

BILL ANALYSIS

S.B. 1557
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns that certain industry practices regarding the export of gasoline and diesel fuel may result in the state collecting less motor fuel tax revenue than is legally due. S.B. 1557 seeks to address this issue in part by adding a reporting requirement on purchases of fuel for export where the exporter of record subsequently resells the fuel in Texas prior to export.

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

S.B. 1557 amends the Tax Code to impose a tax on gasoline and diesel fuel that is otherwise exempt from motor fuel taxation on the basis of being exported to another state or a foreign country if the gasoline or diesel fuel is sold in Texas to a person who does not hold a certain license. The bill makes the person that sold the gasoline or diesel fuel liable for the tax and requires that person to collect the tax. The bill also imposes a tax on such gasoline and diesel fuel if before export the gasoline or diesel fuel is sold in Texas to a person who holds a certain license and the gasoline or diesel fuel is delivered to a destination in Texas. The bill makes the person that redirected the delivery of the gasoline or diesel fuel to a destination in Texas liable for the tax, requires that person to pay the tax, and requires a person who fails to pay the tax when due to pay an additional penalty equal to the greater of \$2,000 or five times the amount of the tax due on the motor fuel.

S.B. 1557 removes and repeals provisions relating to an obsolete condition under which gasoline and diesel fuel exported by a licensed supplier or a licensed exporter from Texas to another state is exempt from the applicable motor fuel tax, with the exception of the requirement that an exporter, if an exemption on the basis of interstate exportation is claimed, keep proof of payment of tax to the destination state or proof that the transaction was exempt in the destination state.

S.B. 1557 requires a person who purchases or removes gasoline or diesel fuel tax-free on the basis of being exported to another state or a foreign country and before export sells the gasoline or diesel fuel in Texas tax-free to a person who holds a certain license to report that transaction to the comptroller of public accounts. The bill requires each seller, if the gasoline or diesel fuel is subsequently sold one or more times in Texas before export and tax-free to a person who holds such a license, to report the transaction to the comptroller. The bill requires each person who sells tax-free gasoline or diesel fuel in Texas in such a transaction to provide to the comptroller

the bill of lading number issued at the terminal, the terminal control number, the date the gasoline or diesel fuel was removed from the terminal, the number of gallons invoiced, and any other information required by the comptroller. The bill requires the sales invoice for each applicable transaction to include the name of the seller and purchaser and the original bill of lading number. The bill requires a person required to report a transaction to report the transaction on a form prescribed by the comptroller and with the required tax return.

S.B. 1557 requires a person who fails to report a subsequent sale in Texas of tax-free motor fuel purchased for export to pay for each sale that is not reported a penalty of \$200. This penalty is not assessed if the taxpayer files an amended report that includes the sale not later than the 180th day after the due date of the original report of the sale.

S.B. 1557 amends the Water Code to transfer liability for the fee imposed on the delivery of a petroleum product on withdrawal from bulk of that product from each operator of a bulk facility to each supplier. The bill specifies that a bulk facility in the context of this fee is a facility in Texas and provides for the meaning of "supplier" by reference to Tax Code provisions relating to motor fuel taxes. A petroleum product ceases to be in continuous movement to a destination outside Texas, for purposes of the exemption from the fee of a delivery of a petroleum product destined for export from Texas on the basis of being in continuous movement to a destination outside Texas, if the product is delivered to a destination in Texas. The bill requires the person that directs the delivery of the product to a destination in Texas to pay the fee on that product.

S.B. 1557 repeals the following provisions of the Tax Code:

- Sections 162.104(c) and (e)
- Sections 162.204(c) and (e)

EFFECTIVE DATE

January 1, 2018.