

## **BILL ANALYSIS**

Senate Research Center  
87R14878 BEF-F

H.B. 3474  
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Finance  
5/14/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Comptroller of Public Accounts of the State of Texas (comptroller) is responsible for investigating cases of potential tax fraud and ensuring that tax is paid on motor fuel transactions. It has been suggested that current law lacks clarity regarding certain terms that are necessary to ensure individuals cannot unlawfully or fraudulently acquire motor fuels. The bill seeks to clarify state law governing motor fuel taxes by revising certain definitions and making certain other changes to aid the comptroller in investigating motor fuel tax fraud.

H.B. 3474 amends current law relating to motor fuel taxes.

### **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 Section 162.001, Tax Code, by amending Subdivisions (1), (14), (42), (43), (56), and (61) and adding Subdivisions (16-a) and (17-a), to redefine "agricultural purpose," "cargo tank," "motor fuel," "motor fuel transporter," "solid waste refuse vehicle," and "transport vehicle" and to define "container" and "delivery" for purposes of Chapter 162 (Motor Fuel Taxes)

SECTION 2. Amends Section 162.101, Tax Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Requires that the amount of the gasoline tax, in each subsequent sale of gasoline on which the tax has been paid, be added to the selling price so that the tax is paid by each person receiving the gasoline until it is paid ultimately by the person using or consuming the gasoline, rather than so that the tax is paid ultimately by the person using or consuming the gasoline.

(h) Creates this subsection from existing text and makes no further changes.

SECTION 3. Amends Section 162.103(a), Tax Code, as follows:

(a) Provides that a backup gasoline tax is imposed at the rate prescribed by Section 162.102 (Tax Rate) on certain persons, including a person, other than a person exempted under Section 162.104 (Exemptions), who acquires gasoline on which tax has not been paid in an original or subsequent sale and a person who acquires gasoline by any unlawful means, including by purchase through the unauthorized use of a credit card, a debit card, or other money, regardless of whether tax was previously paid on the gasoline or was added to the selling price of the gasoline. Makes nonsubstantive changes.

SECTION 4. Amends Section 162.201, Tax Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Requires that the amount of the deisel tax, in each subsequent sale of diesel fuel on which the tax has been paid, be added to the selling price so that the tax is paid by each person receiving the diesel fuel until it is paid ultimately by the person using or consuming the diesel fuel, rather than so that the tax is paid ultimately by the person using or consuming the diesel fuel.

(h) Creates this subsection from existing text and makes no further changes.

SECTION 5. Amends Section 162.203(a), Tax Code, as follows:

(a) Provides that a backup diesel tax is imposed at the rate prescribed by Section 162.202 (Tax Rate) on certain persons, including a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid in an original or subsequent sale and a person who acquires diesel fuel by any unlawful means, including by purchase through the unauthorized use of a credit card, a debit card, or other money, regardless of whether tax was previously paid on the diesel fuel or was added to the selling price of the diesel fuel.

SECTION 6. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that 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 7. Effective date: September 1, 2021.