

By the Committee on Environmental Protection and
Representatives Mackey and Sembler

1 A bill to be entitled
2 An act relating to taxation of fuels; amending
3 s. 206.01, F.S.; revising the definition of
4 "reseller"; amending s. 206.026, F.S.;
5 including blenders, carriers, and terminal
6 operators in provisions which prohibit certain
7 persons from holding a license; amending s.
8 206.27, F.S.; authorizing the Department of
9 Revenue to make certain audit information
10 available to the Department of Highway Safety
11 and Motor Vehicles and providing for
12 application of confidentiality and penalty
13 provisions; amending s. 206.41, F.S.; revising
14 the information required on the sales invoice
15 executed in connection with a sale of motor or
16 diesel fuel for which the purchaser claims a
17 refund; authorizing submission of a schedule of
18 transactions in lieu of invoices with a refund
19 application; revising the department's
20 authority to refuse to grant a refund; revising
21 the persons authorized to execute an invoice;
22 including blenders in provisions relating to
23 records and inspection; providing liability of
24 terminal suppliers, importers, blenders,
25 exporters, and wholesalers with respect to
26 false or fraudulent refunds; creating s.
27 206.413, F.S.; specifying the persons liable
28 for payment of the taxes imposed by s. 206.41,
29 F.S.; specifying conditions under which Florida
30 law applies when motor fuel is withdrawn from a
31 terminal outside the state or transfer of

1 ownership of motor fuel occurs outside the
2 state; providing penalties for willfully
3 evading or attempting to evade or defeat
4 payment of tax when specified circumstances
5 apply and providing liability for penalties;
6 amending s. 206.414, F.S.; revising provisions
7 which specify when certain taxes shall be
8 collected and remitted by wholesalers and
9 terminal suppliers; amending s. 206.43, F.S.;
10 revising provisions relating to conditions
11 under which a terminal supplier's or importer's
12 allowance is deductible; amending s. 206.44,
13 F.S.; revising applicability of penalties for
14 failure to report or pay taxes due; amending s.
15 206.874, F.S.; providing that dyed diesel fuel
16 may be purchased for use by a noncommercial
17 vessel; amending s. 206.8745, F.S.; providing
18 restrictions on claims for refund of the excise
19 tax paid on undyed diesel fuel used by a
20 noncommercial vessel; amending s. 206.91, F.S.;
21 revising provisions relating to conditions
22 under which a diesel fuel registrant's
23 allowance is deductible; amending s. 212.05,
24 F.S.; providing for imposition of sales tax on
25 diesel fuel used in a vessel and not taxed
26 under chapter 206, F.S.; amending s. 212.0501,
27 F.S.; revising the definition of "consumption,
28 use, or storage by a trade or business" for
29 purposes of the use tax on diesel fuel
30 purchased for such purposes; revising
31 provisions relating to collection of such tax

1 by licensed sales tax dealers; amending s.
2 212.08, F.S.; providing that the partial sales
3 tax exemption for motor vehicles engaged in
4 interstate commerce applies to common carriers;
5 including diesel fuel placed in certain
6 separate tanks in the exemption; amending ss.
7 336.021 and 336.025, F.S.; revising provisions
8 relating to application of the formula for
9 determining administrative costs of the
10 ninth-cent fuel tax and the local option fuel
11 taxes; providing effective dates for
12 reimposition of certain local option fuel
13 taxes; providing effective dates.
14

15 Be It Enacted by the Legislature of the State of Florida:
16

17 Section 1. Subsection (29) of section 206.01, Florida
18 Statutes, 1996 Supplement, is amended to read:

19 206.01 Definitions.--As used in this chapter:

20 (29) "Reseller" means any person who purchases in the
21 state tax-paid fuel from a terminal supplier or wholesaler and
22 who is authorized by the terminal supplier or wholesaler to
23 resell such fuel to retail dealers or end users only.

24 Section 2. Subsection (1) of section 206.026, Florida
25 Statutes, as amended by chapter 95-417, Laws of Florida, is
26 amended to read:

27 206.026 Certain persons prohibited from holding a
28 terminal supplier, importer, exporter, blender, carrier,
29 terminal operator, or wholesaler license; suspension and
30 revocation.--
31

1 (1) No corporation, except a publicly held corporation
2 regularly traded on a national securities exchange and not
3 over the counter, general or limited partnership, sole
4 proprietorship, business trust, joint venture or
5 unincorporated association, or other business entity shall
6 hold a terminal supplier, importer, exporter, blender,
7 carrier, terminal operator, or wholesaler license in this
8 state if any one of the persons or entities specified in
9 paragraph (a) has been determined by the department not to be
10 of good moral character or has been convicted of any offense
11 specified in paragraph (b):

12 (a)1. The licenseholder.

13 2. The sole proprietor of the licenseholder.

14 3. A corporate officer or director of the
15 licenseholder.

16 4. A general or limited partner of the licenseholder.

17 5. A trustee of the licenseholder.

18 6. A member of an unincorporated association
19 licenseholder.

20 7. A joint venturer of the licenseholder.

21 8. The owner of any equity interest in the
22 licenseholder, whether as a common shareholder, general or
23 limited partner, voting trustee, or trust beneficiary.

24 9. An owner of any interest in the license or
25 licenseholder, including any immediate family member of the
26 owner, or holder of any debt, mortgage, contract, or
27 concession from the licenseholder, who by virtue thereof is
28 able to control the business of the licenseholder.

29 (b)1. A felony in this state.

30 2. Any felony in any other state which would be a
31 felony if committed in this state under the laws of Florida.

1 3. Any felony under the laws of the United States.
2 Section 3. Subsection (2) of section 206.27, Florida
3 Statutes, 1996 Supplement, is amended to read:

4 206.27 Records and files as public records.--
5 (2) Nothing herein shall be construed as requiring the
6 department to provide as a public record any information
7 concerning audits in progress or those records and files of
8 the department described in this section which are currently
9 the subject of pending investigation by the Department of
10 Revenue or the Florida Department of Law Enforcement. It is
11 specifically provided that the foregoing information shall be
12 exempt from the provisions of s. 119.07(1) and shall be
13 considered confidential pursuant to s. 213.053; however, the
14 department may make available to the executive director of the
15 Department of Highway Safety and Motor Vehicles or his or her
16 designee, exclusively for official purposes in administering
17 chapter 207, any information concerning any audit in progress,
18 and the provisions of s. 213.053(7) requiring a written
19 agreement and maintenance of confidentiality by the recipient,
20 and the penalty for breach of confidentiality, shall apply if
21 the department makes such information available. Any officer,
22 employee, or former officer or employee of the department who
23 divulges any such information in any manner except for such
24 official purposes or under s. 213.053 is guilty of a
25 misdemeanor of the first degree, punishable as provided in s.
26 775.082 or s. 775.083.

27 Section 4. Paragraphs (b), (e), and (f) of subsection
28 (5) of section 206.41, Florida Statutes, 1996 Supplement, are
29 amended to read:

30 206.41 State taxes imposed on motor fuel.--
31 (5)

1 (b)1. When motor fuel or diesel fuel is sold to a
2 person who claims to be entitled to a refund under subsection
3 (4), the seller of such motor fuel or diesel fuel shall make
4 out a sales invoice, which shall contain the following
5 information:
6 a. The name, post office address, and residence
7 address of the purchaser.
8 b. The number of gallons purchased.
9 c. The date on which the purchase was made.
10 d. The price paid for the motor fuel or diesel fuel.
11 e. The name and place of business of the seller of the
12 motor fuel or diesel fuel.
13 f. The license number, or other identification number,
14 of the motor vehicle or boat of the purchaser.
15 g. The Department of Environmental Protection facility
16 number for the seller's location.
17 2. The sales invoice shall be retained by the
18 purchaser until the department's power to issue an assessment
19 with respect to such tax has terminated pursuant to s.
20 95.091(3)for attachment to his or her application for a
21 refund, as a part thereof. In lieu of original sales invoices,
22 a purchaser may submit a detailed schedule of individual
23 transactions which includes the information required by
24 subparagraph 1. along with the refund application.No refund
25 will be allowed unless the seller has executed such an invoice
26 and unless proof of payment of the taxes for which the refund
27 is claimed can be provided to the department upon request is
28 attached. The department may refuse to grant a refund in
29 whole or in part if the schedule or an invoice is incomplete
30 and fails to contain the full information required in this
31 paragraph.

1 3. No person may execute a sales invoice, as described
2 in subparagraph 1., except a terminal supplier, importer,
3 exporter, ~~or~~ wholesaler, reseller, or retail dealer ~~or a duly~~
4 ~~authorized agent thereof. No refund invoice may be executed~~
5 ~~for a purchase from a retail service station.~~

6 4. When motor fuel or diesel fuel is sold by a retail
7 dealer to a person who claims to be entitled to a refund under
8 subsection (4), a detailed schedule of individual purchase
9 transactions including name, address, Department of
10 Environmental Protection facility number of the station, date
11 of purchase, invoice number, and number of gallons purchased
12 may be provided the department by the permitted refund
13 applicant in lieu of the original invoices. Notwithstanding
14 ~~provisions of this paragraph to the contrary, the department~~
15 ~~has authority to designate certain retail service stations as~~
16 ~~agents of terminal suppliers, importers, exporters, or~~
17 ~~wholesalers when no terminal suppliers, importers, exporters,~~
18 ~~or wholesalers are available.~~

19 5. Notwithstanding provisions of this paragraph to the
20 contrary, refunds to a school district for fuel consumed by
21 school buses operated for the district by private contractors
22 shall be based on an estimate of taxes paid. The estimate
23 shall be determined quarterly by dividing the total miles
24 traveled by such vehicles for school purposes by their average
25 miles per gallon, as determined by the department, and
26 multiplying the result by the applicable tax rate per gallon.
27 It is the responsibility of the school district to provide
28 information relevant to this determination.

29 (e)1. Each terminal supplier, importer, blender,
30 exporter, or wholesaler shall, in accordance with the
31 requirements of the department, keep at his or her principal

1 place of business in this state or at the bulk plant where the
2 sale is made a complete record of or duplicate sales tickets
3 for all motor fuel or diesel fuel sold by him or her for which
4 a refund provided in this section may be claimed, which
5 records must give the date of each such sale, the number of
6 gallons sold, the name of the person to whom sold, and the
7 sale price. A terminal supplier, importer, blender, exporter,
8 or wholesaler, or his or her agent or employee, may not
9 acknowledge or assist in the preparation of any false or
10 fraudulent claim for tax refund. Any terminal supplier,
11 importer, blender, exporter, or wholesaler, or his or her
12 agent or employee, that has knowledge or should have had
13 knowledge that a refund is false or fraudulent shall in
14 addition to other penalties be jointly liable with the refund
15 recipient to the state for the tax improperly refunded.

16 2. Every person to whom a refund permit has been
17 issued under this subsection shall, in accordance with the
18 requirements of the department, keep at his or her residence
19 or principal place of business in this state a record of each
20 purchase of motor fuel or diesel fuel from a terminal
21 supplier, importer, blender, exporter, or wholesaler, or his
22 or her authorized agent; the number of gallons purchased; the
23 name of the seller; the date of the purchase; and the sale
24 price.

25 3. The records required to be kept under this
26 paragraph are subject, at all reasonable hours, to audit or
27 inspection by the department or by any person duly authorized
28 by the department. Such records shall be preserved and may not
29 be destroyed until the period specified in s. 215.26(2) has
30 elapsed.

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1 4. The department shall keep a permanent record of the
2 amount of refund claimed and paid to each claimant. Such
3 records are open to public inspection.

4 (f) Agents of the department are authorized to go upon
5 the premises of any permitholder or terminal supplier,
6 importer, blender, exporter, or wholesaler, or duly authorized
7 agent thereof, to make inspection to ascertain any matter
8 connected with the operation of this subsection or the
9 enforcement hereof. However, no agent may enter the dwelling
10 of any person without the consent of the occupant or authority
11 from a court of competent jurisdiction.

12 Section 5. Section 206.413, Florida Statutes, is
13 created to read:

14 206.413 Liability for tax; interstate agreement;
15 penalties.--

16 (1) The person liable for payment of the taxes imposed
17 by s. 206.41 shall be as follows:

18 (a) Every position holder shall pay taxes on the
19 removal of motor fuel from a terminal as described by s.
20 206.41. In an exchange agreement between two licensed
21 terminal suppliers, the receiving party shall be liable as the
22 position holder if the receiving party is identified to the
23 terminal operator by the delivering party.

24 (b) Every terminal supplier shall pay taxes on the
25 removal of motor fuel from a refinery as specified by s.
26 206.41.

27 (c) Every importer shall pay taxes on the entry into
28 this state as specified by s. 206.41.

29 (d) Any person that produces blended motor fuel
30 outside the bulk transfer or terminal system shall pay taxes
31 as provided for by s. 206.41.

1 (e) Any person using motor fuel upon which the tax
2 required by s. 206.41 has not been paid and which is not
3 exempted by this part is liable for the backup tax imposed by
4 s. 206.873.

5 (f) The seller of motor fuel is jointly and severally
6 liable for the backup tax imposed by s. 206.873 if the seller
7 knows or has reason to know that the motor fuel will be used
8 in any nonexempt use.

9 (g) The terminal operator is jointly and severally
10 liable for the taxes imposed by s. 206.41 if:

11 1. The position holder with respect to the motor fuel
12 is a person other than the terminal operator and is not a
13 terminal supplier; or

14 2. The terminal operator has not met the conditions
15 specified under paragraph (h).

16 (h) A terminal operator is not liable for taxes
17 imposed by s. 206.41 if at the time of the removal all the
18 following apply:

19 1. The terminal operator is a terminal supplier.

20 2. The terminal operator has an unexpired notification
21 certificate from the position holder as required by the
22 Internal Revenue Service.

23 3. The terminal operator has no reason to believe that
24 any information in the certificate is false.

25 (2) A licensed terminal supplier who is a position
26 holder in a terminal located outside of this state or a seller
27 transferring ownership of motor fuel outside of this state
28 destined for this state agrees to be subject to the laws of
29 this state and comply with the provisions of this chapter in
30 the same manner as if the motor fuel were withdrawn from a
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1 terminal in this state or the transfer of ownership occurred
2 in this state.

3 (3)(a) Any person who willfully evades or attempts to
4 evade or defeat the payment of the fuel taxes imposed by this
5 part shall be penalized in the amount of \$10 for every gallon
6 of motor fuel involved or \$1,000, whichever is greater, for
7 the first offense. The penalty shall increase with subsequent
8 violations by multiplying the penalty amount by the number of
9 prior violations. The penalty applies in any of the following
10 circumstances:

11 1. If any motor fuel is sold or held for sale by any
12 person for any use that is taxable and such person knows or
13 has reason to know that the taxes due under this part have not
14 been paid to the state, and that person fails to pay the taxes
15 due directly to the state.

16 2. If any motor fuel is held for use or used by any
17 person for a use other than a nontaxable use and such person
18 knew, or had reason to know, that the taxes due under this
19 part have not been paid to the state, and that person fails to
20 pay the taxes due directly to the state.

21 3. If any person willfully, with intent to evade tax,
22 alters sales or shipping documents or collects and fails to
23 remit any taxes due under this part.

24 (b) Any business entity and each officer, employee, or
25 agent of the entity who willfully participated in any act
26 giving rise to the penalty is jointly and severally liable
27 with the entity for the penalty.

28 Section 6. Subsection (1) of section 206.414, Florida
29 Statutes, is amended to read:

30 206.414 Collection of certain taxes; prohibited
31 credits and refunds.--

1 (1) The taxes imposed by s. 206.41(1)(d), (e), and (f)
2 shall be collected and remitted by licensed wholesalers and
3 terminal suppliers upon each sale, delivery, or consignment to
4 retail dealers, resellers, and end users.

5 Section 7. Paragraph (a) of subsection (1) of section
6 206.43, Florida Statutes, 1996 Supplement, is amended to read:

7 206.43 Terminal supplier, importer, exporter, blender,
8 and wholesaler to report to department monthly;
9 deduction.--The taxes levied and assessed as provided in this
10 part shall be paid to the department monthly in the following
11 manner:

12 (1)(a) Taxes are due on the first day of the
13 succeeding month and shall be paid on or before the 20th day
14 of each month. The terminal supplier, importer, exporter,
15 blender, or wholesaler shall mail to the department verified
16 reports on forms prescribed by the department and shall at the
17 same time pay to the department the amount of tax computed to
18 be due. However, if the 20th day falls on a Saturday, a
19 Sunday, or a federal or state legal holiday, returns shall be
20 accepted if postmarked on the next succeeding workday. The
21 terminal supplier or importer shall deduct from the amount of
22 tax shown by the report to be payable an amount equivalent to
23 .2 percent of the tax on motor fuels imposed by s.
24 206.41(1)(a), (b), (c), and (g), which deduction is hereby
25 allowed to the terminal supplier or importer on account of
26 services and expenses in complying with the provisions of the
27 law. The allowance on taxable gallons of motor fuel sold to
28 persons licensed under this chapter shall not be deductible
29 unless the terminal supplier or importer has allowed 50
30 percent of the allowance provided by this section to a ~~the~~
31 ~~licensed purchaser~~ with a valid wholesaler or terminal

1 supplier license. However, this allowance shall not be
2 deductible unless payment of the tax is made on or before the
3 20th day of the month as herein required. The United States
4 post office date stamped on the envelope in which the report
5 is submitted shall be considered as the date the report is
6 received by the department. Nothing in this subsection shall
7 be construed to authorize a deduction from the constitutional
8 fuel tax or fuel sales tax.

9 Section 8. Subsection (1) of section 206.44, Florida
10 Statutes, as amended by chapter 95-417, Laws of Florida, is
11 amended to read:

12 206.44 Penalty and interest for failure to report on
13 time; penalty and interest on tax deficiencies.--

14 (1) If any person ~~terminal supplier, importer,~~
15 ~~exporter, or wholesaler~~ fails to make a report or pay the
16 taxes due as required by this chapter, the department shall
17 add a penalty in the amount of 10 percent of any unpaid tax if
18 the failure is for not more than 1 month, with an additional
19 10 percent of any unpaid tax for each additional month or
20 fraction thereof during which the failure continues. However,
21 such penalty may not exceed 50 percent in the aggregate of any
22 unpaid tax. Furthermore, in no event may the penalty assessed
23 be less than \$10. The department shall collect the tax,
24 together with the penalty and costs, in the same manner as
25 other delinquent taxes are collected.

26 Section 9. Paragraph (m) is added to subsection (3) of
27 section 206.874, Florida Statutes, 1996 Supplement, to read:

28 206.874 Exemptions.--

29 (3) Dyed diesel fuel may be purchased and used only
30 for the following purposes:

31 (m) Use by a noncommercial vessel.

1 Section 10. Subsection (1) of section 206.8745,
2 Florida Statutes, 1996 Supplement, is amended, and subsection
3 (7) is added to said section, to read:

4 206.8745 Credits and refund claims.--

5 (1) Except as provided in subsections ~~subsection~~ (2)
6 and (7), any person who purchases undyed, tax-paid diesel fuel
7 who has paid the tax imposed by this part to the seller may
8 file a claim for refund of such taxes paid as provided in s.
9 215.26 if the fuel is used for an exempt purpose identified in
10 s. 206.874(3).

11 (7) Any person who purchases undyed diesel fuel for
12 use by a noncommercial vessel who has paid the tax imposed by
13 this part to the seller may claim a refund of such taxes paid
14 subject to the following restrictions:

15 (a) The purchaser may make one claim for refund per
16 calendar year.

17 (b) The annual refund claim shall be submitted prior
18 to April 1 of the year subsequent to the year in which the tax
19 was paid.

20 (c) No refund shall be allowed on purchases of less
21 than 2,500 gallons per calendar year.

22 (d) The purchaser shall submit, with the refund
23 request, original purchase invoices showing the taxes paid.

24 (e) The purchaser shall remit as an offset to the
25 refund the sales tax due under chapter 212 based on the
26 purchase price of the fuel net of the state tax refunded.

27 Section 11. Subsection (1) of section 206.91, Florida
28 Statutes, as amended by chapter 95-417, Laws of Florida, is
29 amended to read:

30 206.91 Tax reports; computation and payment of tax.--

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1 (1) For the purpose of determining the amount of taxes
2 imposed by s. 206.87, each diesel fuel registrant shall, not
3 later than the 20th day of each calendar month, mail to the
4 department, on forms prescribed by the department, monthly
5 reports which shall show such information on inventories,
6 purchases, nontaxable disposals, and taxable sales in gallons
7 of diesel fuel and alternative fuel, for the preceding
8 calendar month as may be required by the department. However,
9 if the 20th day falls on a Saturday, a Sunday, or a federal or
10 state legal holiday, returns shall be accepted if postmarked
11 on the next succeeding workday. The reports shall contain or
12 be verified by a written declaration that such report is made
13 under the penalties of perjury. The diesel fuel registrant
14 shall deduct from the amount of taxes shown by the report to
15 be payable an amount equivalent to .67 percent of the taxes on
16 diesel fuel imposed by s. 206.87(1)(a) and (e), which
17 deduction is hereby allowed to the diesel fuel registrant on
18 account of services and expenses in complying with the
19 provisions of this part. The allowance on taxable gallons of
20 diesel fuel sold to persons licensed under this chapter shall
21 not be deductible unless the diesel fuel registrant has
22 allowed 50 percent of the allowance provided by this section
23 to a the licensed purchaser with a valid wholesaler or
24 terminal supplier license. This allowance shall not be
25 deductible unless payment of the taxes is made on or before
26 the 20th day of the month as herein required. Nothing in this
27 subsection shall be construed to authorize a deduction from
28 the constitutional fuel tax or fuel sales tax.

29 Section 12. Paragraph (m) is added to subsection (1)
30 of section 212.05, Florida Statutes, 1996 Supplement, to read:
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1 212.05 Sales, storage, use tax.--It is hereby declared
2 to be the legislative intent that every person is exercising a
3 taxable privilege who engages in the business of selling
4 tangible personal property at retail in this state, including
5 the business of making mail order sales, or who rents or
6 furnishes any of the things or services taxable under this
7 chapter, or who stores for use or consumption in this state
8 any item or article of tangible personal property as defined
9 herein and who leases or rents such property within the state.

10 (1) For the exercise of such privilege, a tax is
11 levied on each taxable transaction or incident, which tax is
12 due and payable as follows:

13 (m) At the rate of 6 percent of the sales price of
14 each gallon of diesel fuel not taxed under chapter 206
15 purchased for use in a vessel.

16 Section 13. Section 212.0501, Florida Statutes, is
17 amended to read:

18 212.0501 Tax on diesel fuel for business purposes;
19 purchase, storage, and use.--

20 (1) It is declared to be the legislative intent that
21 every person is exercising a taxable privilege who purchases
22 any diesel fuel as defined in chapter 206 for use by that
23 person in a trade or business.

24 (2) Each person who purchases diesel fuel for
25 consumption, use, or storage by a trade or business shall
26 register as a dealer and remit a use tax, at the rate of 6
27 percent, on the total cost price of diesel fuel consumed.

28 (3) For purposes of this section, "consumption, use,
29 or storage by a trade or business" does not include those uses
30 of diesel fuel specifically exempt on account of residential
31 purposes, or on account of agricultural purposes as defined in

1 s. 212.08(5), or the purchase or storage of diesel fuel held
2 for resale.

3 (4) Except as otherwise provided in s. 212.05(1)(m), a
4 ~~no~~ licensed sales tax dealer may elect ~~shall be required~~ to
5 collect such tax pursuant to this chapter on all sales to each
6 any person who purchases diesel fuel for consumption, use, or
7 storage by a trade or business. When the licensed sales tax
8 dealer has not elected to collect such tax on all such sales,
9 the purchaser or ultimate consumer shall be liable for the
10 payment of tax directly to the state.

11 (5) Diesel fuel upon which the fuel taxes pursuant to
12 chapter 206 have been paid is exempt from the tax imposed by
13 this chapter. Liquefied petroleum gas or other fuel used to
14 heat a structure in which started pullets or broilers are
15 raised is exempt from the tax imposed by this chapter;
16 however, such exemption shall not be allowed unless the
17 purchaser or lessee signs a certificate stating that the fuel
18 to be exempted is for the exclusive use designated herein.

19 (6) All taxes required to be paid on fuel used in
20 self-propelled off-road equipment shall be deposited in the
21 Fuel Tax Collection Trust Fund, to be distributed, after
22 deduction of the general revenue service charge pursuant to s.
23 215.20, to the State Transportation Trust Fund. The
24 department shall, each month, make a transfer, from general
25 revenue collections, equal to such use tax reported on
26 dealers' sales and use tax returns.

27 Section 14. Paragraph (b) of subsection (9) of section
28 212.08, Florida Statutes, 1996 Supplement, is amended to read:

29 212.08 Sales, rental, use, consumption, distribution,
30 and storage tax; specified exemptions.--The sale at retail,
31 the rental, the use, the consumption, the distribution, and

1 the storage to be used or consumed in this state of the
2 following are hereby specifically exempt from the tax imposed
3 by this part.

4 (9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES
5 ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--

6 (b) Motor vehicles which are engaged in interstate
7 commerce as common carriers, and parts thereof, used to
8 transport persons or property in interstate or foreign
9 commerce are subject to tax imposed in this chapter only to
10 the extent provided herein. The basis of the tax shall be the
11 ratio of intrastate mileage to interstate or foreign mileage
12 traveled by the carrier's motor vehicles which were used in
13 interstate or foreign commerce and which had at least some
14 Florida mileage during the previous fiscal year of the
15 carrier. Such ratio is to be determined at the close of the
16 carrier's fiscal year. This ratio shall be applied each month
17 to the total purchases of such motor vehicles and parts
18 thereof which are used in this state to establish that portion
19 of the total used and consumed in intrastate movement and
20 subject to tax under this part. Motor vehicles which are
21 engaged in interstate commerce, and parts thereof, used to
22 transport persons or property in interstate and foreign
23 commerce are hereby determined to be susceptible to a distinct
24 and separate classification for taxation under the provisions
25 of this part. Motor vehicles and parts thereof used
26 exclusively in intrastate commerce do not qualify for the
27 proration of tax. For purposes of this paragraph, parts of a
28 motor vehicle engaged in interstate commerce include a
29 separate tank not connected to the fuel supply system of the
30 motor vehicle into which diesel fuel is placed to operate a
31 refrigeration unit or other equipment.

1 Section 15. Effective July 1, 1999, paragraph (a) of
2 subsection (2) of section 336.021, Florida Statutes, 1996
3 Supplement, as amended by section 17 of chapter 96-397, Laws
4 of Florida, is amended to read:

5 336.021 County transportation system; levy of
6 ninth-cent fuel tax on motor fuel and diesel fuel.--

7 (2)(a) The tax collected by the department pursuant to
8 subsection (1) shall be transferred to the Ninth-cent Fuel Tax
9 Trust Fund, which fund is created for distribution to the
10 counties pursuant to paragraph (1)(d). The department shall
11 deduct the administrative costs incurred by it in collecting,
12 administering, enforcing, and distributing back to the
13 counties the tax, which administrative costs may not exceed 2
14 percent of collections authorized by this section. The total
15 administrative cost shall be prorated among those counties
16 levying the tax according to the following formula, which
17 shall be revised on July 1 of each year: Two-thirds of the
18 amount deducted shall be based on the county's proportional
19 share of the number of dealers ~~taxpayers~~ who are registered
20 for purposes of chapter 212 ~~and required to file tax returns~~
21 on June 30th of the preceding state fiscal year, and one-third
22 of the amount deducted shall be based on the county's share of
23 the total amount of the tax collected during the preceding
24 state fiscal year. The department has the authority to
25 prescribe and publish all forms upon which reports shall be
26 made to it and other forms and records deemed to be necessary
27 for proper administration and collection of the tax levied by
28 any county and shall adopt rules necessary to enforce this
29 section, which rules shall have the full force and effect of
30 law. The provisions of ss. 206.026, 206.027, 206.028, 206.051,
31 206.052, 206.054, 206.055, 206.06, 206.07, 206.075, 206.08,

1 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14,
2 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20,
3 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27,
4 206.28, 206.41, 206.416, 206.44, 206.45, 206.48, 206.49,
5 206.56, 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735,
6 206.874, 206.8741, 206.8745, 206.94, and 206.945 shall, as far
7 as practicable, be applicable to the levy and collection of
8 the tax imposed pursuant to this section as if fully set out
9 in this section.

10 Section 16. Paragraphs (a) and (b) of subsection (1)
11 of section 336.025, Florida Statutes, 1996 Supplement, are
12 amended to read:

13 336.025 County transportation system; levy of local
14 option fuel tax on motor fuel and diesel fuel.--

15 (1)(a) In addition to other taxes allowed by law,
16 there may be levied as provided in ss. 206.41(1)(e) and
17 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or
18 6-cent local option fuel tax upon every gallon of motor fuel
19 and diesel fuel sold in a county and taxed under the
20 provisions of part I or part II of chapter 206.

21 1. The tax shall be levied before July 1 to be
22 effective January 1 of the following year for a period not to
23 exceed 30 years, and the applicable method of distribution
24 shall be established pursuant to subsection (3) or subsection
25 (4). However, levies of the tax which were in effect on July
26 1, 1996, and which expire on August 31 of any year may be
27 reimposed effective September 1 of the year of expiration.
28 Upon expiration, the tax may be relieved provided that a
29 redetermination of the method of distribution is made as
30 provided in this section.

31

1 2. County and municipal governments shall utilize
2 moneys received pursuant to this paragraph only for
3 transportation expenditures.

4 3. Any tax levied pursuant to this paragraph may be
5 extended on a majority vote of the governing body of the
6 county. A redetermination of the method of distribution shall
7 be established pursuant to subsection (3) or subsection (4),
8 if, after July 1, 1986, the tax is extended or the tax rate
9 changed, for the period of extension or for the additional
10 tax.

11 (b) In addition to other taxes allowed by law, there
12 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
13 3-cent, 4-cent, or 5-cent local option fuel tax upon every
14 gallon of motor fuel sold in a county and taxed under the
15 provisions of part I of chapter 206. The tax shall be levied
16 by an ordinance adopted by a majority plus one vote of the
17 membership of the governing body of the county or by
18 referendum.

19 1. The tax shall be levied before July 1, to be
20 effective January 1 of the following year. However, levies of
21 the tax which were in effect on July 1, 1996, and which expire
22 on August 31 of any year may be reimposed effective September
23 1 of the year of expiration.

24 2. The county may, prior to levy of the tax, establish
25 by interlocal agreement with one or more municipalities
26 located therein, representing a majority of the population of
27 the incorporated area within the county, a distribution
28 formula for dividing the entire proceeds of the tax among
29 county government and all eligible municipalities within the
30 county. If no interlocal agreement is adopted before the
31 effective date of the tax, tax revenues shall be distributed

1 pursuant to the provisions of subsection (4). If no
2 interlocal agreement exists, a new interlocal agreement may be
3 established prior to June 1 of any year pursuant to this
4 subparagraph. However, any interlocal agreement agreed to
5 under this subparagraph after the initial levy of the tax or
6 change in the tax rate authorized in this section shall under
7 no circumstances materially or adversely affect the rights of
8 holders of outstanding bonds which are backed by taxes
9 authorized by this paragraph, and the amounts distributed to
10 the county government and each municipality shall not be
11 reduced below the amount necessary for the payment of
12 principal and interest and reserves for principal and interest
13 as required under the covenants of any bond resolution
14 outstanding on the date of establishment of the new interlocal
15 agreement.

16 3. County and municipal governments shall utilize
17 moneys received pursuant to this paragraph only for
18 transportation expenditures needed to meet the requirements of
19 the capital improvements element of an adopted comprehensive
20 plan.

21 Section 17. Effective July 1, 1999, paragraph (a) of
22 subsection (2) of section 336.025, Florida Statutes, 1996
23 Supplement, as amended by section 19 of chapter 96-397, Laws
24 of Florida, is amended to read:

25 336.025 County transportation system; levy of local
26 option fuel tax on motor fuel and diesel fuel.--

27 (2)(a) The tax levied pursuant to paragraph (1)(a)
28 shall be collected and remitted in the same manner provided by
29 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
30 paragraph (1)(b) shall be collected and remitted in the same
31 manner provided by s. 206.41(1)(e). The taxes remitted

1 pursuant to this section shall be transferred to the Local
2 Option Fuel Tax Trust Fund, which fund is created for
3 distribution to the county and eligible municipal governments
4 within the county in which the tax was collected and which
5 fund is subject to the service charge imposed in chapter 215.
6 The tax shall be distributed monthly by the department in the
7 same manner provided by s. 336.021(1)(c) and (d). The
8 department shall deduct the administrative costs incurred by
9 it in collecting, administering, enforcing, and distributing
10 back to the counties the tax, which administrative costs may
11 not exceed 2 percent of collections authorized by this
12 section. The total administrative costs shall be prorated
13 among those counties levying the tax according to the
14 following formula, which shall be revised on July 1 of each
15 year: Two-thirds of the amount deducted shall be based on the
16 county's proportional share of the number of dealers ~~taxpayers~~
17 who are registered for purposes of chapter 212 ~~and required to~~
18 ~~file tax returns~~ on June 30 of the preceding state fiscal
19 year, and one-third of the amount deducted shall be based on
20 the county's share of the total amount of the tax collected
21 during the preceding state fiscal year. The department has the
22 authority to prescribe and publish all forms upon which
23 reports shall be made to it and other forms and records deemed
24 to be necessary for proper administration and collection of
25 the taxes levied by any county and shall promulgate such rules
26 as may be necessary for the enforcement of this section, which
27 rules shall have the full force and effect of law. The
28 provisions of ss. 206.026, 206.027, 206.028, 206.051, 206.052,
29 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09,
30 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
31 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,

1 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28,
2 206.41, 206.416, 206.44, 206.45, 206.48, 206.49, 206.56,
3 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735, 206.874,
4 206.8741, 206.94, and 206.945 shall, as far as practicable, be
5 applicable to the levy and collection of taxes imposed
6 pursuant to this section as if fully set out in this section.

7 Section 18. Except as otherwise provided herein, this
8 act shall take effect upon becoming a law.

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