

2015 Regular Session

SENATE BILL NO. 271

BY SENATORS WHITE AND ADLEY AND REPRESENTATIVE ST. GERMAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAXATION. Provides for equivalency of the special fuels tax with the gasoline tax on motor vehicles that operate on the highways using liquefied natural gas, liquefied petroleum gas, or compressed natural gas. (8/1/15)

1 AN ACT

2 To amend and reenact R.S. 3:4602(12.1) and 4684, the introductory paragraph of R.S.

3 47:818.2, and R.S. 47:818.2(18), (22), (43), (44), (58), and (63), and 818.22(A) and

4 (B), to enact R.S. 3:4690.1 and R.S. 47:818.111 through 818.132, and to repeal R.S.

5 47:818.101 through 104, relative to taxes on petroleum products; to provide for taxes

6 on special fuels; to levy taxes on special fuels according to energy content

7 equivalencies; to provide for licensing, inspection, tax collection, and enforcement;

8 to reduce certain discounts on petroleum products; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The introductory paragraph of R.S. 47:818.2 and R.S. 47:818.2(18), (22),

11 (43), (44), (58), and (63), and 818.22(A) and (B) are hereby amended and reenacted and R.S.

12 47:818.111 through 818:132 are hereby enacted to read as follows:

13 §818.2. Definitions

14 As used in this Part, unless the context requires otherwise, the following

15 terms have the ~~meaning~~ **meanings** ascribed herein:

16 * * *

17 (18) "Compressed natural gas" means natural gas that has been compressed

1 ~~and dispensed into motor fuel storage containers~~ and is advertised, offered for sale,
2 suitable for use, **sold**, or used as an engine motor fuel.

3 * * *

4 (22) "Distributor" means any person who purchases ~~their~~ motor fuel from a
5 supplier, permissive supplier, or licensed distributor in this state for subsequent sale
6 and distribution at wholesale to a licensed distributor, retail dealer, or bulk consumer.

7 * * *

8 (43) "Liquefied natural gas" means natural gas that has been cooled to ~~about~~
9 ~~a negative 160 degrees Celsius for storage or shipment as a liquid in high-pressure~~
10 ~~cryogenic containers~~ **a liquid state and is advertised, offered for sale, sold,**
11 **suitable for use, or used as an engine motor fuel.**

12 (44) "Liquefied petroleum gas" means the gas derived from petroleum or
13 natural gas which is in a gaseous state at normal atmospheric temperature and
14 pressure and maintained in the liquid state at normal atmospheric temperature by
15 means of suitable pressure ~~and which is dispensed into motor fuel storage containers~~
16 ~~and is~~ advertised, offered for sale, **sold**, suitable for use, or used as an engine motor
17 fuel. The term "liquified petroleum gas" or "LPG" as used in this Part means
18 propane.

19 * * *

20 (58) "Retail dealer" **or "dealer"** means a person who sells motor fuel at retail
21 or dispenses motor fuel at a retail location to the ultimate consumer.

22 * * *

23 (63) ~~"Special fuel decal user" means the owner or operator of a motor vehicle~~
24 ~~that is propelled by an internal combustion engine or motor capable of using~~
25 ~~liquefied natural gas, liquefied petroleum gas, or compressed natural gas as fuel.~~

26 **"Special fuel fleet dealer" means a person who produces or purchases**
27 **compressed natural gas, liquefied natural gas, or liquefied petroleum gas and**
28 **who maintains storage facilities for such fuels and delivers all or part of the fuel**
29 **produced or stored into the fuel supply tank of a motor vehicle.**

1 * * *

2 §818.22. Deductions and discounts allowed

3 A. The supplier or permissive supplier that files a timely return and remits
4 a timely payment may deduct from the amount of tax shown payable on the return
5 an administrative discount in an amount equivalent to ~~one and~~ one-half percent of
6 the tax due on gasoline and diesel fuels. The allowance shall not be deductible unless
7 the supplier or permissive supplier allows a deduction of **one-third of** one percent
8 to a purchaser with a valid distributor or importer license. However, the allowance
9 shall not be deductible by the supplier or permissive supplier unless the return is
10 filed and payment of the tax is made on or before the twenty-second day of the
11 month as required by this Subpart.

12 B. A licensed distributor or importer that pays the tax due a supplier or
13 permissive supplier by the date required in this Subpart shall be allowed to deduct
14 from the amount due a discount of **one-third of** one percent of the amount of tax
15 payable. The supplier or permissive supplier may not directly or indirectly deny this
16 allowance to a licensed distributor or importer that pays the tax due the supplier or
17 permissive supplier by the date specified.

18 * * *

19 **§818.111. Taxes levied; rates; unit of measurement**

20 **A. There is hereby levied a tax of sixteen cents per gallon or gallon**
21 **equivalent on all special fuels including compressed natural gas as defined by**
22 **R.S. 47:818.2(18), liquefied natural gas as defined by R.S. 47:818.2(43), and**
23 **liquefied petroleum gas as defined by R.S. 47:818.2(44) sold, used, or consumed**
24 **in the state of Louisiana for the operation of motor vehicles licensed or required**
25 **to be licensed for highway use.**

26 **B. The taxes herein levied are in addition to the tax levied in R.S.**
27 **47:820.1 or any other tax which may be levied on special fuels by any other**
28 **provision of law.**

29 **C. The tax is to be computed, collected, reported, and paid as provided**

1 in this Subpart.

2 D. Until June 30, 2015, the tax levied pursuant to the provisions of this
3 Section shall be assessed per gallon. Beginning July 1, 2015, the tax levied
4 pursuant to the provisions of this Section shall be converted from a tax levied
5 per gallon on such fuel to a tax levied per gallon equivalent determined by the
6 special fuel's energy content as follows:

7 (1) Gasoline gallon equivalent for compressed natural gas. The gasoline
8 gallon equivalent for compressed natural gas shall be equal to 5.660 pounds of
9 compressed natural gas and shall be the unit of measurement for purposes of
10 the tax levied pursuant to the provisions of this Section if the natural gas
11 dispenser lists the price in gasoline gallon equivalents and the natural gas is
12 supplied to the dispenser from a pipeline or other nonliquefied source.

13 (2) Diesel gallon equivalent for liquefied natural gas. The diesel gallon
14 equivalent for liquefied natural gas shall be equal to 6.060 pounds of liquefied
15 natural gas and shall be the unit of measurement for purposes of the tax levied
16 pursuant to the provisions of this Section if the natural gas dispenser lists the
17 price in diesel gallon equivalents and the natural gas is supplied to the dispenser
18 from a liquefied source.

19 (3) Diesel gallon equivalent for liquefied petroleum gas. The diesel gallon
20 equivalent for liquefied petroleum gas shall be equal to 4.2 pounds of liquefied
21 petroleum gas and shall be the unit of measurement for purposes of the tax
22 levied pursuant to the provisions of this Section if the petroleum gas dispenser
23 lists the price in diesel gallon equivalents and the petroleum gas is supplied to
24 the dispenser from a liquefied source.

25 E. Beginning July 1, 2015, the tax levied pursuant to the provisions of
26 this Section shall be levied and collected in the manner set forth in this Subpart
27 and shall not be levied or collected pursuant to a decal program or on an annual
28 basis.

29 §818.112. Imposition of tax

1 A.(1) A tax is imposed on the sale of compressed natural gas, liquefied
2 natural gas, or liquefied petroleum gas delivered into the fuel supply tank of a
3 motor vehicle in connection with a sale of the compressed natural gas, liquefied
4 natural gas, or liquefied petroleum gas. Any person or entity delivering
5 compressed natural gas, liquefied natural gas, or liquefied petroleum gas into
6 the fuel supply tank of a motor vehicle shall be considered a dealer for purposes
7 of imposition of the tax levied on such fuels and shall be the party liable for the
8 tax imposed in this Subpart. The dealer shall add the amount of the tax to the
9 selling price of the fuel so that the tax is paid by the ultimate consumer or
10 purchaser of the fuel. The amount of the tax shall become part of the sales price
11 of the fuel, it shall be considered a debt of the purchaser to the dealer, and, if
12 unpaid, it shall be recoverable at law in the same manner as the original sales
13 price. The dealer shall provide an invoice or receipt to the purchaser that states
14 the rate and amount of tax added to the selling price or that indicates that no
15 tax was added to the selling price.

16 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,
17 no person or entity shall deliver compressed natural gas, liquefied natural gas,
18 or liquefied petroleum gas into the fuel supply tank of a motor vehicle in
19 connection with a sale unless such person obtains a license as provided for in
20 this Subpart.

21 B. A tax is imposed on the delivery of compressed natural gas, liquefied
22 natural gas, or liquefied petroleum gas into the fuel supply tank of a motor
23 vehicle by a special fuel fleet dealer or other dealer not in connection with a sale
24 of the compressed natural gas, liquefied natural gas, or liquefied petroleum gas.
25 The special fuel fleet dealer or other dealer shall be liable for the tax imposed
26 under this Subpart.

27 §818.113. Presumption of use; backup tax

28 A. All compressed natural gas, liquefied natural gas, and liquefied
29 petroleum gas sold by a special fuels dealer and delivered into the fuel supply

1 tank of a motor vehicle is presumed to be subject to taxation, and the dealer is
2 liable for the tax unless the dealer maintains adequate records to establish that
3 the fuel was exempt from the tax.

4 B. All compressed natural gas, liquefied natural gas, and liquefied
5 petroleum gas delivered into the fuel supply tank of a motor vehicle by a special
6 fuel fleet dealer or other special fuels dealer not in connection with a sale is
7 presumed to be subject to taxation, and the special fuel fleet dealer or other
8 dealer is liable for the tax unless the special fuel fleet dealer or other dealer
9 maintains adequate records to establish that the fuel was exempt from the tax.

10 C. The tax levied pursuant to the provisions of this Subpart shall be due
11 in all of the following circumstances:

12 (1) If a person obtains a refund of tax on compressed natural gas,
13 liquefied natural gas, or liquefied petroleum gas by claiming the fuel was used
14 for an exempt purpose, but actually used the fuel for a taxable purpose.

15 (2) If a person operates a motor vehicle on a highway using compressed
16 natural gas, liquefied natural gas, or liquefied petroleum gas and the tax has not
17 been paid on the special fuel. If the person operating the motor vehicle is not
18 the owner or lessee of the motor vehicle, both the owner or lessee and the
19 operator are liable for the tax.

20 (3) If a person sells or delivers compressed natural gas, liquefied natural
21 gas, or liquefied petroleum gas that is delivered into the fuel supply tank of a
22 motor vehicle, on which tax was not paid, and the person knew or had reason
23 to know that the fuel would be used for a taxable purpose. The tax due pursuant
24 to the provisions of this Paragraph shall also be imposed on the ultimate
25 consumer.

26 D. The tax liability imposed by this Section shall be in addition to any
27 other penalty imposed under this Subpart.

28 §818.114. Dealer's license; application procedure

29 A. A person may not sell or deliver compressed natural gas, liquefied

1 natural gas, or liquefied petroleum gas that is delivered into the fuel supply tank
2 of a motor vehicle and on which tax is imposed unless the person holds a
3 compressed natural gas, liquefied natural gas, or liquefied petroleum gas
4 dealer's license issued by the secretary.

5 B. In order to apply for a special fuel dealer's license, an applicant shall
6 submit an application to the Department of Revenue on a form provided by the
7 secretary and shall furnish a bond as required in R.S. 47:818.117 in an amount
8 applicable to the license for which the applicant is applying. Applications shall
9 include all of the following:

10 (1) The legal name of the applicant and name under which the applicant
11 transacts or intends to transact business.

12 (2) The mailing and physical address of the applicant's principal office,
13 residence, or place of business in this state, or other location of the applicant.

14 (3) The applicant's federal employer identification number or, if an
15 individual, the social security number in the absence of the federal employer
16 identification number.

17 (4) The applicant's Louisiana revenue account number, if already
18 assigned.

19 (5) If the applicant is not an individual, the names and social security
20 numbers of the principal officers of an applicant corporation or the members
21 of an applicant partnership or limited liability company, the managers of the
22 facility, and the office, street, and post office box addresses of each.

23 (6) Any other information required by the secretary.

24 C. Upon approval of the bond required in R.S. 47:818.117, the secretary
25 shall issue the appropriate license or licenses to the applicant.

26 D. A special fuel dealer's license for compressed natural gas, liquefied
27 natural gas, or liquefied petroleum gas is not transferable and shall remain in
28 effect until surrendered, canceled, or revoked. The license shall be posted in a
29 conspicuous place or kept available for inspection at the principal place of

1 business of the license holder. A copy of the license shall be kept at each place
2 of business or other place of storage from which compressed natural gas,
3 liquefied natural gas, or liquefied petroleum gas is sold, distributed, or used and
4 in each motor vehicle used by the license holder to transport compressed
5 natural gas, liquefied natural gas, or liquefied petroleum gas purchased by the
6 license holder for resale, distribution, or use.

7 E. A compressed natural gas, liquefied natural gas, or liquefied
8 petroleum gas special fuel dealer's license is permanent and shall be valid
9 during the period the license holder has in force and effect the required bond
10 or security and furnishes timely reports and supplements as required by the
11 secretary, or until the license is surrendered by the license holder or canceled
12 by the secretary. The secretary shall cancel a license if the license holder has
13 not reported a delivery of compressed natural gas, liquefied natural gas, or
14 liquefied petroleum gas during the previous nine months.

15 F. The secretary shall maintain a record of all persons to whom a license
16 has been issued under this Subpart and all persons holding a current license
17 issued under this Subpart by license category.

18 §818.115. Grounds for denial of a license

19 A. The secretary may refuse to issue a license under this Subpart if any
20 of the following conditions apply to the applicant or any principal of the
21 applicant:

22 (1) A license or registration issued under this Subpart was canceled by
23 the secretary for any reason set forth in R.S. 47:818.42 or 818.116.

24 (2) A license or registration issued by another state was revoked, denied,
25 or canceled for cause.

26 (3) A federal certificate of registry issued under 26 U.S.C. 4101 and the
27 regulations adopted thereunder, or a similar federal authorization, was
28 revoked.

29 (4) The applicant or any principal of the applicant has been convicted of

1 any offense involving fraud or misrepresentation or has been convicted of any
2 other offense that indicates that the applicant or any principal of the applicant
3 may not comply with this Subpart if issued a license.

4 (5) The applicant or any principal of the applicant is in arrears to the
5 state for any taxes.

6 (6) The applicant or any principal of the applicant is determined not to
7 be the real party in interest.

8 (7) The applicant or any principal of the applicant's agents, officers, or
9 employees has a prior conviction for motor fuel tax evasion in this state or in
10 any state, federal, or foreign jurisdiction.

11 (8) For good cause as determined by the secretary.

12 B. The secretary shall be prohibited from issuing a license when an
13 applicant or anyone connected with the applicant's business has been previously
14 convicted of any violation of this Subpart or of any felony under the laws of this
15 state or of the United States.

16 §818.116. License revocation; cancellation

17 A. The secretary may revoke the license of any person licensed under this
18 Subpart, upon written notice sent by certified mail to the licensee's last known
19 address, for any of the following reasons:

20 (1) Filing by the licensee of a false return, or a false report of the data or
21 information required by this Subpart.

22 (2) Failure, refusal, or neglect of the licensee to file a return, report or
23 information required by this Subpart.

24 (3) Failure of the licensee to pay the full amount of all taxes due or to pay
25 any penalties or interest due.

26 (4) Failure of the licensee to keep accurate records of the quantities of
27 compressed natural gas, liquefied natural gas, or liquefied petroleum gas
28 received, produced, refined, manufactured, compounded, sold, or used in
29 Louisiana.

1 **(5) Failure to file a new, larger, or additional surety bond as required by**
2 **the secretary pursuant to R.S. 47:818.117.**

3 **(6) Conviction of the licensee, licensee's agents, officers, or employees, or**
4 **a principal of the licensee for any act prohibited under this Subpart.**

5 **(7) Failure, refusal, or neglect of a licensee to comply with any other**
6 **provision of this Subpart or any rule promulgated pursuant to this Subpart.**

7 **(8) Having a license or registration issued by another state canceled for**
8 **cause.**

9 **(9) The licensee is determined not to be the real party in interest.**

10 **(10) Any prior license of the real party in interest has been revoked for**
11 **cause.**

12 **(11) The licensee, or any of the licensee's agents, officers, or employees,**
13 **has a prior conviction for motor fuel tax evasion in this state or any state,**
14 **federal, or foreign jurisdiction and the conviction was not disclosed on the**
15 **application.**

16 **B. The secretary shall be prohibited from granting a license and shall be**
17 **required to suspend any license previously granted for a period of at least thirty**
18 **days, or until such time as the applicant supplies the secretary with evidence to**
19 **the contrary, where there is prima facie evidence that the applicant, in the**
20 **discretion of the secretary, is not a person of good moral character, or has**
21 **violated the provisions of this Subpart or any rules, regulations, or instructions**
22 **issued in connection with issuance of a license. The period of suspension set**
23 **forth in this Section shall not exceed ninety calendar days from the date of**
24 **suspension, unless at the end of the ninety-day period the secretary determines**
25 **that the reason for the suspension still exists. In such instances, the secretary**
26 **may continue the period of suspension until sufficient evidence has been**
27 **provided by the licensee that the reason for suspension no longer exists.**

28 **C. The secretary shall cancel any license upon the written request of the**
29 **licensee or upon a change in ownership or control of the licensed business.**

1 D. Upon revocation or cancellation of a license, the license shall be
2 surrendered to the secretary and the tax levied in accordance with the
3 provisions of this Subpart shall become due and payable within fifteen days on
4 all untaxed compressed natural gas, liquefied natural gas, and liquefied
5 petroleum gas held in storage or otherwise in the possession of the licensee and
6 all compressed natural gas, liquefied natural gas, and liquefied petroleum gas
7 sold, delivered, or used prior to the revocation or cancellation on which the tax
8 has not been paid.

9 E. If the secretary revokes a license, the secretary shall be prohibited
10 from issuing a new license to the same applicant for a period of three years from
11 the date of revocation.

12 §818.117. Bond requirements; amounts

13 A. Upon approval of the application by the secretary, the applicant shall
14 file a surety bond executed in favor of the secretary in an amount as follows:

15 (1) For a compressed natural gas dealer, liquefied natural gas dealer, or
16 liquefied petroleum dealer, the amount of the bond shall be the greater of fifty
17 thousand dollars or an amount equal to three months' tax liability.

18 (2) Only one surety bond shall be required for a person requiring
19 multiple licenses and for any such person the minimum bond shall be the
20 highest bond level required.

21 B. The secretary may require an additional bond amount from the
22 licensee when liability upon the previous bond is discharged or reduced by a
23 judgment rendered, a payment made, or another disposition, the licensee no
24 longer meets the conditions for waiver of bond as set forth in Subsection F of
25 this Section, or if , in the opinion of the secretary, any surety on the previous
26 bond becomes unsatisfactory.

27 C. The licensee shall file the additional bond amount within thirty days
28 from the date such notice is mailed by the secretary. The secretary may
29 immediately revoke the licensee's license upon the expiration of the thirty-day

1 period if the licensee fails to provide the additional bond amount required.

2 D. The surety must be authorized to engage in business within this state.
3 The surety bond shall be conditioned upon faithful compliance with the
4 provisions of this Part, including the filing of the returns and payment of all
5 taxes prescribed by this Subpart. The surety bond shall be approved by the
6 secretary as to sufficiency and form and shall indemnify the state against any
7 loss arising from the failure of the licensee for any cause whatever to pay the tax
8 levied by this Subpart.

9 E. Any surety on an existing bond furnished by a person required to be
10 licensed may notify the secretary in writing of its intent to cancel the bond. The
11 secretary shall immediately notify the licensee of the intent of the surety to
12 cancel, and the licensee shall have thirty days from the date of receipt of such
13 notice to provide a sufficient replacement bond. The secretary may immediately
14 cancel the licensee's license upon expiration of the thirty-day period set out
15 above if the licensee fails to provide a new replacement bond. The surety
16 requesting cancellation shall remain liable for any liability already accrued or
17 which accrues during the thirty-day period set out above but shall not be
18 responsible for any liability which accrues after the thirty-day period.

19 F. The secretary is authorized to waive the furnishing of this surety bond
20 by any licensee who meets all the following:

21 (1) Has and agrees to maintain assets in Louisiana of a net value of not
22 less than one hundred twenty-five percent of the amount of the bond which
23 would otherwise be required.

24 (2) Has not been delinquent in remitting taxes accrued or accruing under
25 this Subpart during the three-year period immediately preceding the filing of
26 an application for waiver of the bond.

27 G. If any licensee whose bond has been waived by the secretary becomes
28 delinquent in remitting taxes due under this Subpart, the secretary may require
29 that the licensee furnish a bond in the amount required in this Section, and such

1 licensee shall not be eligible for a waiver of the bond for a period of three years
2 from the date the bond is furnished.

3 §818.118. Duties of persons holding tax payments as trustees

4 A. A person who receives or collects tax due in accordance with the
5 provisions of this Subpart shall hold the amount received or collected in trust
6 for the benefit of the state and shall have a fiduciary duty to remit the amount
7 of taxes received or collected to the secretary in the manner required pursuant
8 to the provisions of this Subpart.

9 B. A dealer who receives a payment of tax under this Subpart may not
10 apply the payment of tax to a debt that the person making the payment owes for
11 compressed natural gas, liquefied natural gas, or liquefied petroleum purchased
12 from the dealer.

13 C. A person required to receive or collect a tax under this Subpart is
14 liable for and shall pay the tax in the manner provided by this Subpart.

15 §818.119. Returns and payments; discounts; penalties for failure to file

16 A. A licensed dealer shall file a monthly return no later than the
17 twentieth day of the month. If a licensed dealer files a return and remits the tax
18 due on or before the due date, one percent of the tax due is allocated to the
19 licensed dealer for the expense of collecting, accounting for, reporting, and
20 timely remitting the taxes collected and for keeping the records. The licensed
21 dealer shall deduct the allocated amount from the tax due when paying the tax
22 to the state. A licensed dealer who has not made taxable deliveries during the
23 reporting period shall file a return with the secretary that includes those facts
24 or that information. A return shall be filed with the secretary on forms
25 provided for that purpose and shall contain the total gallons or gallon
26 equivalents sold and used and other information required by the secretary.

27 B. A licensed dealer may take a credit on a filed return if the dealer paid
28 the taxes imposed by this Subpart on compressed natural gas, liquefied natural
29 gas, or liquefied petroleum gas sold on account and the dealer determines that

1 the account is uncollectible and worthless. The credit authorized by this Section
2 shall only be applicable if the licensed dealer writes off the account as a bad
3 debt on the dealer's accounting books. The return on which the credit shall be
4 taken shall state, if applicable, the name of the person whose account has been
5 written off as a bad debt or who failed to remit the tax and any other
6 information required by the secretary. The amount of the credit may equal, but
7 shall not exceed the amount of taxes paid on the compressed natural gas,
8 liquefied natural gas, or liquefied petroleum gas to which the written-off
9 account applies. If, after a credit is taken, the account on which the credit was
10 based is paid, or if the secretary otherwise determines that the credit was not
11 authorized, the dealer who took the credit shall pay the unpaid taxes plus a
12 penalty of ten percent of the amount of the unpaid taxes and interest. Interest
13 shall accrue beginning on the day the return showing the credit was filed and
14 ending on the date the taxes and penalty are paid.

15 C. The provisions of this Section shall not apply to a sale of compressed
16 natural gas, liquefied natural gas, or liquefied petroleum gas for which payment
17 is made through the use and acceptance of a credit card. The credit granted
18 pursuant to the provisions of this Section shall be taken at the time the account
19 is written off as a bad debt but before the tax reporting period prescribes. The
20 secretary may take action against a person in relation to whom a dealer has
21 taken a credit for collection of the tax owed and for penalty and interest.

22 D. Failure to file any informational report or return within thirty days
23 of the due date of the report or return shall result in a penalty of one hundred
24 dollars and may result in a revocation of the license.

25 §818.120. Credit for certain taxes paid; school bus operators

26 A. The owner of any school bus, including school-board owned buses,
27 used to transport Louisiana students and propelled by an internal combustion
28 engine or motor capable of using liquefied natural gas, liquefied petroleum gas,
29 or compressed natural gas as fuel shall pay the tax levied on such fuel but shall

1 be entitled to a credit equal to fifty percent of the taxes paid. The credit
2 provided for in this Section shall be claimed on a return filed for the period in
3 which a fuel purchase occurred.

4 B. The right to claim a credit pursuant to the provisions of this Section
5 shall not be assignable.

6 C. Claims for refund by school bus owners shall be submitted annually
7 by the first day of August of each year on forms provided by the secretary and
8 shall list the taxes paid during the academic school year ending no later than
9 June thirtieth of the year for which the credit is being filed. The reimbursement
10 provided for in this Subsection shall be paid from the Parish Transportation
11 Fund allocable to the parish from which the credit is claimed if the credit is
12 from a public school district in this state and the fuel was delivered into the fuel
13 supply tank of a school bus operated exclusively by the district.

14 D. The secretary may promulgate rules and regulations in accordance
15 with the provisions of the Administrative Procedure Act specifying procedures
16 and requirements to be fulfilled in order to file for and receive the credit.

17 §818.121. Refund claims

18 A. All claims for a refund shall be filed on a form provided by the
19 secretary, shall be supported by the original invoice issued by the dealer, and
20 shall contain all of the following:

21 (1) The stamped or preprinted name and address of the dealer.

22 (2) The name of the purchaser or person who received the delivery of the
23 fuel.

24 (3) The date of delivery of the fuel or the date the invoice was issued, if
25 different from the date the fuel was delivered.

26 (4) The number of gasoline or diesel gallon equivalents of compressed
27 natural gas, liquefied natural gas, or liquefied petroleum gas delivered.

28 (5) The rate and amount of tax, separately stated from the selling price.

29 (6) The type of vehicle or equipment into which the fuel is delivered.

1 **B. The purchaser or person who received the delivery of compressed**
2 **natural gas, liquefied natural gas, or liquefied petroleum gas shall obtain the**
3 **original invoice from the dealer not later than the thirtieth day after the date**
4 **the fuel was delivered. If the purchase or delivery of fuel is made through an**
5 **automated method in which the purchase or delivery is automatically applied**
6 **to the purchaser or recipient's account, one invoice may be issued at the time**
7 **of billing that covers multiple purchases or deliveries made during a thirty-day**
8 **billing cycle.**

9 **C. The secretary may pay a refund to a person other than a school bus**
10 **driver who files a valid refund claim. After examining the refund claim and**
11 **before issuing the refund to the dealer, the secretary shall deduct from the**
12 **amount of the refund, the one percent originally deducted by the dealer.**

13 **D. A person who files a claim for a tax refund on compressed natural**
14 **gas, liquefied natural gas, or liquefied petroleum gas used for a purpose for**
15 **which a tax refund is not authorized or who files an invoice supporting a refund**
16 **claim on which the date, figures, or any material information has been falsified**
17 **or altered, shall forfeit his right to the entire amount of the refund claim filed**
18 **unless the claimant provides satisfactory proof to the secretary that the**
19 **incorrect refund claim filed was due to a clerical or mathematical calculation**
20 **error.**

21 **§818.122. Records required to be maintained; inspection by the secretary**

22 **A. A dealer shall keep a record of all of the following:**

23 **(1) Compressed natural gas, liquefied natural gas, and liquefied**
24 **petroleum gas inventories at the first of each month.**

25 **(2) The amount of natural gas compressed by the dealer, the amount of**
26 **natural gas liquefied by the dealer, and the amount of petroleum gas liquefied**
27 **by the dealer.**

28 **(3) All compressed natural gas, liquefied natural gas, and liquefied**
29 **petroleum gas purchased or received, showing the name of the seller and the**

1 date of each purchase or receipt.

2 (4) All compressed natural gas, liquefied natural gas, and liquefied
3 petroleum gas sold and delivered into the fuel supply tank of a motor vehicle,
4 including the date of each sale.

5 (5) All compressed natural gas, liquefied natural gas, and liquefied
6 petroleum gas sold but not delivered into the fuel supply tank of a motor
7 vehicle, including the date of each sale.

8 (6) All compressed natural gas, liquefied natural gas, and liquefied
9 petroleum gas delivered into the fuel supply tank of a motor vehicle not in
10 connection with a sale, including the date of each delivery.

11 (7) All compressed natural gas, liquefied natural gas, and liquefied
12 petroleum gas delivered into the fuel supply tank of a motor vehicle or other
13 equipment exempt from tax or sold to the operator of a motor vehicle or owner
14 of equipment exempt from the tax, including the name of the operator of the
15 vehicle or the owner of the equipment and the date of the delivery or sale.

16 (8) All compressed natural gas, liquefied natural gas, and liquefied
17 petroleum gas lost by fire, theft, or accident.

18 B. The records required to be kept pursuant to the provisions of this
19 Section shall be kept until the fourth anniversary of the date they were created
20 and shall be open to inspection at all times by the secretary or his designee. In
21 addition to the records specifically required by this Section, a licensee or a
22 person required to hold a license shall keep any other records required by the
23 secretary.

24 §818.123. Notice of discontinuance, sale, or transfer of business

25 A. Prior to discontinuing any business issued a license pursuant to the
26 provisions of this Subpart, the licensee shall notify the secretary in writing at
27 least thirty days prior to the effective date of the discontinuance, sale, or
28 transfer and shall surrender the license to the secretary. The notice shall state
29 the effective date of the discontinuance and, if the licensee has transferred the

1 business or otherwise relinquished control to another person by sale or
2 otherwise, the date of the sale or transfer and the name and address of the
3 person to whom the business was transferred or relinquished. The notice shall
4 also include any other information required by the secretary.

5 B. If a licensee liable for any tax, interest, or penalty levied in accordance
6 with this Subpart sells or transfers the business or quits the business, the
7 licensee shall make a final return and payment within fifteen days after the date
8 of selling, transferring, or quitting the business. The successor, successors, or
9 assigns, if any, shall withhold sufficient amounts of the purchase monies to
10 cover the amount of taxes, interest, and penalties due and unpaid until such
11 time as the former owner shall produce a receipt from the secretary showing
12 that all taxes, interest, and penalties have been paid, or a certificate stating that
13 no taxes, interest, or penalties are due. If the purchaser of a business fails to
14 withhold purchase money, the purchaser shall be personally liable for the
15 payment of the taxes, interest, and penalties accrued and unpaid on the account
16 of the operation of the business by any former owner, owners, or assigns.

17 C. In the case of a licensee who has quit a business but who subsequently
18 opens another similar business under the same ownership, whether that
19 ownership is individual, partnership, corporation, or other, that licensee shall
20 be liable for any tax, interest, or penalty owed by the original business.

21 §818.124. Engaging in business without a license; penalty

22 Any person who engages in or performs any business activity for which
23 a license is required by this Subpart without having first obtained and
24 subsequently retained a valid license shall be subject to a penalty of ten
25 thousand dollars for a first violation. For each subsequent violation, the penalty
26 shall be multiplied by the sum of the current violation plus all prior violations.
27 Penalties prescribed under this Section shall be assessed, collected, and paid in
28 the same manner as the tax.

29 §818.125. Failure to pay tax or furnish bond; subject to attachment; suit to

1 enjoin further pursuit of business

2 A. Failure to pay any tax levied in this Subpart or any interest, penalties,
3 or applicable costs or failure to furnish bond as provided in this Subpart shall
4 ipso facto and without demand or putting in default, make the tax, penalties,
5 and interest delinquent and shall be construed as an attempt to avoid the
6 payment of the tax, penalties, and interest, which shall be sufficient grounds for
7 attachment of the compressed natural gas, liquefied natural gas, or liquefied
8 petroleum gas, wherever fuel may be located or found, whether the delinquent
9 taxpayer is a resident or nonresident of this state and whether the compressed
10 natural gas, liquefied natural gas, or liquefied petroleum gas is in the possession
11 of the delinquent taxpayer or in the possession of other persons. Each
12 compressed natural gas, liquefied natural gas, or liquefied petroleum gas
13 licensee shall be responsible for the payment of the applicable tax levied in this
14 Subpart, together with any interest, penalties, and costs accruing thereon, and
15 the secretary may attach, seize, or sequester any compressed natural gas,
16 liquefied natural gas, or liquefied petroleum gas subject to tax under this
17 Subpart when a tax is not paid when it was due and payable. The procedure
18 prescribed by law shall be followed except that the secretary shall not be
19 required to provide a bond.

20 B. When a licensee fails to pay any tax levied under this Subpart, or any
21 interest, penalties, or applicable costs or fails to furnish bond as provided in this
22 Subpart, the secretary may take a rule on the licensee, by motion in a court of
23 competent jurisdiction, to show cause as to why the licensee should not be
24 ordered to cease from further pursuit of business as a licensee. The rule shall
25 be heard by the court not less than two days nor more than ten days, exclusive
26 of holidays, after service of the rule on the licensee. Furthermore, the rule may
27 be tried out of term and in chambers, and shall always be tried by preference.
28 In case the rule is made absolute, the order rendered by the court shall be
29 considered a judgment in favor of the state prohibiting the licensee from the

1 further pursuit of the business until the licensee has paid the delinquent tax,
2 penalties, and interest and has furnished the bond required by this Subpart.
3 Every violation of the injunction shall be considered a contempt of court and
4 shall be punishable in accordance with the law.

5 C. When a bond has been furnished by the licensee, the surety on the
6 bond may be joined in the rule with the licensee and condemned in solido for the
7 amount of tax, interest, penalties, attorney fees, and costs.

8 §818.126. Power to stop and investigate vehicles; fines, collection, and
9 enforcement

10 A. The secretary, his authorized designee, any weights and standards
11 police officer, or any motor carrier safety police officer shall be empowered to
12 stop any commercial motor vehicle which appears to be operating with
13 compressed natural gas, liquefied natural gas, or liquefied petroleum gas for the
14 purpose of examining the invoices and for any other investigative purposes
15 reasonably necessary to determine whether the taxes imposed by this Subpart
16 have been paid or whether the vehicle is being operated in compliance with the
17 provisions of this Subpart.

18 B. If, after examination or investigation, it is determined that the tax
19 imposed by this Subpart has not been paid with respect to the compressed
20 natural gas, liquefied natural gas, or liquefied petroleum gas being used in the
21 vehicle, the secretary, his authorized designee, the weights and standards police
22 officer, or the motor carrier safety police officer may assess the tax due together
23 with the applicable penalty provided in this Subpart, to the owner or driver of
24 the vehicle.

25 C. The secretary, his authorized designee, the weights and standards
26 police officer, or the motor carrier safety police officer may impound any
27 vehicle found to be operating in violation of this Subpart or any vehicle for
28 which inspection has been refused until such time as an inspection has been
29 completed or any tax, interest, penalties, and other charges assessed as provided

1 in this Subpart have been paid.

2 §818.127. Authorization to search; seizure of equipment for evidence

3 A. The secretary may search and examine any warehouse, boat, store,
4 storeroom, automobile, truck, conveyance, vehicle, any and all places of storage,
5 and any and all means of transportation, where there is probable cause to
6 believe the terms of this Subpart have been, or are being violated.

7 B. Any automobile, truck, boat, conveyance, vehicle, or other means of
8 transportation caught or detected transporting compressed natural gas,
9 liquefied natural gas, or liquefied petroleum gas on which the tax levied
10 pursuant to this Subpart has not been paid shall be prohibited and the means
11 used in the transportation of the compressed natural gas, liquefied natural gas,
12 or liquefied petroleum shall be subject to seizure by the collection and forfeiture
13 and sale as provided in this Subpart.

14 §818.128. Inspection of records, storage facilities; penalty

15 A. The secretary may examine the books, records, and other documents
16 of all companies, agencies, or firms operating in this state, whether the
17 companies, agencies, or firms conduct their business by rail, water, or
18 otherwise, in order to identify licensees that are importing or otherwise shipping
19 compressed natural gas, liquefied natural gas, or liquefied petroleum which are
20 liable for tax under this Part. The examination by the secretary authorized by
21 this Section shall be conducted during reasonable business hours of the licensee.

22 B. Any person who refuses to permit an inspection of records or storage
23 facilities or refuses to permit an audit shall be subject to a penalty of five
24 thousand dollars in addition to any other penalty imposed in accordance with
25 provisions of this Subtitle.

26 §818.129. Unlawful importing, transportation, delivery, storage, or sale of
27 compressed natural gas, liquefied natural gas, or liquefied
28 petroleum; sale to enforce assessment

29 A. Upon the discovery of any compressed natural gas, liquefied natural

1 gas, or liquefied petroleum gas illegally imported into or illegally transported,
2 delivered, stored, or sold within this state, the secretary shall order the tank or
3 other storage receptacle in which the compressed natural gas, liquefied natural
4 gas, or liquefied petroleum gas is located to be seized and locked or sealed until
5 the tax, interest, and penalties levied or imposed in accordance with the
6 provisions of this Subpart are assessed and paid.

7 B. If the tax is not paid within thirty days of the assessment, the secretary
8 may, in addition to other remedies authorized in this Subpart, sell the
9 compressed natural gas, liquefied natural gas, or liquefied petroleum gas and
10 use the proceeds of the sale to satisfy the assessment due. Any funds collected
11 from the sale that exceed the assessment and costs of the sale shall be returned
12 to the owner of the compressed natural gas, liquefied natural gas, or liquefied
13 petroleum gas.

14 C. All compressed natural gas, liquefied natural gas, or liquefied
15 petroleum gas, and any property, tangible or intangible, found on the person or
16 in any vehicle that the person is using, including the vehicle itself, to aid in the
17 transportation or sale of illegally transported, delivered, stored, sold, imported,
18 or acquired compressed natural gas, liquefied natural gas, or liquefied
19 petroleum gas, and any property found in the immediate vicinity of any place
20 where the illegally transported, delivered, stored, sold, imported, or acquired
21 compressed natural gas, liquefied natural gas, or liquefied petroleum gas is
22 located, including motor vehicles, tanks, and other storage devices, used to aid
23 in the illegal transportation or sale of compressed natural gas, liquefied natural
24 gas, or liquefied petroleum gas shall be subject to seizure, forfeiture, and sale
25 by the secretary in the manner provided for in this Subpart.

26 §818.130. Procedure for forfeiture and sale

27 A. The secretary may, in a summary proceeding or by an action against
28 the owner or operator of any automobile, truck, boat, conveyance, vehicle, or
29 other means of transportation used to transport any compressed natural gas,

1 liquefied natural gas, or liquefied petroleum on which a tax is levied by this
2 Subpart, and on which the tax has not been paid in the manner herein provided,
3 demand the forfeiture and sale of the automobile, truck, boat, conveyance,
4 vehicle, or other means of transportation used in the illegal transportation.

5 B. In all cases where it is made to appear by affidavit that the residence
6 of the owner of the automobile, truck, boat, conveyance, vehicle, or other means
7 of transportation is out of state or is unknown to the secretary, the court having
8 jurisdiction of the proceeding shall appoint an attorney to represent the absent
9 owner against whom the rule shall be tried contradictorily within ten days after
10 the filing of the rule. The affidavit may be made by the secretary, or by one of
11 his assistants or the attorney representing the secretary, if it is not convenient
12 to obtain the affidavit from the secretary. The attorney appointed to represent
13 the absent owner may waive service and citation of the petition or rule but shall
14 not waive time or any legal defense.

15 C. If it is established during the trial that the automobile, truck, boat,
16 conveyance, vehicle, or other means of transportation was used to transport
17 compressed natural gas, liquefied natural gas, or liquefied petroleum gas on
18 which the tax had not been paid, then the court shall order the forfeiture of the
19 automobile, truck, boat, conveyance, vehicle, or other means of transportation.
20 The court shall also order the sale of the vessel subject to forfeiture after ten
21 days notice by advertisement in the official parish paper where the seizure was
22 made. The sale shall be made by the civil sheriff of the parish of Orleans, or by
23 the sheriff of the parish in which the seizure is made, at public auction at the
24 courthouse to the highest bidder for cash and without appraisal. It is the intent
25 and purpose of this Section to afford the owner of the automobile, truck, boat,
26 conveyance, vehicle, or other means of transportation a fair opportunity for a
27 court hearing and that the forfeiture and sale of the automobile, truck, boat,
28 conveyance, vehicle, or other means of transportation shall operate as a penalty
29 for the violation of this Subpart by illegal transportation. The payment of the

1 tax due at the moment of the seizure or thereafter shall not prevent, abate,
2 discontinue, or defeat the forfeiture and sale of the seized property.

3 D. All funds collected from the seized and forfeited property shall be
4 paid into the state treasury and credited to the same fund or funds that would
5 have received credit for the tax on the product illegally transported.

6 E. The court shall fix the fee of the attorney representing the owner when
7 appointed by the court, at a nominal sum not to exceed ten percent of the
8 amount at issue in the summary proceeding. The attorney fees shall be taxed
9 as costs and shall be paid out of the proceeds of the sale of the property.

10 §818.131. Commission of prohibited acts; misdemeanors; felonies; penalties

11 A. Any person who commits any of the following offenses is guilty of a
12 misdemeanor, and upon conviction shall be fined not less than one thousand
13 dollars nor more than five thousand dollars or imprisoned for not more than
14 two years, or both:

15 (1) Failure to maintain any record required by this Subpart.

16 (2) Making a tax-free sale or delivery of compressed natural gas,
17 liquefied natural gas, or liquefied petroleum gas into the fuel supply tank of a
18 motor vehicle.

19 (3) Making a false statement in a license application, return, invoice,
20 statement, or any other document required under this Subpart.

21 (4) Making a false statement in an application for a refund.

22 (5) Failure to make a required disclosure of the correct amount of
23 compressed natural gas, liquefied natural gas, or liquefied petroleum gas sold
24 or used in this state.

25 (6) Failure to file a new, replacement, larger, or additional surety bond
26 as required under this Subpart.

27 (7) Interference with or refusal to permit seizures authorized by this
28 Subpart.

29 (8) Operating a liquefied gas-propelled motor vehicle that is required to

1 be licensed in this state, including a motor vehicle equipped with dual
2 carburetion, and without displaying a multi-state fuels tax agreement decal.

3 (9) Refusal to permit the secretary or his designee or the Louisiana
4 Liquefied Gas Commission or its designee to measure or gauge the contents of
5 or take samples from a storage tank or container on premises where
6 compressed natural gas, liquefied natural gas, or liquefied petroleum gas is
7 produced, processed, stored, sold, delivered, or used.

8 (10) Transporting compressed natural gas, liquefied natural gas, or
9 liquefied petroleum gas under a false cargo manifest or shipping document, or
10 transporting compressed natural gas, liquefied natural gas, or liquefied
11 petroleum gas to a location without delivering a shipping document relating to
12 that shipment.

13 B. Any person who commits any of the following offenses with the intent
14 either to evade or to circumvent the tax levied by this Subpart or to assist any
15 other person in efforts to evade or to circumvent the tax levied by this Subpart
16 shall be guilty of a felony, and upon conviction shall be fined not less than five
17 thousand dollars nor more than an amount commensurate with the amount of
18 tax combined with interest and penalties lost to the state due to the illegal
19 actions or imprisoned with or without hard labor for not less than two nor more
20 than ten years, or both:

21 (1) Altering, manipulating, replacing, or in any other manner tampering
22 or interfering with, or causing to be altered, manipulated, replaced, tampered,
23 or interfered with, a totalizer attached to compressed natural gas, liquefied
24 natural gas, or liquefied petroleum gas to measure the dispensing of compressed
25 natural gas, liquefied natural gas, or liquefied petroleum gas.

26 (2) Failure to pay compressed natural gas, liquefied natural gas, or
27 liquefied petroleum gas taxes and diversion of the tax proceeds for other
28 purposes.

29 (3) As a licensee or the agent or representative of a licensee, conversion

1 or attempting to convert compressed natural gas, liquefied natural gas, or
2 liquefied petroleum gas tax proceeds for the use of the licensee or the licensee's
3 agent or representative with the intent to defraud the state.

4 (4) Collection of compressed natural gas, liquefied natural gas, or
5 liquefied petroleum gas taxes when not authorized or licensed by the secretary
6 to do so.

7 (5) Selling or delivering compressed natural gas, liquefied natural gas,
8 or liquefied petroleum gas on which the person knows the tax is required to be
9 collected, if at the time the sale is made the person does not hold a valid dealer's
10 license.

11 (6) Importing compressed natural gas, liquefied natural gas, or liquefied
12 petroleum gas into this state in contravention of this Subpart.

13 (7) Conspiring with any person or persons to engage in an act, plan, or
14 scheme to defraud this state of compressed natural gas, liquefied natural gas,
15 or liquefied petroleum gas tax proceeds.

16 (8) Concealing compressed natural gas, liquefied natural gas, or liquefied
17 petroleum gas with the intent of engaging in any conduct prohibited by this
18 Subpart.

19 (9) Refusal to make sales of compressed natural gas, liquefied natural
20 gas, or liquefied petroleum gas on the volume-corrected basis prescribed by this
21 Subpart.

22 (10) Failure to remit any tax levied pursuant to this Subpart to the
23 secretary, if the person has added or represented that the tax was added to the
24 sales price of the compressed natural gas, liquefied natural gas, or liquefied
25 petroleum gas and has collected the amount of the tax.

26 C. Each offense shall be subject to a separate penalty.

27 §818.132. Collaboration with commissioner of agriculture

28 Notwithstanding any provision of law to the contrary, the commissioner
29 of agriculture shall have the duty and authority to assist the secretary of the

1 Department of Revenue in collecting the taxes and any interest or penalties due
 2 pursuant to the provisions of this Subpart, and the provisions of Subpart E of
 3 Part II of Chapter 30 of Title 3 of the Louisiana Revised Statutes of 1950 that
 4 are not inconsistent with this duty shall apply for such purposes. Subject to the
 5 oversight of the House Committee on Ways and Means and the Senate
 6 Committee on Revenue and Fiscal Affairs, the commissioner, in consultation
 7 with the secretary, shall promulgate rules pursuant to the Administrative
 8 Procedure Act to provide procedures and processes for the orderly regulation
 9 and enforcement of the laws governing taxation of compressed natural gas,
 10 liquefied natural gas, and liquefied petroleum gas.

11 Section 2. R.S. 3:4602(12.1) and 4684 are hereby amended and reenacted and R.S.
 12 3:4690.1 is hereby enacted to read as follows:

13 §4602. Definitions

14 As used in this Chapter, the following terms shall have the following
 15 meanings:

16 * * *

17 (12.1) ~~"Petroleum~~ **(a) Except as provided in Subparagraph (b) of this**
 18 **Paragraph, "petroleum product"** means any refined hydrocarbon mixture including
 19 motor oil, kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene,
 20 and any blend of two or more refined hydrocarbon mixtures except liquefied
 21 petroleum gas and natural gas.

22 **(b) For purposes of enforcement of the provisions of R.S. 47:818.111 et**
 23 **seq. regarding taxes on special fuels, "petroleum product" shall include**
 24 **compressed natural gas, liquefied natural gas, and liquefied petroleum gas as**
 25 **those terms are defined in R.S. 47:818.2.**

26 * * *

27 §4684. Fee to be collected for testing, etc.

28 **A.** For the purpose of defraying the expenses connected with the inspection,
 29 testing, and analyzing of petroleum products in this state and enforcement of this

1 Chapter, there shall be collected by the secretary of the Department of Revenue a fee
 2 of four thirty-seconds of one cent per gallon on all petroleum products except
 3 liquefied petroleum gas and compressed or liquefied natural gas, distributed,
 4 sold, or offered or exposed for sale or use or consumption in the state or used or
 5 consumed in the state which shall be paid before delivery to agents, dealers, or
 6 consumers in the state. The fee provided for in this Subsection does not include
 7 liquefied petroleum gas, natural gas, or bulk sale or transfers. Excluding bulk sales
 8 or transfers, the fee will be imposed upon the removal from an Internal Revenue
 9 Service approved terminal using the terminal rack. The position holder shall collect
 10 the fee imposed from the person who orders the withdrawal at the terminal rack.
 11 Exports out of the state shall not be subject to the fee. A fee is also imposed on the
 12 above-referenced fuel upon import to the state excluding bulk sale or transfer for
 13 delivery within the state. This fee shall be paid by the first importer. However, no fee
 14 shall be due on fuels that are eligible for tax refunds under the provisions of R.S.
 15 47:818.15(A)(5) or that are sold for use in or distributed to seagoing vessels as
 16 defined in R.S. 3:4602.

17 B. The secretary of the Department of Revenue is authorized to seize and
 18 hold these products on which the fee has not been paid until such time as the fee has
 19 been paid. Any expense incurred in the seizure and holding of any product so seized
 20 shall be assessed in addition to the fee and collected at the same time the fee is
 21 collected.

22 * * *

23 §4690.1. Enforcement of certain tax provisions

24 Notwithstanding any provision of law to the contrary, the commissioner
 25 shall have the duty and authority to assist the secretary of the Department of
 26 Revenue in collecting the taxes and any interest or penalties due pursuant to the
 27 provisions of R.S. 47:818.111 et seq., and the provisions of this Subpart that are
 28 not inconsistent with this duty shall apply for such purposes. Subject to the
 29 oversight of the House Committee on Ways and Means and the Senate

1 Committee on Revenue and Fiscal Affairs, the commissioner, in consultation
 2 with the secretary, shall promulgate rules pursuant to the Administrative
 3 Procedure Act to provide procedures and processes for the orderly regulation
 4 and enforcement of the laws governing taxation of compressed natural gas,
 5 liquefied natural gas, and liquefied petroleum gas.

6 Section 3. R.S. 47:818.101 through 104 are hereby repealed.

7 Section 4. If the Act which originated as HB736 of the 2015 Regular Session of the
 8 Legislature, or any other Act of such session, increases the tax on gasoline or special fuels,
 9 then the provisions of such Act shall apply to R.S. 47:818.111 as enacted in this Act.

10 Section 5. This Act shall become effective on July 1, 2015; if vetoed by the governor
 11 and subsequently approved by the legislature, this Act shall become effective on July 1,
 12 2015, or on the day following such approval by the legislature, whichever is later.

The original instrument was prepared by Laura Gail Sullivan. The following digest, which does not constitute a part of the legislative instrument, was prepared by Martha Hess.

DIGEST

SB 271 Reengrossed

2015 Regular Session

White

Present law provides for taxation of special fuels - including compressed natural gas, liquified natural gas, and liquified petroleum gas - sold, used, or consumed in La. for the operation of motor vehicles licensed or required to be licensed for highway use at the rate of 16¢ per gallon.

Proposed law retains present law.

Present law provides for administrative discount to supplier for filing returns and remitting payment timely. Proposed law reduces rate from one and one-half percent to one-half percent.

Present law allows supplier to allow purchaser who is a validly licensed distributor or importer a deduction. Proposed law reduces deduction from one percent to one-third of one percent.

Present law allows validly licensed distributor or importer that pays the tax due a supplier timely to deduct a discount from the amount due. Present law reduces amount of discount from one percent to one-third of one percent.

Present law specifies that present law 16-cent-per-gallon tax does not apply to compressed natural gas, liquefied natural gas, or liquefied petroleum gas sold to, delivered to, or used by any person who pays an annual fuel tax levied under other provisions of present law enforced by requiring the taxpayer to obtain a decal on his motor vehicle, which is to be enforced when the vehicle is inspected.

Proposed law deletes this exception and method of taxation and removes the provisions

allowing for an annual fuel tax enforced by the decal.

Proposed law provides for determinations of a special fuel's energy content in relation to a gallon of gasoline or diesel beginning July 1, 2015. Specifies that for purposes of levying the 16-cent-per-gallon tax:

- (1) The gasoline gallon equivalent shall be 5.660 pounds of compressed natural gas.
- (2) The diesel gallon equivalent shall be 6.060 pounds of liquified natural gas.
- (3) The diesel gallon equivalent shall be 4.2 pounds of liquified petroleum gas.

Proposed law requires the tax to be collected by any person or entity upon the delivery of the fuel into the fuel supply tank of a motor vehicle. However, requires any person or entity to obtain a license for utilizing, delivering, or selling such fuels and otherwise provides for requirements for collection of the per-gallon tax by the licensed users, dealers, and sellers; application, suspension, cancellation, and revocation of licenses; bond requirements; returns, payments, credits, refunds, and fines, penalties, and interest for failure to pay associated with the tax; records retention and inspection; and investigative and enforcement authority, including authorization for search and seizure and criminal penalties for certain prohibited acts.

Proposed law authorizes and requires the Commissioner of Agriculture to assist the secretary of the Dept. of Revenue in collecting the taxes and any interest or penalties due pursuant to the provisions of proposed law. Requires the commissioner, in consultation with the secretary, to promulgate rules pursuant to the Administrative Procedure Act to provide procedures and processes for the orderly regulation and enforcement of the laws governing taxation of compressed natural gas, liquified natural gas, and liquified petroleum gas.

Proposed law makes such fuels subject to any other tax which may be levied on special fuels by any other provision of law and specifies that it is subject to the Act which originated as HB736 of the 2015 Regular Session of the Legislature, or any other Act of such session, which increases the tax on gasoline or special fuels.

Effective July 1, 2015.

(Amends R.S. 3:4602(12.1) and 4684 and R.S. 47:818.2(intro para), (18), (22), (43), (44), (58), and (63), and 818.22(A) and (B); adds R.S. 3:4690.1 and R.S. 47:818.111-818.132; repeals R.S. 47:818.101-104)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Subjects the fuels to a fee of four thirty-seconds of one cent per gallon.
2. Changes the effective date from January 1, 2016 to July 1, 2015.
3. Proposed law makes such fuels subject to any other tax which may be levied on special fuels by any other provision of law.
4. Requires the tax to be collected by any person or entity upon the delivery of the fuel into the fuel supply tank of a motor vehicle.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Reduces administrative discount to supplier for filing returns and remitting payment timely from one and one-half percent to one-half percent.
2. Reduces deduction supplier allows to purchaser who is a validly licensed distributor or importer from one percent to one-third of one percent.
3. Reduces amount of discount validly licensed distributor or importer who pays supplier timely may deduct from one percent to one-third of one percent.
4. Removes language regarding fee on special fuels and removes the requirement for the fee to be collected upon the delivery of the fuel into the fuel supply tank of a motor vehicle and remitted to the department.