the board determines has acceptable experience gained during service in a branch of the United States armed forces, including the United States Coast Guard.

SECTION 3. The Texas Private Security Board shall adopt rules to implement Section 1702.1183(c), Occupations Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2013.

Passed by the House on May 2, 2013: Yeas 147, Nays 0, 2 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 990

H.B. No. 2148

AN ACT
relating to the motor fuel tax on compressed natural gas and liquefied natural gas; providing penalties; imposing a tax.

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

SECTION 1. The legislature finds that:
(1) this Act does not impose a new tax;
(2) compressed natural gas and liquefied natural gas are currently taxed and this Act leaves the tax rate effectively unchanged;
(3) this Act provides a new collection mechanism for an existing tax; and
(4) this Act provides a more efficient method of tax administration for taxpayers and for this state.

SECTION 2. Section 162.001, Tax Code, is amended by amending Subdivisions (4), (16), (19), (29), (38), (39), (42), and (43) and adding Subdivisions (19-a), (24-a), (29-a), and (40-a) to read as follows:

(4) “Aviation fuel dealer” means a person who:
(A) is the operator of an aircraft servicing facility;
(B) delivers gasoline, [49] diesel fuel, compressed natural gas, or liquefied natural gas exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and
(C) does not use, sell, or distribute gasoline, [49] diesel fuel, compressed natural gas, or liquefied natural gas on which a fuel tax is required to be collected or paid to this state.

(16) “Compressed natural gas” means natural gas that has been compressed and dispensed into motor fuel storage containers and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(19) “Diesel fuel” means kerosene or another liquid, or a combination of liquids blended 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, aviation gasoline, or liquefied gas.

(19-a) “Diesel gallon equivalent” means:
(A) 6.380 pounds of compressed natural gas; or
(B) 6.060 pounds of liquefied natural gas.
"Fleet user" means a person who produces compressed natural gas or liquefied natural gas or maintains storage facilities for compressed natural gas or liquefied natural gas and who delivers all or part of the fuel produced or stored into the fuel supply tank of a motor vehicle.

"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, aviation jet fuel, or liquefied gas.

"Gasoline gallon equivalent" means:

(A) 5.860 pounds of compressed natural gas; or
(B) 5.370 pounds of liquefied natural gas.

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

"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 natural gas" mean natural gas that has been cooled to a liquid state and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

"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.

"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 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 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 3. Subchapter D, Chapter 162, Tax Code, is amended by adding Section 162.312 to read as follows:

Sec. 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 on or before August 31, 2013.

(b) Notwithstanding Subchapter D-1, a person to which this section applies may:

(1) pay tax as provided by 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 vehicles other than those described by Subsection (a)(1).

(d) In this subchapter, "liquefied gas" includes compressed natural gas and liquefied natural gas with respect to the persons to which this section applies.
(e) The comptroller shall adopt rules necessary to implement this section.

SECTION 4. Chapter 162, Tax Code, is amended by adding Subchapter D-1 to read as follows:

**SUBCHAPTER D-1. COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX**

Sec. 162.351. TAX IMPOSED; SALE OF FUEL DELIVERED INTO FUEL SUPPLY TANK OF MOTOR VEHICLE. (a) A tax is imposed on the sale of compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) The dealer is liable for the tax imposed under this section.

(c) The dealer shall add the amount of the tax to the selling price so that the tax is paid by the purchaser. When the amount of the tax is added:

1. it becomes a part of the sales price;
2. it is a debt of the purchaser to the dealer; and
3. if unpaid, it is recoverable at law in the same manner as the original sales price.

(d) The dealer shall provide to the purchaser an invoice or receipt that states the rate and amount of tax added to the selling price or indicates that no tax was added to the selling price.

Sec. 162.352. TAX IMPOSED; DELIVERY OF FUEL INTO FUEL SUPPLY TANK OF MOTOR VEHICLE NOT IN CONNECTION WITH SALE. (a) A tax is imposed on the delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) The fleet user or other dealer is liable for the tax imposed under this section.

Sec. 162.353. TAX RATE; UNIT OF MEASUREMENT. (a) The rate of the tax under Sections 162.351 and 162.352 is 15 cents for each:

1. gasoline gallon equivalent or fractional part of compressed natural gas or liquefied natural gas; or
2. diesel gallon equivalent or fractional part of compressed natural gas or liquefied natural gas.

(b) The tax shall be imposed on an amount of compressed natural gas or liquefied natural gas equal to:

1. diesel gallon equivalent of compressed natural gas, as provided by Section 162.001(19-a)(A), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source;
2. diesel gallon equivalent of liquefied natural gas, as provided by Section 162.001(19-a)(B), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source;
3. gasoline gallon equivalent of compressed natural gas, as provided by Section 162.001(29-a)(A), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source; or
4. gasoline gallon equivalent of liquefied natural gas, as provided by Section 162.001(29-a)(B), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source.

Sec. 162.354. BACKUP TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.353 on:

1. a person who obtains a refund of tax on compressed natural gas or liquefied natural gas by claiming the fuel was used for an exempt purpose, but actually uses the fuel for a taxable purpose;
(2) a person who operates a motor vehicle on a public highway using compressed natural gas or liquefied natural gas on which tax has not been paid;

(3) a person who sells compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle, on which tax was not paid, and who knew or had reason to know that the fuel would be used for a taxable purpose; and

(4) a person who delivers into the fuel supply tank of a motor vehicle compressed natural gas or liquefied natural gas on which tax was not paid and who knew or had reason to know that the fuel would be used for a taxable purpose.

(b) If the person who operates a motor vehicle described by Subsection (a)(2) is not the owner or lessee of the motor vehicle, both the owner or lessee and the operator are liable for the tax.

(c) The tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) The tax imposed under Subsection (a)(4) is also imposed on the operator of the motor vehicle or the motor vehicle's owner or lessee.

(e) The tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Sec. 162.355. FUEL PRESUMED SUBJECT TO TAX. (a) All compressed natural gas and liquefied natural gas sold by a dealer and delivered into the fuel supply tank of a motor vehicle is presumed to be subject to tax, and the dealer is liable for the tax under Section 162.351(b) and in accordance with Section 162.012 unless the dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

(b) All compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale is presumed to be subject to tax, and the fleet user or other dealer is liable for the tax under Section 162.352(b) and in accordance with Section 162.012 unless the fleet user or other dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

Sec. 162.356. EXEMPTIONS. 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.

Sec. 162.357. DEALER'S LICENSE. (a) A person may not sell compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle and on which tax is imposed under Section 162.351 unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.
(b) A person may not deliver compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle not in connection with a sale and on which tax is imposed under Section 162.352, or otherwise conduct the activities of a fleet user, unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(c) A person may not conduct the activities of an aviation fuel dealer who delivers compressed natural gas or liquefied natural gas unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(d) A compressed natural gas and liquefied natural gas dealer's license is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the license holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if the license holder has not reported a delivery of compressed natural gas or liquefied natural gas during the previous nine months.

(e) A compressed natural gas and liquefied natural gas dealer's license is not transferable.

Sec. 162.358. INTERSTATE TRUCKER’S LICENSE. (a) An interstate trucker's license authorizes a person who operates a motor vehicle described by Section 162.001(36) and fueled by compressed natural gas or liquefied natural gas to report and pay the tax and take a credit or claim a refund as provided by this subchapter.

(b) An interstate trucker's license is valid from the date of issuance until December 31 of each calendar year or until the license is surrendered by the license holder or canceled by the comptroller. The comptroller may renew an interstate trucker's license each calendar year if the license holder furnishes timely reports as required.

(c) An interstate trucker's license is not transferable.

Sec. 162.359. LICENSE APPLICATION PROCEDURE. An applicant for a license under this subchapter must file an application using a form adopted by the comptroller that contains:

1. the name under which the applicant transacts or intends to transact business;
2. the applicant's principal office, residence, or place of business in this state, or other location of the applicant;
3. if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and
4. other information required by the comptroller.

Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE. (a) If the comptroller approves a license application, the comptroller shall issue a license to the applicant. A license holder shall post the license in a conspicuous place or keep the license available for inspection at the license holder's principal place of business. A license holder shall keep a copy of the license at each place of business or other place of storage from which compressed natural gas or liquefied natural gas is sold or delivered.

(b) An interstate trucker's license holder shall reproduce the license and carry a photocopy with each motor vehicle being operated in or traveling to or from this state.

Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES. (a) The comptroller shall determine the amount of security required of a dealer, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter or its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

(b) The comptroller may require a license holder to post a bond if the comptroller determines it is necessary for the license holder to post security to protect the revenues of this state. A license holder must post a bond equal to two times the maximum amount of tax that could accrue on compressed natural gas or liquefied natural gas produced, purchased, acquired, sold, or delivered during a reporting period. The minimum bond for a person described by Section 162.357(a) is $30,000. The comptroller shall prescribe the minimum bond for a person described by Section 162.357(b) or (c) who is not described by...
Section 162.357(a). The maximum bond is $600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event the comptroller may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A license holder who has filed a bond or other security under this subchapter is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of this state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may not to return, refund, or release the bond or security and may impose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of this state.

(d) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(e) Instead of filing a surety bond, an applicant for a license may substitute the following security:

(1) cash in the form of United States currency in an amount equal to the required bond to be deposited in a suspense account of the state treasury;

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount at least equal to the bond amount required; or

(3) an irrevocable letter of credit to the comptroller from any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount of credit at least equal to the bond amount required.

(f) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the license holder to file a new or an additional bond or security.

(g) A surety bond or other form of security may not be released until the comptroller determines by examination or audit that a tax, penalty, or interest liability does not exist. The comptroller shall release the cash or securities not later than the 60th day after the date the comptroller determines that liability does not exist.

(h) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due to this state by a person on whose behalf the cash or certificate of deposit security was deposited.

(i) The comptroller shall release and discharge from liability to this state a surety on a bond furnished by a license holder on the 31st day after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability that already accrued or that accrues before the expiration of the 30-day period. The comptroller, promptly on receipt of the request, shall notify the license holder who furnished the bond, and unless the license holder, before the expiration date of the existing security, files with the comptroller a new bond with a surety company authorized to do business under the laws of this state, or other authorized security, in the amount required by this section, the comptroller shall cancel the license in the manner provided by this chapter.

(j) The comptroller shall immediately notify the issuer of a letter of credit of a final determination of the license holder's delinquent liability or a judgment secured in any action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due to this state by a license holder on whose behalf the letter of credit was issued. The letter of credit allowed as security under this section must contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's delinquency claim against the license holder.
(k) A license holder may request an examination or audit to obtain release of the security when the license holder relinquishes the license or when the license holder wants to substitute one form of security for an existing one.

Sec. 162.362. RETURNS AND PAYMENTS: ALLOWANCES. (a) A licensed dealer, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A licensed dealer who has not made taxable deliveries during the reporting period shall file with the comptroller a report that includes those facts or that information.

(b) If a licensed dealer files a report and remits the tax due on or before the due date under Subsection (a), one percent of the tax due is allocated to the licensed dealer for the expense of collecting, accounting for, reporting, and timely remitting the taxes collected and for keeping the records. The licensed dealer shall deduct the allocated amount from the tax due when paying the tax to this state.

(c) A licensed interstate trucker, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A report shall be filed with the comptroller on forms provided for that purpose and must contain the number of miles traveled in this state, the number of miles traveled outside this state, and other information required by the comptroller. An interstate trucker who is required to file a report under this section and who has not made interstate trips or used compressed natural gas or liquefied natural gas in motor vehicles in this state during the reporting period shall file with the comptroller a report that includes those facts or that information.

(d) If a licensed interstate trucker files a report and remits the tax due on or before the due date under Subsection (c), one-half of one percent of the tax paid on compressed natural gas and liquefied natural gas used in this state by the interstate trucker is allocated to the interstate trucker for the expense of accounting for, reporting, and timely remitting the taxes due and for keeping the records. The licensed interstate trucker shall deduct the allocated amount from the tax due when paying the tax to this state. If the allocated amount exceeds the amount of tax due, the interstate trucker may file a refund claim with the comptroller.

Sec. 162.363. RECORDS. (a) A dealer shall keep a record showing:

(1) compressed natural gas and liquefied natural gas inventories at the first of each month;

(2) the amount of natural gas compressed by the dealer and the amount of natural gas liquefied by the dealer;

(3) all compressed natural gas and liquefied natural gas purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all compressed natural gas and liquefied natural gas sold and delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;

(5) all compressed natural gas and liquefied natural gas sold but not delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;

(6) all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle not in connection with a sale, showing the date of the delivery;

(7) all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle or other equipment exempt from tax under Section 162.356 or sold to the operator of a motor vehicle or owner of equipment exempt from tax under Section 162.356, showing the name of the operator of the vehicle or the owner of the equipment and the date of the delivery or sale; and

(8) all compressed natural gas and liquefied natural gas lost by fire, theft, or accident.

(b) An interstate trucker shall keep a record of:

(1) the total miles traveled in all states by all vehicles traveling to or from this state and the total quantity of compressed natural gas and liquefied natural gas consumed in those vehicles; and

(2) the total miles traveled in this state and the total quantity of compressed natural gas or liquefied natural gas purchased and delivered into the fuel supply tanks of motor vehicles in this state.
(c) The records required by this section must be kept until the fourth anniversary of the date they are created and are open to inspection at all times by the comptroller and the attorney general.

(d) In addition to the records specifically required by this subchapter, a license holder or a person required to hold a license shall keep any other records required by the comptroller.

Sec. 162.364. DUTIES OF PERSONS HOLDING TAX PAYMENTS. (a) A person who receives or collects tax under this subchapter holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A dealer who receives a payment of tax under this subchapter may not apply the payment of tax to a debt that the person making the payment owes for compressed natural gas or liquefied natural gas purchased from the dealer.

(c) A person required to receive or collect a tax under this subchapter is liable for and shall pay the tax in the manner provided by this subchapter.

Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may file a refund claim with the comptroller if the license holder or person paid tax on compressed natural gas or liquefied natural gas and the license holder or person:

(1) is the United States government and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the United States, provided that a credit or refund is not allowed for fuel delivered into the fuel supply tank of a motor vehicle operated by a person operating under a contract with the United States;

(2) is a public school district in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the district;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the fuel was delivered into the fuel supply tank of a motor vehicle used to provide those services;

(4) is a volunteer fire department in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the department;

(5) is a county in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the county;

(6) is a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the electric cooperative;

(7) is a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the telephone cooperative;

(8) uses the fuel in off-highway equipment, in a stationary engine, in a motorboat, in an aircraft, in equipment used solely for servicing aircraft and used exclusively off-highway, in a locomotive, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways; or

(9) uses the fuel in a motor vehicle that is operated exclusively off-highway, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund may not be allowed for the portion used in the incidental highway travel.

(b) A licensed interstate trucker may take a credit on a return for the period in which the purchase occurred if the licensed interstate trucker paid tax on compressed natural gas or liquefied natural gas and uses the fuel outside this state in commercial vehicles operated under an interstate trucker license, provided that a credit taken under this subsection must be taken within the limitation period provided by Section 162.369.

(c) A transit company that paid tax on the purchase of compressed natural gas or liquefied natural gas may apply to the comptroller for and obtain a refund in an amount equal to one cent per gasoline gallon equivalent of compressed natural gas or diesel gallon equivalent of liquefied natural gas used in transit vehicles.
(d) The right to receive a refund or take a credit under this section is not assignable.

(e) The comptroller may adopt rules specifying procedures and requirements that must be followed to take a credit or receive a refund under this section.

Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT. (a) A licensed dealer may take a credit on a return filed under this subchapter if:

1. the dealer paid the taxes imposed by this subchapter on compressed natural gas or liquefied natural gas sold on account;

2. the dealer determines that the account is uncollectible and worthless; and

3. the account is written off as a bad debt on the dealer’s accounting books.

(b) The return on which the credit is taken must state, if applicable, the name of the person whose account has been written off as a bad debt or who failed to remit the tax and any other information required by the comptroller. The amount of the credit that may be taken under Subsection (a) may be equal to but may not exceed the amount of taxes paid on the compressed natural gas or liquefied natural gas to which the written-off account applies.

(c) If, after a credit is taken under Subsection (a), the account on which the credit was based is paid, or if the comptroller otherwise determines that the credit was not authorized by Subsection (a), the dealer who took the credit shall pay the unpaid taxes plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 beginning on the day the report showing the credit was filed and ending on the date the taxes and penalty are paid.

(d) This section does not apply to a sale of compressed natural gas or liquefied natural gas for which payment is made through the use and acceptance of a credit card.

(e) A credit under this section must be taken at the time the account is written off as a bad debt, but may only be taken before the expiration of the applicable limitation period as provided by Chapter 111.

(f) The comptroller may take action against a person in relation to whom a dealer has taken a credit for collection of the tax owed and for penalty and interest as provided by Chapter 111.

Sec. 162.367. CLAIMS FOR REFUNDS. (a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the dealer, and contain:

1. the stamped or preprinted name and address of the dealer;

2. the name of the purchaser or person who received the delivery of fuel;

3. the date of delivery of the fuel;

4. the date the invoice was issued, if different from the date of fuel delivery;

5. the number of gasoline gallon equivalents of compressed natural gas or diesel gallon equivalents of liquefied natural gas delivered;

6. the rate and amount of tax, separately stated from the selling price; and

7. the type of vehicle or equipment into which the fuel is delivered.

(b) The purchaser or person who received the delivery of compressed natural gas or liquefied natural gas must obtain the original invoice from the dealer not later than the 30th day after the date the fuel is delivered. If the purchase or delivery of fuel is made through an automated method in which the purchase or delivery is automatically applied to the purchaser or recipient’s account, one invoice may be issued at the time of billing that covers multiple purchases or deliveries made during a 30-day billing cycle.

(c) The comptroller shall pay a refund by warrant to a person who files a valid refund claim.

(d) A person who files a claim for a tax refund on compressed natural gas or liquefied natural gas used for a purpose for which a tax refund is not authorized or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered forfeits the person’s right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.
(e) After examining the refund claim and before issuing a refund warrant, the comptroller shall deduct from the amount of the refund the one percent originally deducted by the dealer under Section 162.362(b).

Section 162.368. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

1. vehicle mileage;
2. hours of service provided;
3. fuel consumed;
4. the total number of student passengers per route; and
5. the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

Section 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED. (a) Except as otherwise provided by this section, a claim for a refund must be filed with the comptroller before the first anniversary of the first day of the calendar month following the purchase, use, or delivery of compressed natural gas or liquefied natural gas, whichever period expires latest.

(b) If the amount of credit that a licensed interstate trucker is entitled to take under Section 162.365(b) exceeds the amount of tax due on that reporting period, the excess credit amount may be claimed on any of three successive quarterly returns following the period in which the credit was established, or the licensed interstate trucker may seek a refund from the comptroller on or before the due date of the third successive quarterly return following the period in which the credit was established. A credit that is not claimed within the period prescribed by this subsection expires.

(c) If the comptroller assesses a dealer for a tax-free sale that is taxable, and the dealer subsequently collects the tax from the purchaser, the purchaser may file a refund claim before the first anniversary of the date the dealer's deficiency assessment becomes final if the purchaser used the fuel in an exempt manner.

(d) A dealer who determines taxes were erroneously reported and remitted or who paid more taxes than were due because of a mistake of fact or law may take a credit on the quarterly tax report on which the error occurred and the tax payment was made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 5. Subchapter F, Chapter 162, Tax Code, is amended by adding Section 162.506 to read as follows:

Section 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX. On or before the fifth workday after the end of each month, the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter D-1 as follows:

1. one-fourth of the taxes shall be deposited to the credit of the available school fund; and
2. three-fourths of the taxes shall be deposited to the credit of the state highway fund.
SECTION 6. Section 162.402(a), Tax Code, is amended to read as follows:

(a) A person forfeits to the state a civil penalty of not less than $25 and not more than $200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(12) fails or refuses to comply with or violates a provision of this chapter;

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

(14) is an importer who does not obtain an import verification number when required by this chapter;

(15) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(16) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or

(17) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

SECTION 7. Section 162.403, Tax Code, is amended to read as follows:

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;
(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(8) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

(9) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(10) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;

(11) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(12) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(15) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(16) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(17) is an importer who does not obtain an import verification number when required by this chapter;

(18) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(19) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(20) refuses, while transporting motor fuel, to stop the motor vehicle the person is operating when called on to do so by a person authorized to stop the motor vehicle;

(21) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;
(22) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(23) is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

(24) transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(25) engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

(26) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(27) forges, falsifies, or alters an invoice or shipping document prescribed by law;

(28) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(29) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(30) holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

(31) fails to remit any tax funds collected or required to be collected by a license holder, another user, or any other person required to hold a license under this chapter;

(32) makes a sale of dyed diesel fuel tax-free into a storage facility of a person who:

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyed diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(33) makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

(34) purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

(35) purchases motor fuel with the intent to evade any tax imposed by this chapter or accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(36) transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(37) imports, sells, uses, blends, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

(38) blends products together to produce a blended fuel that is offered for sale, sold, or used and that expands the volume of the original product to evade paying applicable motor fuel taxes; [ex]

(39) evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter;

(40) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or
(41) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

SECTION 8. Section 162.405(b), Tax Code, is amended to read as follows:

(b) An offense under Section 162.403(9), (10), (11), (12), (13), (14), (15), (16), (17), [or] (18), (40), or (41) is a Class B misdemeanor.

SECTION 9. As soon as practicable before, on, or after the effective date of this Act, the comptroller of public accounts shall:

(1) adopt any rules necessary to implement the changes in law made by this Act; and

(2) begin accepting applications for and issuing compressed natural gas and liquefied natural gas dealer’s licenses and interstate trucker’s licenses under Sections 162.357 and 162.358, Tax Code, as added by this Act, that become effective on or after the effective date of this Act.

SECTION 10. 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, for a vehicle fueled by compressed natural gas or liquefied natural gas may, not later than December 31, 2013, 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 11. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 12. This Act takes effect September 1, 2013.

Passed by the House on May 9, 2013: Yeas 128, Nays 2, 3 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.

Effective September 1, 2013.

CHAPTER 991

H.B. No. 2152

AN ACT

relating to fees charged to certain recreational vehicle parks.

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

SECTION 1. Section 13.087, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A municipally owned utility that provides nonsubmetered master metered utility service to a recreational vehicle park shall determine the rates for that service on the same basis the utility uses to determine the rates for other commercial businesses[—including hotels and motels,] that serve transient customers and receive nonsubmetered master metered utility service from the utility.

(b-1) A municipally owned utility that provides nonsubmetered master metered utility service to a recreational vehicle park may not charge a recreational vehicle park a fee that the utility does not charge other commercial businesses that serve transient customers and receive nonsubmetered master metered utility service from the utility.

SECTION 2. Section 49.351, Water Code, is amended by adding Subsection (m) to read as follows:

(m) Notwithstanding any other provision of this section, a district may not charge a fee to a recreational vehicle park, as defined by Section 13.087, on the basis of connections the park