

By the Committees on Transportation, Environmental
Protection and Representatives Mackey, Sembler, Tobin, Arnall,
King and Thrasher

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30 law applies when motor fuel is withdrawn from a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 taxes under such
13 sections; providing that the proceeds of the
14 ninth-cent tax on fuel shall be used for
15 transportation expenditures as defined by s.
16 336.025(7), F.S.; revising provisions relating
17 to the distribution of local option taxes on
18 diesel fuel; providing for deduction of service
19 and administrative charges and dealer
20 allowances; providing for an additional
21 distribution to counties with a qualified new
22 retail station and providing requirements with
23 respect thereto; providing for distribution of
24 any additional available taxes based on each
25 county's vehicular diesel fuel storage
26 capacities and providing requirements with
27 respect thereto; revising provisions which
28 require that the local option tax of up to 5
29 cents on motor fuel be used for transportation
30 expenditures necessary to meet requirements of
31

1 the capital improvements element of an adopted
2 comprehensive plan; providing effective dates.

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4 Be It Enacted by the Legislature of the State of Florida:

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

8 206.01 Definitions.--As used in this chapter:

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

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

16 206.026 Certain persons prohibited from holding a
17 terminal supplier, importer, exporter, blender, carrier,
18 terminal operator, or wholesaler license; suspension and
19 revocation.--

20 (1) No corporation, except a publicly held corporation
21 regularly traded on a national securities exchange and not
22 over the counter, general or limited partnership, sole
23 proprietorship, business trust, joint venture or
24 unincorporated association, or other business entity shall
25 hold a terminal supplier, importer, exporter, blender,
26 carrier, terminal operator, or wholesaler license in this
27 state if any one of the persons or entities specified in
28 paragraph (a) has been determined by the department not to be
29 of good moral character or has been convicted of any offense
30 specified in paragraph (b):

31 (a)1. The licenseholder.

- 1 2. The sole proprietor of the licenseholder.
2 3. A corporate officer or director of the
3 licenseholder.
4 4. A general or limited partner of the licenseholder.
5 5. A trustee of the licenseholder.
6 6. A member of an unincorporated association
7 licenseholder.
8 7. A joint venturer of the licenseholder.
9 8. The owner of any equity interest in the
10 licenseholder, whether as a common shareholder, general or
11 limited partner, voting trustee, or trust beneficiary.
12 9. An owner of any interest in the license or
13 licenseholder, including any immediate family member of the
14 owner, or holder of any debt, mortgage, contract, or
15 concession from the licenseholder, who by virtue thereof is
16 able to control the business of the licenseholder.
17 (b)1. A felony in this state.
18 2. Any felony in any other state which would be a
19 felony if committed in this state under the laws of Florida.
20 3. Any felony under the laws of the United States.
21 Section 3. Subsection (2) of section 206.27, Florida
22 Statutes, 1996 Supplement, is amended to read:
23 206.27 Records and files as public records.--
24 (2) Nothing herein shall be construed as requiring the
25 department to provide as a public record any information
26 concerning audits in progress or those records and files of
27 the department described in this section which are currently
28 the subject of pending investigation by the Department of
29 Revenue or the Florida Department of Law Enforcement. It is
30 specifically provided that the foregoing information shall be
31 exempt from the provisions of s. 119.07(1) and shall be

1 considered confidential pursuant to s. 213.053; however, the
2 department may make available to the executive director of the
3 Department of Highway Safety and Motor Vehicles or his or her
4 designee, exclusively for official purposes in administering
5 chapter 207, any information concerning any audit in progress,
6 and the provisions of s. 213.053(7) requiring a written
7 agreement and maintenance of confidentiality by the recipient,
8 and the penalty for breach of confidentiality, shall apply if
9 the department makes such information available. Any officer,
10 employee, or former officer or employee of the department who
11 divulges any such information in any manner except for such
12 official purposes or under s. 213.053 is guilty of a
13 misdemeanor of the first degree, punishable as provided in s.
14 775.082 or s. 775.083.

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

18 206.41 State taxes imposed on motor fuel.--

19 (5)

20 (b)1. When motor fuel or diesel fuel is sold to a
21 person who claims to be entitled to a refund under subsection
22 (4), the seller of such motor fuel or diesel fuel shall make
23 out a sales invoice, which shall contain the following
24 information:

25 a. The name, post office address, and residence
26 address of the purchaser.

27 b. The number of gallons purchased.

28 c. The date on which the purchase was made.

29 d. The price paid for the motor fuel or diesel fuel.

30 e. The name and place of business of the seller of the
31 motor fuel or diesel fuel.

1 f. The license number, or other identification number,
2 of the motor vehicle or boat of the purchaser.

3 g. The Department of Environmental Protection storage
4 tank facility identification number for the seller's location,
5 if the location is required to be registered in accordance
6 with s. 376.303.

7 2. The sales invoice shall be retained by the
8 purchaser until the department's power to issue an assessment
9 with respect to such tax has terminated pursuant to s.
10 95.091(3) for attachment to his or her application for a
11 refund, as a part thereof. In lieu of original sales invoices,
12 a purchaser may submit a detailed schedule of individual
13 transactions which includes the information required by
14 subparagraph 1. along with the refund application. No refund
15 will be allowed unless the seller has executed such an invoice
16 and unless proof of payment of the taxes for which the refund
17 is claimed can be provided to the department upon request is
18 attached. The department may refuse to grant a refund in
19 whole or in part if the schedule or an invoice is incomplete
20 and fails to contain the full information required in this
21 paragraph.

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

27 4. When motor fuel or diesel fuel is sold by a retail
28 dealer to a person who claims to be entitled to a refund under
29 subsection (4), a detailed schedule of individual purchase
30 transactions including names, addresses, Department of
31 Environmental Protection storage tank facility identification

1 number of the station, date of purchase, invoice number, and
2 number of gallons purchased may be provided the department by
3 the permitted refund applicant in lieu of the original
4 invoices.~~Notwithstanding provisions of this paragraph to the~~
5 ~~contrary, the department has authority to designate certain~~
6 ~~retail service stations as agents of terminal suppliers,~~
7 ~~importers, exporters, or wholesalers when no terminal~~
8 ~~suppliers, importers, exporters, or wholesalers are available.~~

9 5. Notwithstanding provisions of this paragraph to the
10 contrary, refunds to a school district for fuel consumed by
11 school buses operated for the district by private contractors
12 shall be based on an estimate of taxes paid. The estimate
13 shall be determined quarterly by dividing the total miles
14 traveled by such vehicles for school purposes by their average
15 miles per gallon, as determined by the department, and
16 multiplying the result by the applicable tax rate per gallon.
17 It is the responsibility of the school district to provide
18 information relevant to this determination.

19 (e)1. Each terminal supplier, importer, blender,
20 exporter, or wholesaler shall, in accordance with the
21 requirements of the department, keep at his or her principal
22 place of business in this state or at the bulk plant where the
23 sale is made a complete record of or duplicate sales tickets
24 for all motor fuel or diesel fuel sold by him or her for which
25 a refund provided in this section may be claimed, which
26 records must give the date of each such sale, the number of
27 gallons sold, the name of the person to whom sold, and the
28 sale price. A terminal supplier, importer, blender, exporter,
29 or wholesaler, or his or her agent or employee, may not
30 acknowledge or assist in the preparation of any false or
31 fraudulent claim for tax refund. Any terminal supplier,

1 importer, blender, exporter, or wholesaler, or his or her
2 agent or employee, that has knowledge or should have had
3 knowledge that a refund is false or fraudulent shall in
4 addition to other penalties be jointly liable with the refund
5 recipient to the state for the tax improperly refunded.

6 2. Every person to whom a refund permit has been
7 issued under this subsection shall, in accordance with the
8 requirements of the department, keep at his or her residence
9 or principal place of business in this state a record of each
10 purchase of motor fuel or diesel fuel from a terminal
11 supplier, importer, blender, exporter, or wholesaler, or his
12 or her authorized agent; the number of gallons purchased; the
13 name of the seller; the date of the purchase; and the sale
14 price.

15 3. The records required to be kept under this
16 paragraph are subject, at all reasonable hours, to audit or
17 inspection by the department or by any person duly authorized
18 by the department. Such records shall be preserved and may not
19 be destroyed until the period specified in s. 215.26(2) has
20 elapsed.

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

24 (f) Agents of the department are authorized to go upon
25 the premises of any permitholder or terminal supplier,
26 importer, blender, exporter, or wholesaler, or duly authorized
27 agent thereof, to make inspection to ascertain any matter
28 connected with the operation of this subsection or the
29 enforcement hereof. However, no agent may enter the dwelling
30 of any person without the consent of the occupant or authority
31 from a court of competent jurisdiction.

1 Section 5. Section 206.413, Florida Statutes, is
2 created to read:

3 206.413 Liability for tax; interstate agreement;
4 penalties.--

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

7 (a) Every position holder shall pay taxes on the
8 removal of motor fuel from a terminal as described by s.
9 206.41. In an exchange agreement between two licensed
10 terminal suppliers, the receiving party shall be liable as the
11 position holder if the receiving party is identified to the
12 terminal operator by the delivering party.

13 (b) Every terminal supplier shall pay taxes on the
14 removal of motor fuel from a refinery as specified by s.
15 206.41.

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

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

21 (e) Any person using motor fuel upon which the tax
22 required by s. 206.41 has not been paid and which is not
23 exempted by this part is liable for the backup tax imposed by
24 s. 206.873.

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

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

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

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

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

9 1. The terminal operator is a terminal supplier.

10 2. The terminal operator has an unexpired notification
11 certificate from the position holder as required by the
12 Internal Revenue Service.

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

15 (2) A licensed terminal supplier who is a position
16 holder in a terminal located outside of this state or a seller
17 transferring ownership of motor fuel outside of this state
18 destined for this state agrees to be subject to the laws of
19 this state and comply with the provisions of this chapter in
20 the same manner as if the motor fuel were withdrawn from a
21 terminal in this state or the transfer of ownership occurred
22 in this state.

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

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

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

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

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

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

20 206.414 Collection of certain taxes; prohibited
21 credits and refunds.--

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

26 Section 7. Paragraph (a) of subsection (1) of section
27 206.43, Florida Statutes, 1996 Supplement, is amended to read:

28 206.43 Terminal supplier, importer, exporter, blender,
29 and wholesaler to report to department monthly;
30 deduction.--The taxes levied and assessed as provided in this
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1 part shall be paid to the department monthly in the following
2 manner:

3 (1)(a) Taxes are due on the first day of the
4 succeeding month and shall be paid on or before the 20th day
5 of each month. The terminal supplier, importer, exporter,
6 blender, or wholesaler shall mail to the department verified
7 reports on forms prescribed by the department and shall at the
8 same time pay to the department the amount of tax computed to
9 be due. However, if the 20th day falls on a Saturday, a
10 Sunday, or a federal or state legal holiday, returns shall be
11 accepted if postmarked on the next succeeding workday. The
12 terminal supplier or importer shall deduct from the amount of
13 tax shown by the report to be payable an amount equivalent to
14 .2 percent of the tax on motor fuels imposed by s.
15 206.41(1)(a), (b), (c), and (g), which deduction is hereby
16 allowed to the terminal supplier or importer on account of
17 services and expenses in complying with the provisions of the
18 law. The allowance on taxable gallons of motor fuel sold to
19 persons licensed under this chapter shall not be deductible
20 unless the terminal supplier or importer has allowed 50
21 percent of the allowance provided by this section to a the
22 licensed purchaser with a valid wholesaler or terminal
23 supplier license. However, this allowance shall not be
24 deductible unless payment of the tax is made on or before the
25 20th day of the month as herein required. The United States
26 post office date stamped on the envelope in which the report
27 is submitted shall be considered as the date the report is
28 received by the department. Nothing in this subsection shall
29 be construed to authorize a deduction from the constitutional
30 fuel tax or fuel sales tax.

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

4 206.44 Penalty and interest for failure to report on
5 time; penalty and interest on tax deficiencies.--

6 (1) If any person ~~terminal supplier, importer,~~
7 ~~exporter, or wholesaler~~ fails to make a report or pay the
8 taxes due as required by this chapter, the department shall
9 add a penalty in the amount of 10 percent of any unpaid tax if
10 the failure is for not more than 1 month, with an additional
11 10 percent of any unpaid tax for each additional month or
12 fraction thereof during which the failure continues. However,
13 such penalty may not exceed 50 percent in the aggregate of any
14 unpaid tax. Furthermore, in no event may the penalty assessed
15 be less than \$10. The department shall collect the tax,
16 together with the penalty and costs, in the same manner as
17 other delinquent taxes are collected.

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

20 206.874 Exemptions.--

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

23 (m) Use by a noncommercial vessel.

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

27 206.8745 Credits and refund claims.--

28 (1) Except as provided in subsections ~~subsection~~ (2)
29 and (7), any person who purchases undyed, tax-paid diesel fuel
30 who has paid the tax imposed by this part to the seller may
31 file a claim for refund of such taxes paid as provided in s.

1 215.26 if the fuel is used for an exempt purpose identified in
2 s. 206.874(3).

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

7 (a) The purchaser may make one claim for refund per
8 calender year.

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

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

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

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

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

22 206.91 Tax reports; computation and payment of tax.--

23 (1) For the purpose of determining the amount of taxes
24 imposed by s. 206.87, each diesel fuel registrant shall, not
25 later than the 20th day of each calendar month, mail to the
26 department, on forms prescribed by the department, monthly
27 reports which shall show such information on inventories,
28 purchases, nontaxable disposals, and taxable sales in gallons
29 of diesel fuel and alternative fuel, for the preceding
30 calendar month as may be required by the department. However,
31 if the 20th day falls on a Saturday, a Sunday, or a federal or

1 state legal holiday, returns shall be accepted if postmarked
2 on the next succeeding workday. The reports shall contain or
3 be verified by a written declaration that such report is made
4 under the penalties of perjury. The diesel fuel registrant
5 shall deduct from the amount of taxes shown by the report to
6 be payable an amount equivalent to .67 percent of the taxes on
7 diesel fuel imposed by s. 206.87(1)(a) and (e), which
8 deduction is hereby allowed to the diesel fuel registrant on
9 account of services and expenses in complying with the
10 provisions of this part. The allowance on taxable gallons of
11 diesel fuel sold to persons licensed under this chapter shall
12 not be deductible unless the diesel fuel registrant has
13 allowed 50 percent of the allowance provided by this section
14 to a licensed purchaser with a valid wholesaler or
15 terminal supplier license. This allowance shall not be
16 deductible unless payment of the taxes is made on or before
17 the 20th day of the month as herein required. Nothing in this
18 subsection shall be construed to authorize a deduction from
19 the constitutional fuel tax or fuel sales tax.

20 Section 12. Paragraph (m) is added to subsection (1)
21 of section 212.05, Florida Statutes, 1996 Supplement, to read:

22 212.05 Sales, storage, use tax.--It is hereby declared
23 to be the legislative intent that every person is exercising a
24 taxable privilege who engages in the business of selling
25 tangible personal property at retail in this state, including
26 the business of making mail order sales, or who rents or
27 furnishes any of the things or services taxable under this
28 chapter, or who stores for use or consumption in this state
29 any item or article of tangible personal property as defined
30 herein and who leases or rents such property within the state.

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

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

7 Section 13. Section 212.0501, Florida Statutes, is
8 amended to read:

9 212.0501 Tax on diesel fuel for business purposes;
10 purchase, storage, and use.--

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

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

19 (3) For purposes of this section, "consumption, use,
20 or storage by a trade or business" does not include those uses
21 of diesel fuel specifically exempt on account of residential
22 purposes, or on account of agricultural purposes as defined in
23 s. 212.08(5), or the purchase or storage of diesel fuel held
24 for resale.

25 (4) Except as otherwise provided in s. 212.05(1)(m), a
26 ~~No licensed sales tax dealer may elect shall be required~~ to
27 collect such tax pursuant to this chapter on all sales to each
28 any person who purchases diesel fuel for consumption, use, or
29 storage by a trade or business. When the licensed sales tax
30 dealer has not elected to collect such tax on all such sales,
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1 the purchaser or ultimate consumer shall be liable for the
2 payment of tax directly to the state.

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

11 (6) All taxes required to be paid on fuel used in
12 self-propelled off-road equipment shall be deposited in the
13 Fuel Tax Collection Trust Fund, to be distributed, after
14 deduction of the general revenue service charge pursuant to s.
15 215.20, to the State Transportation Trust Fund. The
16 department shall, each month, make a transfer, from general
17 revenue collections, equal to such use tax reported on
18 dealers' sales and use tax returns.

19 Section 14. Paragraph (b) of subsection (9) of section
20 212.08, Florida Statutes, 1996 Supplement, is amended to read:

21 212.08 Sales, rental, use, consumption, distribution,
22 and storage tax; specified exemptions.--The sale at retail,
23 the rental, the use, the consumption, the distribution, and
24 the storage to be used or consumed in this state of the
25 following are hereby specifically exempt from the tax imposed
26 by this part.

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

29 (b) Motor vehicles which are engaged in interstate
30 commerce as common carriers, and parts thereof, used to
31 transport persons or property in interstate or foreign

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

24 Section 15. Subsections (1) and (5) of section
25 336.021, Florida Statutes, 1996 Supplement, are amended to
26 read:

27 336.021 County transportation system; levy of
28 ninth-cent fuel tax on motor fuel and diesel fuel.--

29 (1)(a) Any county in the state, by extraordinary vote
30 of the membership of its governing body or subject to a
31 referendum, may levy the tax imposed by ss. 206.41(1)(d) and

1 ~~206.87(1)(b) for the purpose of paying the costs and expenses~~
2 ~~of establishing, operating, and maintaining a transportation~~
3 ~~system and related facilities and the cost of acquisition,~~
4 ~~construction, reconstruction, and maintenance of roads and~~
5 ~~streets. County and municipal governments may use the moneys~~
6 ~~received under this paragraph only for transportation~~
7 ~~expenditures as defined in s. 336.025(7).~~

8 (b) The governing body of the county may, by joint
9 agreement with one or more of the municipalities located
10 therein, provide for the transportation purposes authorized
11 under paragraph (a) and the distribution of the proceeds of
12 this tax within both the unincorporated and incorporated areas
13 of the county. The provisions for refund provided in ss.
14 206.625 and 206.64 shall not be applicable to such tax levied
15 by any county.

16 (c) Local option taxes collected on sales or use of
17 diesel fuel in this state shall be distributed in the
18 following manner:

19 1. The fiscal year of July 1, 1995, through June 30,
20 1996, shall be the base year for all distributions.

21 2. Each year the tax collected, less the service and
22 administrative charges enumerated in s. 215.20 and the
23 allowances allowed under s. 206.91, on the number of gallons
24 reported, up to the total number of gallons reported in the
25 base year, shall be distributed to each county using the
26 distribution percentage calculated for the base year.

27 3. After the distribution of taxes pursuant to
28 subparagraph 2., additional taxes available for distribution
29 shall first be distributed pursuant to this subparagraph. A
30 distribution shall be made to each county in which a qualified
31 new retail station is located. A qualified new retail station

1 is a retail station that began operation after June 30, 1996,
2 and that has sales of diesel fuel exceeding 50 percent of the
3 sales of diesel fuel reported in the county in which it is
4 located during the 1995-1996 state fiscal year. The
5 determination of whether a new retail station is qualified
6 shall be based on the total gallons of diesel fuel sold at the
7 station during each full month of operation during the
8 12-month period ending March 31, divided by the number of full
9 months of operation during those 12 months, and the result
10 multiplied by 12. The amount distributed pursuant to this
11 subparagraph to each county in which a qualified new retail
12 station is located shall equal the local option taxes due on
13 the gallons of diesel fuel sold by the new retail station
14 during the year ending March 31, less the service charges
15 enumerated in s. 215.20 and the dealer allowance provided for
16 by s. 206.91. Gallons of diesel fuel sold at the qualified new
17 retail station shall be certified to the department by the
18 county requesting the additional distribution by June 15,
19 1997, and by May 1 in each subsequent year. The certification
20 shall include the beginning inventory, fuel purchases and
21 sales, and the ending inventory for the new retail station for
22 each month of operation during the year, the original purchase
23 invoices for the period, and any other information the
24 department deems reasonable and necessary to establish the
25 certified gallons. The department may review and audit the
26 retail dealer's records provided to a county to establish the
27 gallons sold by the new retail station. Notwithstanding the
28 provisions of this subparagraph, when more than one county
29 qualifies for a distribution pursuant to this subparagraph and
30 the requested distributions exceed the total taxes available
31 for distribution, each county shall receive a prorated share

1 ~~of the moneys available for distribution. Additional gallons~~
2 ~~reported shall be distributed using a formula, the numerator~~
3 ~~of which shall be the number of truck stops located in the~~
4 ~~county, and the denominator of which shall be the number of~~
5 ~~truck stops located within the state. For the purposes of this~~
6 ~~section, a "truck stop" is any retail dealer registered~~
7 ~~pursuant to chapter 212, excluding marinas, that has declared~~
8 ~~its primary fuel business to be the sale of diesel fuel.~~

9 4. After the distribution of taxes pursuant to
10 subparagraph 3., all additional taxes available for
11 distribution shall be distributed based on vehicular diesel
12 fuel storage capacities in each county pursuant to this
13 subparagraph. The total vehicular diesel fuel storage capacity
14 shall be established for each fiscal year based on the
15 registration of facilities with the Department of
16 Environmental Protection as required by s. 376.303 for the
17 following facility types: retail stations, fuel
18 user/nonretail, state government, local government, and county
19 government. Each county shall receive a share of the total
20 taxes available for distribution pursuant to this subparagraph
21 equal to a fraction, the numerator of which is the storage
22 capacity located within the county for vehicular diesel fuel
23 in the facility types listed in this subparagraph and the
24 denominator of which is the total statewide storage capacity
25 for vehicular diesel fuel in those facility types. The
26 vehicular diesel fuel storage capacity for each county and
27 facility type shall be that established by the Department of
28 Environmental Protection by June 1, 1997, for the 1996-1997
29 fiscal year, and by January 31 for each succeeding fiscal
30 year. The storage capacities so established shall be final.
31 The storage capacity for any new retail station for which a

1 county receives a distribution pursuant to subparagraph 3.
2 shall not be included in the calculations pursuant to this
3 subparagraph.

4 (d) The tax on motor fuel shall be distributed monthly
5 by the department to the county reported by the terminal
6 suppliers and importers for retail sale or use. The tax on
7 diesel fuel shall be distributed monthly by the department to
8 each county as provided in paragraph (c).

9 (5) The tax shall be imposed before November 1, 1993,
10 to be effective January 1, 1994, and before July 1 of each
11 year thereafter to be effective January 1 of the following
12 year. However, levies of the tax which were in effect on July
13 1, 1996, and which expire on August 31 of any year may be
14 reimposed effective September 1 of the year of expiration.No
15 decision to rescind the tax shall take effect until at least
16 60 days after the county notifies the department of such
17 decision.

18 Section 16. Effective July 1, 1999, paragraph (a) of
19 subsection (2) of section 336.021, Florida Statutes, 1996
20 Supplement, as amended by section 17 of chapter 96-397, Laws
21 of Florida, is amended to read:

22 336.021 County transportation system; levy of
23 ninth-cent fuel tax on motor fuel and diesel fuel.--

24 (2)(a) The tax collected by the department pursuant to
25 subsection (1) shall be transferred to the Ninth-cent Fuel Tax
26 Trust Fund, which fund is created for distribution to the
27 counties pursuant to paragraph (1)(d). The department shall
28 deduct the administrative costs incurred by it in collecting,
29 administering, enforcing, and distributing back to the
30 counties the tax, which administrative costs may not exceed 2
31 percent of collections authorized by this section. The total

1 administrative cost shall be prorated among those counties
2 levying the tax according to the following formula, which
3 shall be revised on July 1 of each year: Two-thirds of the
4 amount deducted shall be based on the county's proportional
5 share of the number of dealers ~~taxpayers~~ who are registered
6 for purposes of chapter 212 ~~and required to file tax returns~~
7 on June 30th of the preceding state fiscal year, and one-third
8 of the amount deducted shall be based on the county's share of
9 the total amount of the tax collected during the preceding
10 state fiscal year. The department has the authority to
11 prescribe and publish all forms upon which reports shall be
12 made to it and other forms and records deemed to be necessary
13 for proper administration and collection of the tax levied by
14 any county and shall adopt rules necessary to enforce this
15 section, which rules shall have the full force and effect of
16 law. The provisions of ss. 206.026, 206.027, 206.028, 206.051,
17 206.052, 206.054, 206.055, 206.06, 206.07, 206.075, 206.08,
18 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14,
19 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20,
20 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27,
21 206.28, 206.41, 206.416, 206.44, 206.45, 206.48, 206.49,
22 206.56, 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735,
23 206.874, 206.8741, 206.8745, 206.94, and 206.945 shall, as far
24 as practicable, be applicable to the levy and collection of
25 the tax imposed pursuant to this section as if fully set out
26 in this section.

27 Section 17. Paragraphs (a) and (b) of subsection (1)
28 of section 336.025, Florida Statutes, 1996 Supplement, are
29 amended to read:

30 336.025 County transportation system; levy of local
31 option fuel tax on motor fuel and diesel fuel.--

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

7 1. The tax shall be levied before July 1 to be
8 effective January 1 of the following year for a period not to
9 exceed 30 years, and the applicable method of distribution
10 shall be established pursuant to subsection (3) or subsection
11 (4). However, levies of the tax which were in effect on July
12 1, 1996, and which expire on August 31 of any year may be
13 reimposed effective September 1 of the year of expiration.

14 Upon expiration, the tax may be relieved provided that a
15 redetermination of the method of distribution is made as
16 provided in this section.

17 2. County and municipal governments shall utilize
18 moneys received pursuant to this paragraph only for
19 transportation expenditures.

20 3. Any tax levied pursuant to this paragraph may be
21 extended on a majority vote of the governing body of the
22 county. A redetermination of the method of distribution shall
23 be established pursuant to subsection (3) or subsection (4),
24 if, after July 1, 1986, the tax is extended or the tax rate
25 changed, for the period of extension or for the additional
26 tax.

27 (b) In addition to other taxes allowed by law, there
28 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
29 3-cent, 4-cent, or 5-cent local option fuel tax upon every
30 gallon of motor fuel sold in a county and taxed under the
31 provisions of part I of chapter 206. The tax shall be levied

1 by an ordinance adopted by a majority plus one vote of the
2 membership of the governing body of the county or by
3 referendum.

4 1. The tax shall be levied before July 1, to be
5 effective January 1 of the following year. However, levies of
6 the tax which were in effect on July 1, 1996, and which expire
7 on August 31 of any year may be reimposed effective September
8 1 of the year of expiration.

9 2. The county may, prior to levy of the tax, establish
10 by interlocal agreement with one or more municipalities
11 located therein, representing a majority of the population of
12 the incorporated area within the county, a distribution
13 formula for dividing the entire proceeds of the tax among
14 county government and all eligible municipalities within the
15 county. If no interlocal agreement is adopted before the
16 effective date of the tax, tax revenues shall be distributed
17 pursuant to the provisions of subsection (4). If no
18 interlocal agreement exists, a new interlocal agreement may be
19 established prior to June 1 of any year pursuant to this
20 subparagraph. However, any interlocal agreement agreed to
21 under this subparagraph after the initial levy of the tax or
22 change in the tax rate authorized in this section shall under
23 no circumstances materially or adversely affect the rights of
24 holders of outstanding bonds which are backed by taxes
25 authorized by this paragraph, and the amounts distributed to
26 the county government and each municipality shall not be
27 reduced below the amount necessary for the payment of
28 principal and interest and reserves for principal and interest
29 as required under the covenants of any bond resolution
30 outstanding on the date of establishment of the new interlocal
31 agreement.

1 3. County and municipal governments shall utilize
2 moneys received pursuant to this paragraph only for
3 transportation expenditures needed to meet the requirements of
4 the capital improvements element of an adopted comprehensive
5 plan. For purposes of this paragraph, expenditures for the
6 construction of new roads, or the reconstruction or
7 resurfacing of existing paved roads, shall be deemed to
8 increase capacity and such projects shall be included in the
9 capital improvements element of an adopted comprehensive plan.
10 Expenditures for purposes of this paragraph shall not include
11 routine maintenance of roads.

12 Section 18. Effective July 1, 1999, paragraph (a) of
13 subsection (2) of section 336.025, Florida Statutes, 1996
14 Supplement, as amended by section 19 of chapter 96-397, Laws
15 of Florida, is amended to read:

16 336.025 County transportation system; levy of local
17 option fuel tax on motor fuel and diesel fuel.--

18 (2)(a) The tax levied pursuant to paragraph (1)(a)
19 shall be collected and remitted in the same manner provided by
20 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
21 paragraph (1)(b) shall be collected and remitted in the same
22 manner provided by s. 206.41(1)(e). The taxes remitted
23 pursuant to this section shall be transferred to the Local
24 Option Fuel Tax Trust Fund, which fund is created for
25 distribution to the county and eligible municipal governments
26 within the county in which the tax was collected and which
27 fund is subject to the service charge imposed in chapter 215.
28 The tax shall be distributed monthly by the department in the
29 same manner provided by s. 336.021(1)(c) and (d). The
30 department shall deduct the administrative costs incurred by
31 it in collecting, administering, enforcing, and distributing

1 back to the counties the tax, which administrative costs may
2 not exceed 2 percent of collections authorized by this
3 section. The total administrative costs shall be prorated
4 among those counties levying the tax according to the
5 following formula, which shall be revised on July 1 of each
6 year: Two-thirds of the amount deducted shall be based on the
7 county's proportional share of the number of dealers ~~taxpayers~~
8 who are registered for purposes of chapter 212 ~~and required to~~
9 ~~file tax returns~~ on June 30 of the preceding state fiscal
10 year, and one-third of the amount deducted shall be based on
11 the county's share of the total amount of the tax collected
12 during the preceding state fiscal year. The department has the
13 authority to prescribe and publish all forms upon which
14 reports shall be made to it and other forms and records deemed
15 to be necessary for proper administration and collection of
16 the taxes levied by any county and shall promulgate such rules
17 as may be necessary for the enforcement of this section, which
18 rules shall have the full force and effect of law. The
19 provisions of ss. 206.026, 206.027, 206.028, 206.051, 206.052,
20 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09,
21 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
22 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
23 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28,
24 206.41, 206.416, 206.44, 206.45, 206.48, 206.49, 206.56,
25 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735, 206.874,
26 206.8741, 206.94, and 206.945 shall, as far as practicable, be
27 applicable to the levy and collection of taxes imposed
28 pursuant to this section as if fully set out in this section.

29 Section 19. Except as otherwise provided herein, this
30 act shall take effect upon becoming a law.

31