

**STORAGE NAME:** h0081.ep  
**DATE:** January 22, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ENVIRONMENTAL PROTECTION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 81

**RELATING TO:** Diesel Fuels

**SPONSOR(S):** Representative Mackey

**STATUTE(S) AFFECTED:** s. 212.0501, F.S.

**COMPANION BILL(S):** SB 44 by Senator Scott

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ENVIRONMENTAL PROTECTION
- (2) FINANCE & TAXATION
- (3)
- (4)
- (5)

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**I. SUMMARY:**

HB 81 would bring Florida's taxing system for diesel fuel into compliance with recent federal changes. Specifically the bill would:

- Authorize the sale of dyed diesel fuel to noncommercial (pleasure boats) vessels as long as the sale and delivery of the fuel is completed before January 1, 1998.
- Provide that sales to commercial or non-commercial vessels of diesel fuel are subject to the sales tax under Chapter 212, F.S.

According to the Department of Revenue the elimination of the 24.6 cents per gallon highway tax would decrease revenues to state and local governments by an aggregate of \$1 million annually. However, the reinstatement of the sales tax would generate an estimated \$480,000.

The bill would take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Department of Revenue (DOR) is responsible for collecting and enforcing the various state and local fuel taxes levied in Florida. During the 1995 General Session, legislation was adopted (Chapter 95-417, Laws of Florida) which contained a major rewrite of the statutes dealing with fuel tax implementation and administration by DOR.

The primary purpose for revising the tax laws was to adopt fuel taxing procedures used by the federal government with a goal of reducing the incidence of fraud and tax evasion and making tax administration more efficient for both DOR and industry.

Prior to July 1, 1996, diesel fuel sold to pleasure boats was subject to a fuel sales tax (Chapter 212, F.S.) of 8.5 cents per gallon. Effective July 1, 1996, Florida replaced the fuel sales tax with the federal taxing system for diesel fuel. The federal system created two categories of diesel fuel: dyed diesel and undyed diesel. Dyed diesel fuel was declared exempt from the tax and is used by commercial vessels. Undyed diesel fuel was taxed and is used by non-commercial or pleasure boats. All undyed fuel is subject to the full highway tax (24.6 cents per gallon) at the time it is removed from storage. Prior to August 1996, the federal government required non-commercial or pleasure boats to use undyed fuel subject to the full federal highway tax.

Effective July 1, 1996, Florida law mirrored the federal requirements which provided for the full taxation of pleasure boat fuel. Effective August 1996, the federal government passed a temporary exemption for pleasure boats authorizing the use of dyed fuel until January 1, 1998. This provision, also, allows for a refund for the purchase of undyed fuels.

The temporary exemption for pleasure boats has created an administrative problem. Taxes on the undyed fuel are paid prior to the delivery of the fuel to the marinas. Since the tax has already been paid, some form of registration and refund program would have to be designed. Florida has over 10,000 pleasure boats utilizing marinas for fueling purposes.

Florida's requirements are now out of synch with federal requirements. The Florida requirement to use undyed fuel causes boat owners to pay state and federal tax upon purchase at a marina and claim refunds with the IRS to get back the federal tax.

An administrative solution to this situation was implemented in November 1996. It allows marina operators to register with the state the purchase of untaxed dyed diesel fuel for sale to pleasure boats, provided they have collected and remitted Florida's highway tax on each sale to a pleasure boat. This eliminates the need to pay federal taxes up front as well as the need to file a refund claim with the IRS. However, it continued the collection of the tax at the rate imposed on July 1, 1996.

**B. EFFECT OF PROPOSED CHANGES:**

The bill makes changes to fuel tax provisions concerning the exemptions provided for the use of diesel fuel by non-commercial vessels. Specific effects of the proposed changes include:

- Allowing for the purchase of dyed or untaxed diesel fuel by non-commercial vessels until January 1, 1998; and
- Clarifying that the purchase of diesel fuels for use by commercial or non-commercial vessels is subject to general sales tax provisions. This change reinstates the fees that were in effect prior to July 1, 1996.

The primary effect of the bill is to bring Florida tax provisions into agreement with federal tax requirements related to the use of diesel fuels by non-commercial vessels.

**C. APPLICATION OF PRINCIPLES:**

1. LESS GOVERNMENT:

The bill would reduce the need for extra DOR staff to handle returns and registrations associated with the tax.

2. LOWER TAXES:

In the aggregate the bill would lower taxes to pleasure boat operators. (See Fiscal Section for detailed information)

3. PERSONAL RESPONSIBILITY:

N/A

4. INDIVIDUAL FREEDOM:

N/A

5. FAMILY EMPOWERMENT:

N/A

**D. SECTION-BY-SECTION ANALYSIS:**

Section 1: Provides legislative intent that dyed diesel fuel may be purchased and used in non-commercial vessels until January 1, 1998.

Section 2: Amends s. 212.0501, F.S., to direct that sales tax dealers not collect fuel taxes on diesel fuel and that sales of diesel fuels to commercial or non-commercial vessels are subject to sales taxes.

Section 3: Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Note: This revenue information reflects estimated annual impacts supplied by the Department of Revenue.

Elimination of Highway Tax:

State Trust Fund Revenue	(\$550,000)
Local Option Taxes	<u>(450,000)</u>
Total Lost Revenues	(\$1,000,000)
Imposition of Sales Tax	<u>\$480,000</u>
Total Impact to Tax Collections	(\$520,000)

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

See "Recurring Effects" for detailed information.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The Department of Revenue estimates that there would be a \$450,000 annual decrease to local governments through the elimination of the highway tax.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Marinas would benefit from not having to maintain separate fuel tanks for dyed and undyed diesel fuel. In addition there would be associated administrative savings.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with counties and municipalities.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

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Wayne Kiger

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