

SUBJECT: Diesel fuel tax credit or refund for certain oil field well service equipment

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 6 ayes — Keffer, Ritter, Otto, Bonnen, Davis, Pena

0 nays

3 absent — Flores, Paxton, Pitts

WITNESSES: For — Kenneth Jordon, Association of Energy Service Companies; Pete Sandel, Association of Energy Services; Michael Stovall, Association of Energy Companies. (*Registered, but did not testify*: Doug Dubois, Texas Petroleum Marketers and Convenience Store Association; Steve Perry, Chevron USA; Ben Sebree, Texas Oil and Gas Association; Bill Stevens, Texas Alliance of Energy Producers; Donna Warndorf, Texas Independent Producers and Royalty Owners Association)

Against — None

BACKGROUND: The 78th Legislature in 2003 enacted HB 2458 by Krusee, which moved the motor fuel tax collection point from the distributor to the terminal rack, among other changes.

Undyed diesel fuel is taxed by the state at 20 cents a gallon. Under HB 2458, tax-free purchases of this fuel for off-highway equipment, stationary engines and for other non-highway purposes is not permissible, with exceptions for the federal government, a Texas public school district, a company providing transportation for a Texas public school district, and Texas non-profit electric and telephone cooperatives organized under the Texas Utilities Code.

Dyed diesel fuel is sold tax free to qualifying users. By law, dyed diesel fuel may not be used in fuel supply tanks of motor vehicles operating on public highways. Under HB 2458, a person may obtain permission from the comptroller to buy dyed diesel fuel tax free for use in nonagricultural, nonhighway equipment or to buy dyed or undyed diesel fuel tax free for use in agricultural, nonhighway equipment.

DIGEST: HB 1618 would amend Tax Code, sec. 162.227 to allow credit or refunds on diesel fuel tax if:

- tax was paid on diesel fuel;
- the diesel fuel was used in Texas by oilfield service equipment; and
- the person who purchased the diesel fuel was eligible for a federal diesel fuel tax refund under the federal Internal Revenue Code for diesel fuel used by oilfield well service equipment

For those who meet these provisions, license holders would be eligible to receive tax credit on a return during the purchase period. Non-license holders would file a refund claim with the comptroller.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS  
SAY:

HB 1618 would provide more fairness in the Tax Code by crediting or refunding the diesel fuel tax charged to oilfield well service equipment operators for off-road purposes. Oilfield well service equipment is located off-road an estimated 90 to 95 percent of the time servicing oil and gas wells. Operators are not able to buy undyed diesel fuel, as a small portion of their time is spent on public roads. Already, oilfield well service equipment operators must pay a road permit fee. The diesel fuel tax is designed to help pay for the construction and maintenance of public roads, so operators of this equipment should not have to pay the tax for off-road uses.

The federal government permits a credit or refund for the federal tax applied to diesel fuel used for certain off-road purposes. To determine eligibility for this credit or refund, the Internal Revenue Service considers vehicle design and usage. HB 1618 simply would enable the state of Texas to credit or refund the diesel fuel tax in the same manner. Using the existing federal process and eligibility standards would decrease the comptroller's administrative burden and reduce the potential for fraudulent tax credit or refund requests.

The diesel fuel tax for oilfield service equipment is a new source of revenue to the state. Before enactment of HB 2458 in 2003, the state diesel fuel tax was collected at the distribution level. In this arrangement,

operators of oilfield well service equipment did not pay diesel fuel taxes for off-road usage because suppliers maintained records detailing on- and off-road usage and charged operators accordingly. Under HB 2458, the supplier pays the tax at the terminal and charges oilfield service equipment operators the entire diesel fuel tax. Charging this tax to operators of oilfield service equipment was an inadvertent outcome of HB 2458.

**OPPONENTS  
SAY:**

This diesel fuel tax on oilfield service equipment helps to fund the state highway fund and the available school fund. By eliminating the tax, the bill would eliminate a sizable source of revenue for the state of Texas.

**NOTES:**

According to the Legislative Budget Board, HB 1618 would result in an estimated loss to the state highway fund of \$1,676,000 in fiscal 2008 and \$1,851,000 in fiscal 2009. The proposed legislation would also lead to an estimated loss to the available school fund of \$559,000 in fiscal 2008 and \$617,000 in fiscal 2009.