

BILL ANALYSIS

Senate Research Center
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S.B. 145
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Historically, a motor fuels tax refund was allowed on all diesel fuel consumed to operate an auxiliary power unit or power take-off equipment (i.e., cement trucks, garbage trucks).

It is generally understood that fuel used for purposes other than on-road propulsion, such as farm tractors, construction equipment, and power take-off devices, should not be subject to taxes that pay for the construction and maintenance of our roads. The diesel fuel used to operate the auxiliary units and power take-off equipment is not used to propel the vehicle on the roadway, but is for equipment use only.

With the passage of H.B. 2458 during the 78th Legislature, the tax refund associated with diesel powered auxiliary equipment was inadvertently eliminated; however, tax refunds for gasoline-powered units were retained.

S.B. 145 corrects this oversight and reinstates the tax refund for diesel powered auxiliary units or power take-off equipment. The diesel fuel used to operate the auxiliary units and power take-off equipment is not used to propel the vehicle on the roadway, but is for equipment use only.

As proposed, S.B. 145 amends current law relating to a credit or refund for diesel fuel taxes paid on diesel fuel used in this state by auxiliary power units or power take-off equipment.

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 162.227, Tax Code, by adding Subsection (d-1), as follows:

(d-1) Authorizes a person licensed by the comptroller of public accounts of the State of Texas (comptroller) under Sections 162.105 (Persons Required To Be Licensed), 162.205 (Persons Required To Be Licensed), 162.304 (Dealer's License), 162.305 (Liquefied Gas Tax Decal License), or 162.306 (Interstate Trucker's License) to take a credit on a return for the period in which the purchase occurred, and authorizes a person who does not hold a license to file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state by auxiliary power units or power take-off equipment on any motor vehicle. Authorizes the comptroller to approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund if the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle. Authorizes the license holder to take the credit and the person who does not hold a license to claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment if there is no separate metering device or other approved measuring method. Requires the comptroller to determine the percentage of the credit or refund. Provides that the climate-control air conditioning or heating system of a motor vehicle that has a

primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and prohibits a credit or refund for the tax paid on any portion of the diesel fuel that is used for that purpose. Prohibits a credit or refund for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling.

SECTION 2. Effective date: September 1, 2013.