

SUBJECT: Imposing backup tax on individuals unlawfully acquiring gasoline, diesel

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble,  
Rodriguez, Sanford, Shine

0 nays

1 absent — Martinez Fischer

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Karey Barton, Comptroller of  
Public Accounts)

BACKGROUND: Tax Code secs. 162.101 and 162.201 impose gasoline and diesel fuel  
taxes, respectively, so that in each subsequent sale of the fuel on which the  
tax has been paid, the tax must be added to the selling price so that the tax  
is paid ultimately by the person using or consuming the fuel.

Under secs. 162.103 and 162.203, a backup tax is imposed on certain  
individuals who did not pay the gasoline or diesel fuel taxes according to  
statutes.

Some have suggested clarifying current law on motor fuel taxes to ensure  
individuals could not unlawfully or fraudulently acquire motor fuels and  
to assist the comptroller in investigating fraud.

DIGEST: CSHB 3474 would impose a backup tax on the following individuals:

- a person who acquired gasoline or diesel fuel on which tax had not  
been paid in an original or subsequent sale; and
- a person who acquired gasoline or diesel fuel by any unlawful

means, including by purchase through the unauthorized use of a credit card, debit card, or other money, regardless of whether tax had been previously paid on the fuel or was added to the selling price.

The bill also would revise statutes on motor fuel taxes to specify that taxes imposed on gasoline or diesel fuel would be paid by each person receiving the fuel in a subsequent sale until the tax was ultimately paid by the person using or consuming the fuel. Certain definitions under those statutes also would be amended by the bill.

The bill would take effect September 1, 2021.