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DIGEST

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SB 271 Re-Reengrossed

2015 Regular Session

White

Present law provides for the levy of a tax of 16¢ per gallon on all special fuels including compressed natural gas, liquefied natural gas, and liquefied petroleum gas (hereinafter "special fuel") sold, used, or consumed in the state for the operation of motor vehicles licensed or required to be licensed for highway use. Present law levies an additional tax of 4¢ dedicated to the Transportation Infrastructure Model for Economic Development (TIMED) Program.

Present law requires owners and operators of motor vehicles with a gross weight of 10,000 pounds or less to pay the tax levied pursuant to present law for special fuels in accordance with an annual flat rate equal to 80% of \$150, based on a 16¢ per gallon special fuels tax rate or a variable rate of 80% of the current special fuels tax rate. The owner or operator of a motor vehicle having a gross weight of more than 10,000 pounds shall pay the special fuels tax by paying the rate of 80% of the special fuels tax rate in effect on the fuel used. The aggregate annual tax paid for these vehicles shall not be less than 80% of \$150 based on a 16¢ per gallon special fuels tax per motor vehicle. Present law provides for a schedule for determining the amount of special fuel used the previous year based on the gross weight of the vehicle and the miles per gallon.

Present law requires persons who operate a motor vehicle powered by a special fuel on the highways of this state to apply for permission to operate on the highways of this state. The application shall be on a form prescribed by the secretary. When the applicant pays the annual flat rate for the tax, the secretary shall issue the applicant a decal which signifies that the special fuel tax has been paid. Present law requires the secretary to provide for a procedure for the annual payment of the tax and issuance of the decal. Failure to obtain an annual decal shall result in a penalty to be assessed of \$50 for a first violation and a penalty of \$100 for each subsequent violation.

Proposed law changes present law in that, beginning Jan. 1, 2016, the tax levied on special fuels shall not be collected pursuant to the annual decal but rather the amount of the tax shall be converted from a tax levied per gallon on such special fuel to a tax levied per gallon but based on the special fuel's energy content as follows:

- (1) Diesel gallon equivalent for liquefied natural gas (LNG) shall be equal to 6.060 pounds of LNG and shall be the unit of measurement of the tax levied pursuant to the provisions of proposed law.
- (2) The gasoline gallon equivalent for LPG shall be energy equivalent rate equal to 73% percent of the state tax per gallon on gasoline and diesel fuel and shall be the unit of measurement of the tax levied pursuant to the provisions of proposed law.
- (3) Gasoline gallon equivalent for compressed natural gas (CNG) shall be equal to 5.660 pounds of CNG and shall be the unit of measurement of the tax levied pursuant to proposed law.

Proposed law repeals present law as it relates to issuance of an annual decal. However, proposed law adds a transitional provision for the department to continue issuing decals from July 1, 2015, through Dec. 31, 2015, for the operation of vehicles which use LNG, LPG, or CNG in order for the taxes due on this fuel to be paid. The amount of the decal shall be calculated at a rate of one-twelfth of the total annual decal amount for each month the decal is valid.

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 possess 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.

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 authorizes a supplier to allow purchaser who is a validly licensed distributor or importer a deduction. Proposed law reduces deduction from 1% to one-third of 1%.

Present law allows a validly licensed distributor or importer that pays the tax due a supplier timely to deduct a discount from the amount due. Proposed law reduces the amount of discount from 1% to one-third of 1%.

Proposed law provides for a listing of offenses that constitute a misdemeanor, and upon conviction, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not more than two years, or both. Proposed law provides for a listing of offenses which, if committed with the intent of evading tax, and upon conviction, shall be fined not less than \$5,000 nor more than an amount commensurate to the amount of tax combined with interest and penalties lost to the state due to the illegal actions or imprisoned with or without hard labor for not less than two nor more than 10 years, or both.

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 HB No. 736 of the 2015 R. S., 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.

Senate Floor Amendments to reengrossed bill

1. Makes technical changes.
2. Authorizes, rather than requires, the secretary to cancel a dealer's license if the license holder has not reported a delivery during the previous nine months.
3. Changes the term "diesel gallon equivalent" to "gasoline gallon equivalent" and provides that the gasoline gallon equivalent for liquefied petroleum gas is 3.066 pounds.
4. Adds requirement that a licensee must have a current permit by the La. Propane Gas Commission in order to obtain a waiver of the surety bond.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the re-reengrossed bill:

1. Make technical changes.
2. Change the effective date of the collection of the excise tax on these special fuels based on the gallon equivalent from July 1, 2015, to Jan. 1, 2016.
3. Add transitional provisions for the issuance of decals from July 1, 2015, through Dec. 31, 2015, to persons operating vehicles which use or are capable of using LNG, LPG, or CNG in order to continue collecting the excise tax due on the fuel. Further provide for a reduced amount for the decal since it will only be valid for six months.
4. Change the gasoline gallon equivalent for LPG from 3.066 pounds of LPG to an energy equivalent rate equal to 73% percent of the state tax per gallon on gasoline and diesel fuel.
5. Reduce the amount of the discount for dealers who timely file their monthly reports and remit the taxes owed from 1% of the taxes due to one third of 1% of the taxes due.