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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30 law applies when motor fuel is withdrawn from a  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.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
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:

31

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:

31

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.  
31

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 calendar 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 the 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.

31



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,  
31

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