. Same as introduced version.

SECTION 1.07. Section 2001.504, Occupations Code, is amended.

SECTION 1.07. Same as introduced version.

SECTION 1.08. Section 2001.508, Occupations Code, is amended.

SECTION 1.08. Same as introduced version.

SECTION 1.09. Section 2001.509, Occupations Code, is amended.

SECTION 1.09. Same as introduced version.

SECTION 1.10. The heading to Section 2001.510, Occupations Code, is amended.

SECTION 1.10. Same as introduced version.

SECTION 1.11. Sections 2001.510(a) and (c), Occupations Code, are amended.

SECTION 1.11. Same as introduced version.

SECTION 1.12. Sections 2001.511(a) and (c), Occupations Code, are amended.

SECTION 1.12. Same as introduced version.

SECTION 1.13. Section 2001.512, Occupations Code, is amended.

SECTION 1.13. Same as introduced version.

SECTION 1.14. Section 2001.513(a), Occupations Code, is amended.

SECTION 1.14. Same as introduced version.

SECTION 1.15. Sections 2001.514(a), (c), and (d), Occupations Code, are amended.

SECTION 1.15. Same as introduced version.

SECTION 1.16. Section 2001.515, Occupations Code, is amended.

SECTION 1.16. Same as introduced version.

SECTION 1.17. Section 2001.501, Occupations Code, is repealed.

SECTION 1.17. Same as introduced version.

ARTICLE 2. LIQUEFIED GAS MOTOR
FUELS TAX

SECTION 2.01. Section 105.001(a), Business & Commerce Code, is amended by adding Subdivision (3) to read as follows:

(3) "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 compressed natural gas, liquefied natural gas, gasoline, or diesel fuel, as those terms are defined by Section 162.001, Tax Code.

SECTION 2.02. Section 105.002(b), Business & Commerce Code, is amended to read as follows:

(b) This chapter does not apply to:
(1) a service station or other facility that:
(A) never provides pump island service; and
(B) has only remotely controlled pumps; or
(2) a refueling service used to provide liquefied gas [~~as defined by Section 162.001, Tax Code~~].

SECTION 2.03. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.361 to read as follows:

Sec. 151.361. LIQUEFIED GAS USED AS MOTOR FUEL. (a) In this section, "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 compressed natural gas, liquefied natural gas, gasoline, or diesel fuel, as those terms are defined by Section 162.001.

(b) Liquefied gas is exempt from the taxes imposed by this chapter if the liquefied gas is used for the propulsion of a motor vehicle on the public highways of this state.

SECTION 2.04. Sections 162.001(19), (29), (38), (42), and (43), Tax Code, are amended to read as follows:

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended

ARTICLE 2. LIQUEFIED GAS MOTOR
FUELS TAX

No equivalent provision.

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No equivalent provision. *(But see Section 162.001(39) in SECTION 2.01 below.)*

SECTION 2.01. Sections 162.001(38), (39), and (42), Tax Code, are amended to read as follows:

together, offered for sale, sold, used, or capable of use as fuel for the propulsion of a diesel-powered engine. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include compressed natural gas, liquefied natural gas, gasoline, or aviation gasoline [~~or liquefied gas~~].

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include compressed natural gas, liquefied natural gas, racing gasoline, diesel fuel, or aviation jet fuel [~~or liquefied gas~~].

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, [~~162.304, 162.305, 162.306,~~] 162.357, or 162.358.

(See SECTION 2.03 above.)

(42) "Motor fuel" means gasoline, diesel fuel, [~~liquefied gas,~~] gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except [~~liquefied gas,~~] compressed natural gas [~~or~~] or liquefied natural gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, [~~162.304, 162.305, 162.306,~~] 162.357, or 162.358.

(39) "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 compressed natural gas, liquefied natural gas, gasoline, or diesel fuel. Liquefied gas is considered a special fuel for purposes of Section 151.308.

(42) "Motor fuel" means gasoline, diesel fuel, [~~liquefied gas,~~] gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine.

fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

SECTION 2.05. Section 162.014, Tax Code, is amended to read as follows:

Sec. 162.014. OTHER MOTOR FUEL TAXES PROHIBITED. The taxes imposed by this chapter are in lieu of any other excise or occupation tax imposed by a political subdivision of this state on the sale, use, or distribution of gasoline or [;] diesel fuel [~~or liquefied gas~~].

No equivalent provision.

SECTION 2.06. Section 162.312, Tax Code, is transferred to Subchapter D-1, Chapter 162, Tax Code, redesignated as Section 162.370, Tax Code, and amended to read as follows:

Sec. 162.370 [~~162.312~~]. APPLICABILITY OF SUBCHAPTER TO CERTAIN PUBLIC TRANSPORTATION PROVIDERS USING COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS. (a) This section applies only to a person who:

(1) operates motor vehicles used to provide the services of a transit company, including a metropolitan rapid transit authority under Chapter 451, Transportation Code, or a regional transportation authority under Chapter 452, Transportation Code; and
(2) held a liquefied gas tax decal license issued under former Subchapter D on or before August 31, 2013.

(b) Notwithstanding the other provisions of this subchapter [~~Subchapter D-1~~], a person to which this section applies may:

(1) pay tax as provided by Subchapter D, as that subchapter existed on January 1, 2015, [~~this subchapter~~] on compressed natural gas or liquefied natural gas delivered into the fuel supply tank of all motor vehicles described by Subsection (a)(1) from a refueling facility accessible only to motor vehicles described by Subsection (a)(1); and

(2) operate those motor vehicles on the public highways of this state using compressed natural gas or liquefied natural gas described by Subdivision (1).

(c) This section does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor

No equivalent provision. (*But see SECTION 2.02 below.*)

vehicles other than those described by Subsection (a)(1).

(d) For purposes of this section [In this subchapter], "liquefied gas," as that term was used in Sections 162.001, 162.402(a), and 162.403 and Subchapter D, as those provisions existed on January 1, 2015, [gas"] includes compressed natural gas and liquefied natural gas with respect to the persons to which this section applies. The penalties provided by Sections 162.402(a) and 162.403 in connection with liquefied gas, as those sections existed on January 1, 2015, apply to a person to which this section applies.

(e) The comptroller shall adopt rules necessary to implement this section.

No equivalent provision. *(But see SECTION 2.06 above.)*

SECTION 2.02. Section 162.356, Tax Code, is amended to read as follows:

Sec. 162.356. EXEMPTIONS. (a) The tax imposed by this subchapter does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of:

- (1) a motor vehicle operated exclusively by the United States, provided that the exemption does not apply with respect to fuel delivered into the fuel supply tank of a motor vehicle of a person operating under a contract with the United States;
- (2) a motor vehicle operated exclusively by a public school district in this state;
- (3) a motor vehicle operated exclusively by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the fuel only to provide those services;
- (4) a motor vehicle operated exclusively by a volunteer fire department in this state;
- (5) a motor vehicle operated exclusively by a county in this state;
- (6) a motor vehicle operated exclusively by a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code;
- (7) a motor vehicle operated exclusively by a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code;

(8) a motor vehicle that is not registered for use on the public highways of this state and that is used exclusively off-highway; ~~[or]~~

(9) off-highway equipment, a stationary engine, a motorboat, an aircraft, equipment used solely for servicing aircraft and used exclusively off-highway, a locomotive, or any device other than a motor vehicle operated or intended to be operated on the public highways; or

(10) except as provided by Subsection (b), a motor vehicle:

(A) used to provide the services of a transit company, including a metropolitan rapid transit authority under Chapter 451, Transportation Code, or a regional transportation authority under Chapter 452, Transportation Code; and

(B) operated by a person who on January 1, 2015, paid tax on compressed natural gas or liquefied natural gas as provided by Section 162.312, as that section existed on that date.

(b) The exemption provided by Subsection (a)(10) does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor vehicles other than those described by Subsection (a)(10)(A).

SECTION 2.07. Section 162.402(a), Tax Code, is amended.

SECTION 2.03. Same as introduced version.

SECTION 2.08. Section 162.403, Tax Code, is amended.

SECTION 2.04. Same as introduced version.

SECTION 2.09. Section 548.104(d), Transportation Code, is amended.

SECTION 2.05. Same as introduced version.

SECTION 2.10. The following provisions of the Tax Code are repealed:

- (1) Sections 162.001(39) and (40);
- (2) the heading to Subchapter D, Chapter 162; and
- (3) Sections 162.301, 162.302, 162.3021,

SECTION 2.06. The following provisions of the Tax Code are repealed:

- (1) Section 162.001(40);
- (2) Subchapter D, Chapter 162; and

162.3022, 162.303, 162.304, 162.305,
162.306, 162.307, 162.308, 162.309, 162.310,
162.311, and
162.505.

(3) Section 162.505.

SECTION 2.11. The change in law made by this article to Section 162.402(a), Tax Code, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurred before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 2.07. Same as introduced version.

SECTION 2.12. The change in law made by this article to Section 162.403, Tax Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 2.08. Same as introduced version.

SECTION 2.13. A person who holds a liquefied gas tax decal license under Section 162.305, Tax Code, that is valid on or after the effective date of this Act may, not later than December 31, 2015, apply to the comptroller of public accounts for and obtain a pro rata refund of the unused portion of the advanced taxes paid for the period after the effective date of this Act. The comptroller shall provide application forms for refunds under this section.

SECTION 2.09. Same as introduced version.

ARTICLE 3. TRANSITION AND EFFECTIVE DATE

Same as introduced version.

SECTION 3.01. The changes in law made by this Act do not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 3.01. Same as introduced version.

SECTION 3.02. This Act takes effect
September 1, 2015.

SECTION 3.02. Same as introduced
version.