

By Senator Campbell

32-735B-03

1 A bill to be entitled
2 An act relating to tax administration; amending
3 ss. 202.11, 202.125, 202.19, 202.22, and
4 202.34, F.S., relating to the local
5 communications services tax; changing sourcing
6 requirements for third number and calling card
7 calls; providing an exemption for homes for the
8 aged; providing penalties for failure to report
9 revenue and taxes due; providing limitations on
10 credits for taxes collected; providing
11 legislative intent with respect to provisions
12 clarifying the law; requiring that a taxpayer
13 provide customer records to the Department of
14 Revenue under certain circumstances; amending
15 s. 206.02, F.S.; prohibiting a person from
16 engaging in business as a biodiesel
17 manufacturer unless the person is licensed by
18 the department; revising licensing
19 requirements; requiring biodiesel manufacturers
20 to meet the reporting, bonding, and licensing
21 requirements prescribed for wholesalers of
22 motor fuel; amending s. 206.026, F.S.;
23 requiring the department to obtain fingerprints
24 for criminal background checks for certain
25 license holders; amending s. 206.14, F.S.;
26 providing a penalty for failure to provide
27 records as required by the department; amending
28 s. 206.414, F.S., relating to local option fuel
29 taxes; providing for the tax to be collected
30 when fuel is removed through the loading rack;
31 amending s. 206.416, F.S.; deleting certain

1 provisions authorizing a change in the
2 destination of fuel; requiring that a
3 wholesaler or exporter register as an importer
4 under certain circumstances; providing
5 penalties; amending s. 206.485, F.S., relating
6 to tracking reports for petroleum products;
7 imposing a penalty for failure to provide such
8 reports; amending s. 206.86, F.S.; defining the
9 terms "biodiesel" and "biodiesel manufacturer"
10 for purposes of part II of ch. 206, F.S.;
11 amending s. 206.89, F.S., relating to the
12 regulating of alternative fuels; requiring the
13 licensure of retailers rather than wholesalers;
14 amending s. 212.0606, F.S., relating to the
15 rental car surcharge; requiring dealers to
16 report the surcharge collections by county
17 where collected; amending s. 212.08, F.S.;
18 authorizing certain carriers to prorate the
19 state tax on motor or diesel fuels used in
20 interstate commerce in the initial year of
21 operation; amending s. 212.12, F.S.; deleting a
22 prohibition on certain allowances if the tax is
23 delinquent; revising a limitation on certain
24 penalties; providing an additional penalty for
25 failure to timely disclose a tax or fee;
26 requiring that the department make certain tax
27 amounts and brackets available in an electronic
28 format; deleting a requirement that the amounts
29 and brackets be established pursuant to rule;
30 amending s. 213.21, F.S.; revising the period
31 during which a taxpayer may voluntarily

1 disclose a tax liability; providing for
2 applicability; amending s. 336.021, F.S.;
3 revising certain dates for purposes of
4 certifying distributions of local option fuel
5 taxes; amending ss. 443.036, 443.131, and
6 443.1316, F.S., relating to the the
7 unemployment compensation tax; requiring that a
8 limited liability company be treated at the
9 same status as it is classified for federal
10 income tax purposes; clarifying succession
11 requirements for employers; providing for
12 transfer of employees; providing that recovery
13 of certain federal moneys from the Agency for
14 Workforce Innovation is not limited by state
15 law on indirect cost recovery; amending s.
16 832.062, F.S.; prohibiting certain electronic
17 funds transfers if the taxpayer knows at the
18 time of such transfer that funds are
19 insufficient to cover the transfer; amending s.
20 206.052, F.S., relating to the export of
21 tax-free fuels; conforming a cross-reference to
22 changes made by the act; repealing s.
23 199.052(13), F.S., relating to a requirement to
24 permit a voluntary contribution to the Election
25 Campaign Financing Trust Fund when filing an
26 intangible tax return; providing effective
27 dates.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (a) of subsection (15) of section
2 202.11, Florida Statutes, is amended to read:

3 202.11 Definitions.--As used in this chapter:

4 (15) "Service address" means:

5 (a) Except as otherwise provided in this section, the
6 location of the communications equipment from which
7 communications services originate or at which communications
8 services are received by the customer. ~~If the location of such~~
9 ~~equipment cannot be determined as part of the billing process,~~
10 ~~as in the case of third-number and calling-card calls and~~
11 ~~similar services, the term means the location determined by~~
12 ~~the dealer based on the customer's telephone number, the~~
13 ~~customer's mailing address to which bills are sent by the~~
14 ~~dealer, or another street address provided by the customer. In~~
15 the case of a communications service paid through a credit or
16 payment mechanism that does not relate to a service address,
17 such as a bank, travel, debit, or credit card, and in the case
18 of third-number and calling-card calls, the service address is
19 the address of the central office, as determined by the area
20 code and the first three digits of the seven-digit originating
21 telephone number.

22 Section 2. Subsection (4) of section 202.125, Florida
23 Statutes, is amended to read:

24 202.125 Sales of communications services; specified
25 exemptions.--

26 (4) The sale of communications services to a home for
27 the aged, religious institution or educational institution
28 that is exempt from federal income tax under s. 501(c)(3) of
29 the Internal Revenue Code, or by a religious institution that
30 is exempt from federal income tax under s. 501(c)(3) of the
31 Internal Revenue Code having an established physical place for

1 worship at which nonprofit religious services and activities
2 are regularly conducted and carried on, is exempt from the
3 taxes imposed or administered pursuant to ss. 202.12 and
4 202.19. As used in this subsection, the term:

5 (a) "Religious institution" means an organization
6 owning and operating an established physical place for worship
7 at which nonprofit religious services and activities are
8 regularly conducted. The term also includes:

9 1. Any nonprofit corporation the sole purpose of which
10 is to provide free transportation services to religious
11 institution members, their families, and other religious
12 institution attendees.

13 2. Any nonprofit state, district, or other governing
14 or administrative office the function of which is to assist or
15 regulate the customary activities of religious institutions.

16 3. Any nonprofit corporation that owns and operates a
17 television station in this state of which at least 90 percent
18 of the programming consists of programs of a religious nature
19 and the financial support for which, exclusive of receipts for
20 broadcasting from other nonprofit organizations, is
21 predominantly from contributions from the public.

22 4. Any nonprofit corporation the primary activity of
23 which is making and distributing audio recordings of religious
24 scriptures and teachings to blind or visually impaired persons
25 at no charge.

26 5. Any nonprofit corporation the sole or primary
27 purpose of which is to provide, upon invitation, nonprofit
28 religious services, evangelistic services, religious
29 education, administrative assistance, or missionary assistance
30 for a religious institution, or established physical place of
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1 worship at which nonprofit religious services and activities
2 are regularly conducted.

3 (b) "Educational institution" includes:

4 1. Any state tax-supported, parochial, religious
5 institution, and nonprofit private school, college, or
6 university that conducts regular classes and courses of study
7 required for accreditation by or membership in the Southern
8 Association of Colleges and Schools, the Florida Council of
9 Independent Schools, or the Florida Association of Christian
10 Colleges and Schools, Inc.

11 2. Any nonprofit private school that conducts regular
12 classes and courses of study which are accepted for continuing
13 education credit by a board of the Division of Medical Quality
14 Assurance of the Department of Health.

15 3. Any nonprofit library.

16 4. Any nonprofit art gallery.

17 5. Any nonprofit performing arts center that provides
18 educational programs to school children, which programs
19 involve performances or other educational activities at the
20 performing arts center and serve a minimum of 50,000 school
21 children a year.

22 6. Any nonprofit museum that is open to the public.

23 (c) "Home for the aged" includes any nonprofit
24 corporation:

25 1. In which at least 75 percent of the occupants are
26 62 years of age or older or totally and permanently disabled;
27 which qualifies for an ad valorem property tax exemption under
28 s. 196.196, s. 196.197, or s. 196.1975; and which is exempt
29 from the sales tax imposed under chapter 212.

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1 2. Licensed as a nursing home or an assisted living
2 facility under chapter 400 and which is exempt from the sales
3 tax imposed under chapter 212.

4 Section 3. Subsection (13) is added to section 202.19,
5 Florida Statutes, to read:

6 202.19 Authorization to impose local communications
7 services tax.--

8 (13) Each dealer shall report all revenue and taxes
9 associated with customer billings for providing service within
10 each jurisdiction to the department on a timely filed return
11 for each required reporting period. Any dealer that has met
12 the requirements of s. 202.22(1), including the due diligence
13 standard in maintaining customer data, shall report
14 corrections to the revenue and tax information originally
15 reported, but need not report additional tax due and is not
16 subject to the penalties set forth in this paragraph. A dealer
17 that fails to meet the requirements of s. 202.22(1) is liable
18 for any additional taxes, interest, and penalty imposed by s.
19 202.28 due as a result of reallocations of incorrectly
20 assigned customer service addresses. In addition, a penalty
21 equal to 25 percent of the amount of tax that the dealer
22 improperly allocated shall be imposed.

23 Section 4. Subsection (8) is added to section 202.22,
24 Florida Statutes, to read:

25 202.22 Determination of local tax situs.--

26 (8) All local communications services taxes collected
27 by a dealer are subject to the provisions of s. 213.756. The
28 hold harmless protection provided in subsection (1) does not
29 entitle a dealer to retain or take credits for taxes collected
30 from any customer which are assigned to an incorrect local
31 taxing jurisdiction in excess of the taxes due based on the

1 local communication services tax rate in the correct local
2 taxing jurisdiction for that customer. Dealers are entitled to
3 credits for such excess collections only upon making refunds
4 to the customer.

5 Section 5. The amendment to section 202.22, Florida
6 Statutes, made by this act is remedial in nature and is
7 intended to clarify existing law.

8 Section 6. Subsection (5) is added to section 202.34,
9 Florida Statutes, to read:

10 202.34 Records required to be kept; power to inspect;
11 audit procedure.--

12 (5)(a) For the purpose of enforcing this chapter, each
13 person who sells communications services in more than one
14 jurisdiction within this state must assist the department in
15 the examination of his or her records by providing all data
16 related to the situsing of customers by jurisdiction to the
17 department in the electronic format specified by the
18 department.

19 (b) Upon notification by the department of errors in
20 jurisdictional reporting, the taxpayer shall provide, in a
21 format required by the department, the customer records
22 necessary to correct the amounts originally reported. If the
23 records of a dealer are voluminous in nature and substance,
24 the department may sample such records and project the audit
25 findings derived from the records over the entire audit period
26 to determine the correct allocation of revenue for each
27 jurisdiction.

28 (c) Any dealer who fails to comply with this
29 subsection shall, in addition to all other penalties, be
30 subject to a penalty equal to the tax reported in the wrong
31 jurisdiction associated with each customer account.

1 Section 7. Section 206.02, Florida Statutes, is
2 amended to read:

3 206.02 Application for license; temporary license;
4 terminal suppliers, importers, exporters, blenders, biodiesel
5 manufacturers, and wholesalers.--

6 (1) It is unlawful for any person to engage in
7 business as a terminal supplier, importer, exporter, blender,
8 biodiesel manufacturer, or wholesaler of motor fuel within
9 this state unless such person is the holder of an unrevoked
10 license issued by the department to engage in such business.

11 A person is engaging in such business if he or she:

12 (a) Imports or causes any motor fuel to be imported
13 and sells such fuel at wholesale, retail, or otherwise within
14 this state.

15 (b) Imports and withdraws for use within this state by
16 himself or herself or others any motor fuel from the tank car,
17 truck, or other original container or package in which such
18 motor fuel was imported into this state.

19 (c) Manufactures, refines, produces, or compounds any
20 motor fuel and sells such fuel at wholesale or retail, or
21 otherwise within this state for use or consumption within this
22 state.

23 (d) Imports into this state from any other state or
24 foreign country, or receives by any means into this state, any
25 motor fuel which is intended to be used for consumption in
26 this state and keeps such fuel in storage in this state for a
27 period of 24 hours or more after it loses its interstate or
28 foreign commerce character as a shipment in interstate or
29 foreign commerce.

30 (e) Is primarily liable under the fuel tax laws of
31 this state for the payment of motor fuel taxes.

1 (f) Purchases or receives in this state motor fuel
2 upon which the tax has not been paid.

3 (g) Exports taxable motor or diesel fuels either from
4 substorage at a bulk facility or directly from a terminal rack
5 to a destination outside the state.

6 (2) To procure a terminal supplier license, a person
7 shall file with the department an application under oath, and
8 in such form as the department may prescribe, setting forth:

9 (a) The name under which the person will transact
10 business within the state and that person's registration
11 number under s. 4101 of the Internal Revenue Code.

12 (b) The location, with street number address, of his
13 or her principal office or place of business and the location
14 where records will be made available for inspection.

15 (c) The name and complete residence address of the
16 owner or the names and addresses of the partners, if such
17 person is a partnership, or of the principal officers, if such
18 person is a corporation or association; and, if such person is
19 a corporation organized under the laws of another state,
20 territory, or country, he or she shall also indicate the
21 state, territory, or county where the corporation is organized
22 and the date the corporation was registered with file with the
23 ~~application a certified copy of the certificate or license~~
24 ~~issued by the Department of State as a foreign corporation~~
25 ~~showing that such corporation is~~ authorized to transact
26 business in the state.

27
28 The application shall require a \$30 license tax. Each license
29 shall be renewed annually through application, including an
30 annual \$30 license tax.

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1 (3) To procure an importer, exporter, or blender of
2 motor fuels license, a person shall file with the department
3 an application under oath, and in such form as the department
4 may prescribe, setting forth:

5 (a) The name under which the person will transact
6 business within the state.

7 (b) The location, with street number address, of his
8 or her principal office or place of business and the location
9 where records will be made available for inspection.

10 (c) The name and complete residence address of the
11 owner or the names and addresses of the partners, if such
12 person is a partnership, or of the principal officers, if such
13 person is a corporation or association; and, if such person is
14 a corporation organized under the laws of another state,
15 territory, or country, he or she shall also indicate the
16 state, territory, or country where the corporation is
17 organized and the date the corporation was registered with
18 file with the application a certified copy of the certificate
19 or license issued by the Department of State as a foreign
20 corporation showing that such corporation is authorized to
21 transact business in the state.

22
23 The application shall require a \$30 license tax. Each license
24 shall be renewed annually through application, including an
25 annual \$30 license tax.

26 (4) To procure a wholesaler of motor fuel license, a
27 person shall file with the department an application under
28 oath and in such form as the department may prescribe, setting
29 forth:

30 (a) The name under which the person will transact
31 business within the state.

1 (b) The location, with street number address, of his
2 or her principal office or place of business within this state
3 and the location where records will be made available for
4 inspection.

5 (c) The name and complete residence address of the
6 owner or the names and addresses of the partners, if such
7 person is a partnership, or of the principal officers, if such
8 person is a corporation or association; and, if such person is
9 a corporation organized under the laws of another state,
10 territory, or country, he or she shall also indicate the
11 state, territory, or country where the corporation is
12 organized and the date the corporation was registered with
13 file with the application a certified copy of the certificate
14 or license issued by the Department of State as a foreign
15 corporation showing that such corporation is authorized to
16 transact business in the state.

17
18 The application shall require a \$30 license tax. Each license
19 shall be renewed annually through application, including an
20 annual \$30 license fee.

21 (5) Each biodiesel manufacturer must meet the
22 reporting, bonding, and licensing requirements prescribed for
23 wholesalers by this chapter.~~Any importer who establishes a~~
24 ~~business location in this state must, prior to beginning~~
25 ~~business in the state, apply for and be issued a wholesaler's~~
26 ~~license. An importer's license becomes invalid on the date~~
27 ~~business operations begin from a location within this state.~~

28 (6) Upon the filing of an application for a license
29 and concurrently therewith, a bond of the character stipulated
30 and in the amount provided for shall be filed with the
31 department. No license shall issue upon any application

1 unless accompanied by such a bond, except as provided in s.
2 206.05(1).

3 (7)(a) If all applicants for a license hold a current
4 license in good standing of the same type and kind, the
5 department shall issue a temporary license upon the filing of
6 a completed application, payment of all fees, and the posting
7 of adequate bond. A temporary license shall automatically
8 expire 90 days after its effective date or, prior to the
9 expiration of 90 days or the period of any extension, upon
10 issuance of a permanent license or of a notice of intent to
11 deny a permanent license. A temporary license may be extended
12 once for a period not to exceed 60 days, upon written request
13 of the applicant, subject to the restrictions imposed by this
14 subsection.

15 (b) A publicly held corporation, the securities of
16 which are regularly traded on a national securities exchange
17 and not over the counter, which begins a new business and
18 which applies for a license as a terminal supplier, importer,
19 exporter, or wholesaler shall be issued a license without the
20 department's background investigation.

21 Section 8. Subsection (5) of section 206.026, Florida
22 Statutes, is amended to read:

23 206.026 Certain persons prohibited from holding a
24 terminal supplier, importer, exporter, blender, carrier,
25 terminal operator, or wholesaler license; suspension and
26 revocation.--

27 (5) The department shall obtain the fingerprints and
28 personal data from persons ~~make such rules for the~~
29 ~~photographing, fingerprinting, and obtaining of personal data~~
30 ~~of individuals~~ described in paragraph (1)(a) for purposes of
31 determining whether such persons have a criminal background

1 and shall obtain ~~the obtaining of such~~ data regarding the
2 business entities described in paragraph (1)~~(a) as are~~
3 necessary to effectuate the provisions of this section. Such
4 fingerprints shall be used for statewide criminal and juvenile
5 records checks through the Department of Law Enforcement and
6 federal criminal records checks through the Federal Bureau of
7 Investigation.

8 Section 9. Subsection (2) of section 206.14, Florida
9 Statutes, is amended to read:

10 206.14 Inspection of records; audits; hearings; forms;
11 rules and regulations.--

12 (2)(a) The department or any authorized deputy,
13 employee, or agent is authorized to audit and examine the
14 records, books, papers, and equipment of terminal suppliers,
15 importers, exporters, or wholesalers, retail dealers, terminal
16 operators, or all private and common carriers to verify the
17 truth and accuracy of any statement or report and ascertain
18 whether or not the tax imposed by this law has been paid. No
19 prior written notification is necessary. In addition to making
20 all records available to the department to determine the
21 accuracy of tax payments to the state and suppliers, all
22 persons, including retail dealers, wholesalers, importers,
23 exporters, terminal suppliers, and end users with storage
24 other than the fuel tank of a highway vehicle, shall make
25 available to the department, during normal business hours,
26 records disclosing all receipts, sales, inventory records,
27 fuel payments, and tax payment information. These records
28 shall cover all transactions within the last 3 complete
29 calendar months and shall be made available within 3 business
30 days of the department's request. The department may correct
31 by credit or refund any overpayment of tax, penalty, or

1 interest revealed by an audit or examination and shall make
2 assessment of any deficiency in tax, penalty, or interest
3 determined to be due.

4 (b) Any person who fails to provide the records
5 required by this section shall, in addition to all other
6 penalties, be subject to a fine of \$5,000.

7 Section 10. Section 206.414, Florida Statutes, is
8 amended to read:

9 206.414 Collection of certain taxes; prohibited
10 credits and refunds.--

11 (1) Notwithstanding s. 206.41, which requires the
12 collection of taxes due when motor fuel is removed through the
13 terminal loading rack, the taxes imposed by s. 206.41(1)(d),
14 (e), and (f) shall be collected in the following manner:

15 (a) Prior to January 1 each year the department shall
16 determine the minimum amount of taxes to be imposed by s.
17 206.41(1)(d), (e), and (f) in any county.

18 (b) The minimum tax imposed by s. 206.41(1)(d), (e),
19 and (f) shall be collected in the same manner as the taxes
20 imposed under s. 206.41(a), (b), and (c); at the point of
21 removal through the terminal loading rack; or as provided in
22 paragraph (c). All taxes collected, refunded, or credited
23 shall be distributed based on the current applied period.

24 (c)~~(1)~~ The taxes imposed by s. 206.41(1)(d), (e), and
25 (f) above the annual minimum shall be collected and remitted
26 by licensed wholesalers and terminal suppliers upon each sale,
27 delivery, or consignment to retail dealers, resellers, and end
28 users.

29 (2) Terminal suppliers and wholesalers shall not
30 collect the taxes imposed by s. 206.41(1)(d), (e), and (f)
31 above the annual minimum established in this section on

1 authorized exchanges and sales to terminal suppliers,
2 wholesalers, and importers.

3 (3) Terminal suppliers, wholesalers, and importers
4 shall not pay the taxes imposed by s. 206.41(1)(d), (e), and
5 (f) above the annual minimum established in this section to
6 their suppliers. There shall be no credit or refund for any
7 of the taxes imposed by s. 206.41(1)(d), (e), and (f) above
8 the annual minimum established in this section paid by a
9 terminal supplier, wholesaler, or importer to any supplier.

10 Section 11. Subsection (1) of section 206.416, Florida
11 Statutes, is amended to read:

12 206.416 Change in state destination.--

13 ~~(1)(a) A terminal supplier or person who is receiving~~
14 ~~fuel pursuant to an exchange agreement who sells fuel destined~~
15 ~~for sale or use in this state may change the destination state~~
16 ~~designated on the original shipping paper upon notification by~~
17 ~~the purchaser of the fuel by the 10th day of the month~~
18 ~~following the date of the transaction. The terminal supplier~~
19 ~~or position holder shall document a timely change in~~
20 ~~destination state by issuing a new invoice bearing the~~
21 ~~corrected destination state. Each terminal supplier and~~
22 ~~position holder shall report monthly to the department all~~
23 ~~changes in the state of destination issued, including the name~~
24 ~~of purchaser, date, number of gallons of fuel, and the basis~~
25 ~~for the change.~~

26 ~~(b) A terminal supplier or position holder who issues~~
27 ~~a change in the state of destination on the invoice to this~~
28 ~~state from another state shall collect and remit to the~~
29 ~~department the tax levied pursuant to this part on such fuel.~~
30 ~~A terminal supplier or position holder who issues a change in~~
31 ~~the state of destination from this state to another state~~

1 ~~shall be entitled to a credit or refund of any tax levied~~
2 ~~pursuant to this part on such fuel which it has collected and~~
3 ~~remitted to the department.~~

4 ~~(a)(c)~~ A terminal supplier or position holder may sell
5 motor or diesel fuel, other than by bulk transfer, a portion
6 of which fuel is destined for sale or use in this state and a
7 portion of which fuel is destined for sale or use in another
8 state or states. However, such sale shall be documented by
9 the terminal supplier or position holder by issuing shipping
10 papers designating the state of destination for each portion
11 of the fuel.

12 ~~(b)(d)~~ A licensed terminal supplier, wholesaler,
13 importer, or exporter who intends to sell or use motor fuel in
14 this state which was purchased pursuant to shipping papers
15 bearing an out-of-state destination shall obtain a diversion
16 number issued by the department which shall be manually
17 recorded by the terminal supplier, wholesaler, importer, or
18 exporter on the shipping paper prior to importing the fuel
19 into this state. ~~The terminal supplier, if the licensed~~
20 ~~wholesaler, importer, or exporter fails to timely notify the~~
21 ~~terminal supplier or position holder pursuant to paragraph (a)~~
22 ~~to obtain a corrected invoice, the licensed wholesaler,~~
23 importer, or exporter is shall be liable for reporting and
24 remitting to report and remit all applicable taxes on ~~said~~
25 fuel with the return required pursuant to s. 206.43.

26 (c) If a wholesaler or exporter diverts to this state,
27 within 3 consecutive months, more than six loads of fuel which
28 were originally destined for allocation outside the state, the
29 wholesaler or exporter must register as an importer within 30
30 days after such diversion. A wholesaler or exporter who

31

1 violates this paragraph is subject to the penalties prescribed
2 under ss. 206.413 and 206.872.

3 Section 12. Section 206.485, Florida Statutes, is
4 amended to read:

5 206.485 Tracking system reporting requirements.--

6 (1) The information required for tracking movements of
7 petroleum products pursuant to ss. 206.08, 206.09, 206.095,
8 and 206.48 shall be submitted in the manner prescribed by the
9 executive director of the department by rule. The rule shall
10 include, but not be limited to, the data elements, the format
11 of the data elements, and the method and medium of
12 transmission to the department.

13 (2) Any person liable for reporting under this chapter
14 who fails to meet the requirements of this section within 3
15 months after notification of such failure by the department
16 shall, in addition to all other penalties prescribed by this
17 chapter, be subject to an additional penalty of \$5,000 for
18 each month such failure continues.

19 Section 13. Subsection (1) of section 206.86, Florida
20 Statutes, is amended, and subsections (14) and (15) are added
21 to that subsection to read:

22 206.86 Definitions.--As used in this part:

23 (1) "Diesel fuel" means all petroleum distillates
24 commonly known as diesel #2, biodiesel, or any other product
25 blended with diesel or any product placed into the storage
26 supply tank of a diesel-powered motor vehicle.

27 (14) "Biodiesel" means any product made from
28 nonpetroleum-base oils or fats which is suitable for use in
29 diesel-powered engines. Biodiesel is also referred to as alkyl
30 esters.

31

1 (15) "Biodiesel manufacturer" means those industrial
2 plants, regardless of capacity, where organic products are
3 used in the production of biodiesel. This includes businesses
4 that process or blend organic products that are marketed as
5 biodiesel.

6 Section 14. Section 206.89, Florida Statutes, is
7 amended to read:

8 206.89 Licenses; necessity; prerequisites; issuance;
9 nonassignability.--

10 (1)(a) A ~~No~~ person may not ~~shall~~ act as a retailer
11 ~~wholesaler~~ of alternative fuel unless he or she holds a valid
12 retailer ~~wholesaler~~ of alternative fuel license issued by the
13 department. A person who has no facilities for placing diesel
14 fuel into the supply system of a motor vehicle and who sells
15 into containers of 5 gallons or less is ~~shall not be~~ required
16 to be licensed as a retailer ~~wholesaler~~ of alternative fuel.

17 (b) Any person who acts as a retailer ~~wholesaler~~ of
18 alternative fuel and does not hold a valid retailer ~~wholesaler~~
19 of alternative fuel license shall pay a penalty of 25 percent
20 of the tax assessed on the total purchases.

21 (2) To procure a retailer ~~wholesaler~~ of alternative
22 fuel license, a person must ~~shall~~ file with the department an
23 application in such form as the department may prescribe, with
24 a bond. A ~~No~~ license may not ~~shall~~ be issued upon any
25 application unless accompanied by such bond, except as
26 provided in s. 206.90(1).

27 (3) When an application for a retailer ~~wholesaler~~ of
28 alternative fuel license is filed by a person whose license
29 has been canceled for cause by the department or when the
30 department is of the opinion that such application is not
31 filed in good faith or is filed by some person as a subterfuge

1 for the real person in interest whose license has theretofore
2 been canceled, the department may ~~shall have authority~~, if the
3 evidence warrants, ~~to~~ refuse to issue to that person a
4 license.

5 (4) At the time of filing an application for a
6 license, a filing fee of \$5 shall be paid to the department
7 for deposit into the General Revenue Fund.

8 (5) All requirements of this section having been
9 complied with, the department shall issue to the applicant a
10 license, and such license shall remain in effect until
11 canceled as provided in this part.

12 (6) Such license may ~~shall~~ not be assigned ~~assignable~~
13 and is ~~shall be~~ valid only for the retailer ~~wholesaler~~ of
14 alternative fuel in whose name it is issued. It shall be
15 displayed conspicuously by the retailer ~~wholesaler~~ of
16 alternative fuel in the principal place of business for which
17 it was issued.

18 (7) Every person as defined in this part, except those
19 licensed under this chapter, including, but not limited to, a
20 state agency, federal agency, municipality, county, or special
21 district, which operates as a retailer ~~wholesaler~~ of
22 alternative fuel must ~~and~~ report monthly to the department
23 and, ~~or~~ pay tax on all fuel purchases.

24 Section 15. Effective January 1, 2004, subsections (2)
25 and (3) of section 212.0606, Florida Statutes, are amended to
26 read:

27 212.0606 Rental car surcharge.--

28 (2)(a) Notwithstanding the provisions of section
29 212.20, and less costs of administration, 80 percent of the
30 proceeds of this surcharge shall be deposited in the State
31 Transportation Trust Fund, 15.75 percent of the proceeds of

1 this surcharge shall be deposited in the Tourism Promotional
2 Trust Fund created in s. 288.122, and 4.25 percent of the
3 proceeds of this surcharge shall be deposited in the Florida
4 International Trade and Promotion Trust Fund. For the purposes
5 of this subsection, "proceeds" of the surcharge means all
6 funds collected and received by the department under this
7 section, including interest and penalties on delinquent
8 surcharges. The department shall provide such information to
9 the Department of Transportation.

10 (b) Notwithstanding any other provision of law, in
11 fiscal year 2007-2008 and each year thereafter, the proceeds
12 deposited in the State Transportation Trust Fund shall be
13 allocated on an annual basis in the Department of
14 Transportation's work program to each department district,
15 except the Turnpike District. The amount allocated for each
16 district shall be based upon the amount of proceeds collected
17 in the counties within each respective district.

18 (3) Except as provided in this section, the department
19 shall administer, collect, and enforce the surcharge as
20 provided in this chapter. The department may require dealers
21 to report surcharge collections according to the county where
22 the surcharge was collected.The provisions of this chapter
23 which apply to interest and penalties on delinquent taxes
24 shall apply to the surcharge. The surcharge shall not be
25 included in the calculation of estimated taxes pursuant to s.
26 212.11. The dealer's credit provided in s. 212.12 shall not
27 apply to any amount collected under this section.

28 Section 16. Paragraph (a) of subsection (4) of section
29 212.08, Florida Statutes, is amended to read:

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

1 the rental, the use, the consumption, the distribution, and
2 the storage to be used or consumed in this state of the
3 following are hereby specifically exempt from the tax imposed
4 by this chapter.

5 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
6 ETC.--

7 (a) Also exempt are:

8 1. Water delivered to the purchaser through pipes or
9 conduits or delivered for irrigation purposes. The sale of
10 drinking water in bottles, cans, or other containers,
11 including water that contains minerals or carbonation in its
12 natural state or water to which minerals have been added at a
13 water treatment facility regulated by the Department of
14 Environmental Protection or the Department of Health, is
15 exempt. This exemption does not apply to the sale of drinking
16 water in bottles, cans, or other containers if carbonation or
17 flavorings, except those added at a water treatment facility,
18 have been added. Water that has been enhanced by the addition
19 of minerals and that does not contain any added carbonation or
20 flavorings is also exempt.

21 2. All fuels used by a public or private utility,
22 including any municipal corporation or rural electric
23 cooperative association, in the generation of electric power
24 or energy for sale. Fuel other than motor fuel and diesel
25 fuel is taxable as provided in this chapter with the exception
26 of fuel expressly exempt herein. Motor fuels and diesel fuels
27 are taxable as provided in chapter 206, with the exception of
28 those motor fuels and diesel fuels used by railroad
29 locomotives or vessels to transport persons or property in
30 interstate or foreign commerce, which are taxable under this
31 chapter only to the extent provided herein. The basis of the

1 tax shall be the ratio of intrastate mileage to interstate or
2 foreign mileage traveled by the carrier's railroad locomotives
3 or vessels that were used in interstate or foreign commerce
4 and that had at least some Florida mileage during the previous
5 fiscal year of the carrier, such ratio to be determined at the
6 close of the fiscal year of the carrier. However, during the
7 fiscal year in which the carrier begins its initial operations
8 in this state, the carrier's mileage apportionment factor may
9 be determined on the basis of an estimated ratio of
10 anticipated miles in this state to anticipated total miles for
11 that year, and subsequently, additional tax shall be paid on
12 the motor fuel and diesel fuels, or a refund may be applied
13 for, on the basis of the actual ratio of the carrier's
14 railroad locomotives' or vessels' miles in this state to its
15 total miles for that year.This ratio shall be applied each
16 month to the total Florida purchases made in this state of
17 motor and diesel fuels to establish that portion of the total
18 used and consumed in intrastate movement and subject to tax
19 under this chapter. The basis for imposition of any
20 discretionary surtax shall be set forth in s. 212.054. Fuels
21 used exclusively in intrastate commerce do not qualify for the
22 proration of tax.

23 3. The transmission or wheeling of electricity.

24 Section 17. Subsections (1), (2), (9), (10), and (11)
25 of section 212.12, Florida Statutes, are amended to read:

26 212.12 Dealer's credit for collecting tax; penalties
27 for noncompliance; powers of Department of Revenue in dealing
28 with delinquents; brackets applicable to taxable transactions;
29 records required.--

30 (1) Notwithstanding any other provision of law and for
31 the purpose of compensating persons granting licenses for and

1 the lessors of real and personal property taxed hereunder, for
2 the purpose of compensating dealers in tangible personal
3 property, for the purpose of compensating dealers providing
4 communication services and taxable services, for the purpose
5 of compensating owners of places where admissions are
6 collected, and for the purpose of compensating remitters of
7 any taxes or fees reported on the same documents utilized for
8 the sales and use tax, as compensation for the keeping of
9 prescribed records, filing timely tax returns, and the proper
10 accounting and remitting of taxes by them, such seller,
11 person, lessor, dealer, owner, and remitter (except dealers
12 who make mail order sales) shall be allowed 2.5 percent of the
13 amount of the tax due and accounted for and remitted to the
14 department, in the form of a deduction in submitting his or
15 her report and paying the amount due by him or her; the
16 department shall allow such deduction of 2.5 percent of the
17 amount of the tax to the person paying the same for remitting
18 the tax and making of tax returns in the manner herein
19 provided, for paying the amount due to be paid by him or her,
20 and as further compensation to dealers in tangible personal
21 property for the keeping of prescribed records and for
22 collection of taxes and remitting the same. However, if the
23 amount of the tax due and remitted to the department for the
24 reporting period exceeds \$1,200, no allowance shall be allowed
25 for all amounts in excess of \$1,200. The executive director of
26 the department is authorized to negotiate a collection
27 allowance, pursuant to rules promulgated by the department,
28 with a dealer who makes mail order sales. The rules of the
29 department shall provide guidelines for establishing the
30 collection allowance based upon the dealer's estimated costs
31 of collecting the tax, the volume and value of the dealer's

1 mail order sales to purchasers in this state, and the
2 administrative and legal costs and likelihood of achieving
3 collection of the tax absent the cooperation of the dealer.
4 However, in no event shall the collection allowance negotiated
5 by the executive director exceed 10 percent of the tax
6 remitted for a reporting period.

7 ~~(a) The collection allowance may not be granted, nor~~
8 ~~may any deduction be permitted, if the required tax return or~~
9 ~~tax is delinquent at the time of payment.~~

10 (a)~~(b)~~ The Department of Revenue may deny the
11 collection allowance if a taxpayer files an incomplete return
12 or if the required tax return or tax is delinquent at the time
13 of payment.

14 1. An "incomplete return" is, for purposes of this
15 chapter, a return which is lacking such uniformity,
16 completeness, and arrangement that the physical handling,
17 verification, review of the return, or determination of other
18 taxes and fees reported on the return may not be readily
19 accomplished.

20 2. The department shall adopt rules requiring such
21 information as it may deem necessary to ensure that the tax
22 levied hereunder is properly collected, reviewed, compiled,
23 reported, and enforced, including, but not limited to: the
24 amount of gross sales; the amount of taxable sales; the amount
25 of tax collected or due; the amount of lawful refunds,
26 deductions, or credits claimed; the amount claimed as the
27 dealer's collection allowance; the amount of penalty and
28 interest; the amount due with the return; and such other
29 information as the Department of Revenue may specify. The
30 department shall require that transient rentals and
31 agricultural equipment transactions be separately shown. Sales

1 made through vending machines as defined in s. 212.0515 must
2 be separately shown on the return. Sales made through
3 coin-operated amusement machines as defined by s. 212.02 and
4 the number of machines operated must be separately shown on
5 the return or on a form prescribed by the department. If a
6 separate form is required, the same penalties for late filing,
7 incomplete filing, or failure to file as provided for the
8 sales tax return shall apply to said form.

9 (b)(c) The collection allowance and other credits or
10 deductions provided in this chapter shall be applied
11 proportionally to any taxes or fees reported on the same
12 documents used for the sales and use tax.

13 (2)(a) When any person, ~~firm, or corporation~~ required
14 hereunder to make any return or to pay any tax or fee imposed
15 by this chapter either fails to timely file such return or
16 fails to pay the tax or fee shown due on the return within the
17 time required hereunder, in addition to all other penalties
18 provided herein and by the laws of this state in respect to
19 such taxes or fees, a specific penalty shall be added to the
20 tax or fee in the amount of 10 percent of either the tax or
21 fee shown on the return that is not timely filed or any unpaid
22 tax or fee not paid timely if the failure is for not more than
23 30 days, with an additional 10 percent of any unpaid tax or
24 fee for each additional 30 days, or fraction thereof, during
25 the time which the failure continues, not to exceed a total
26 penalty of 50 percent, in the aggregate, of any unpaid tax or
27 fee. In no event may The penalty may not be less than \$50 ~~\$10~~
28 for failure to timely file a tax return required by s.
29 212.11(1)(b) or timely pay the tax or fee shown due on the
30 return except as provided in s. 213.21(10). If a person fails
31 to timely file a return required by s. 212.11(1) and to timely

1 pay the tax or fee shown due on the return, only one penalty
2 of 10 percent, which may not exceed \$50, shall be imposed \$5
3 for failure to timely file a tax return authorized by s.
4 212.11(1)(c) or (d).

5 (b) When any person required under this section to
6 make a return or to pay a tax or fee imposed by this chapter
7 fails to disclose the tax or fee on the return within the time
8 required, excluding a noncompliant filing event generated by
9 situations covered in paragraph (a), in addition to all other
10 penalties provided in this section and by the laws of this
11 state in respect to such taxes or fees, a specific penalty
12 shall be added to the additional tax or fee owed in the amount
13 of 10 percent of any such unpaid tax or fee not paid timely if
14 the failure is for not more than 30 days, with an additional
15 10 percent of any such unpaid tax or fee for each additional
16 30 days, or fraction thereof, while the failure continues, not
17 to exceed a total penalty of 50 percent, in the aggregate, of
18 any unpaid tax or fee.

19 (c)(b) Any person who knowingly and with a willful
20 intent to evade any tax imposed under this chapter fails to
21 file six consecutive returns as required by law commits a
22 felony of the third degree, punishable as provided in s.
23 775.082 or s. 775.083.

24 (d)(e) Any person who makes a false or fraudulent
25 return with a willful intent to evade payment of any tax or
26 fee imposed under this chapter shall, in addition to the other
27 penalties provided by law, be liable for a specific penalty of
28 100 percent of the tax bill or fee and, upon conviction, for
29 fine and punishment as provided in s. 775.082, s. 775.083, or
30 s. 775.084.

31

1 1. If the total amount of unreported taxes or fees is
2 less than \$300, the first offense resulting in conviction is a
3 misdemeanor of the second degree, the second offense resulting
4 in conviction is a misdemeanor of the first degree, and the
5 third and all subsequent offenses resulting in conviction is a
6 misdemeanor of the first degree, and the third and all
7 subsequent offenses resulting in conviction are felonies of
8 the third degree.

9 2. If the total amount of unreported taxes or fees is
10 \$300 or more but less than \$20,000, the offense is a felony of
11 the third degree.

12 3. If the total amount of unreported taxes or fees is
13 \$20,000 or more but less than \$100,000, the offense is a
14 felony of the second degree.

15 4. If the total amount of unreported taxes or fees is
16 \$100,000 or more, the offense is a felony of the first degree.

17 (e)~~(d)~~ When any person, firm, or corporation fails to
18 timely remit the proper estimated payment required under s.
19 212.11, a specific penalty shall be added in an amount equal
20 to 10 percent of any unpaid estimated tax. Beginning with
21 January 1, 1985, returns, the department, upon a showing of
22 reasonable cause, is authorized to waive or compromise
23 penalties imposed by this paragraph. However, other penalties
24 and interest shall be due and payable if the return on which
25 the estimated payment was due was not timely or properly
26 filed.

27 (f)~~(e)~~ Dealers filing a consolidated return pursuant
28 to s. 212.11(1)(e) shall be subject to the penalty established
29 in paragraph(e)~~(d)~~ unless the dealer has paid the required
30 estimated tax for his or her consolidated return as a whole
31 without regard to each location. If the dealer fails to pay

1 the required estimated tax for his or her consolidated return
2 as a whole, each filing location shall stand on its own with
3 respect to calculating penalties pursuant to paragraph(e)
4 ~~(d)~~.

5 (9) Taxes imposed by this chapter upon the privilege
6 of the use, consumption, storage for consumption, or sale of
7 tangible personal property, admissions, license fees, rentals,
8 communication services, and upon the sale or use of services
9 as herein taxed shall be collected upon the basis of an
10 addition of the tax imposed by this chapter to the total price
11 of such admissions, license fees, rentals, communication or
12 other services, or sale price of such article or articles that
13 are purchased, sold, or leased at any one time by or to a
14 customer or buyer; the dealer, or person charged herein, is
15 required to pay a privilege tax in the amount of the tax
16 imposed by this chapter on the total of his or her gross sales
17 of tangible personal property, admissions, license fees,
18 rentals, and communication services or to collect a tax upon
19 the sale or use of services, and such person or dealer shall
20 add the tax imposed by this chapter to the price, license fee,
21 rental, or admissions, and communication or other services and
22 collect the total sum from the purchaser, admittee, licensee,
23 lessee, or consumer. The department shall make available in
24 an electronic format or otherwise the tax amounts and
25 ~~Notwithstanding the rate of taxes imposed upon the privilege~~
26 ~~of sales, admissions, license fees, rentals, and communication~~
27 ~~services, or upon the sale or use of services,~~ the following
28 brackets shall be applicable to all transactions taxable at
29 the rate of 6 percent:

30 (a) On single sales of less than 10 cents, no tax
31 shall be added.

1 (b) On single sales in amounts from 10 cents to 16
2 cents, both inclusive, 1 cent shall be added for taxes.

3 (c) On sales in amounts from 17 cents to 33 cents,
4 both inclusive, 2 cents shall be added for taxes.

5 (d) On sales in amounts from 34 cents to 50 cents,
6 both inclusive, 3 cents shall be added for taxes.

7 (e) On sales in amounts from 51 cents to 66 cents,
8 both inclusive, 4 cents shall be added for taxes.

9 (f) On sales in amounts from 67 cents to 83 cents,
10 both inclusive, 5 cents shall be added for taxes.

11 (g) On sales in amounts from 84 cents to \$1, both
12 inclusive, 6 cents shall be added for taxes.

13 (h) On sales in amounts of more than \$1, 6 percent
14 shall be charged upon each dollar of price, plus the
15 appropriate bracket charge upon any fractional part of a
16 dollar.

17 (10) In counties which have adopted a discretionary
18 sales surtax at the rate of 1 percent, the department shall
19 make available in an electronic format or otherwise the tax
20 amounts and the following brackets ~~shall be~~ applicable to all
21 taxable transactions that ~~which~~ would otherwise have been
22 transactions taxable at the rate of 6 percent:

23 (a) On single sales of less than 10 cents, no tax
24 shall be added.

25 (b) On single sales in amounts from 10 cents to 14
26 cents, both inclusive, 1 cent shall be added for taxes.

27 (c) On sales in amounts from 15 cents to 28 cents,
28 both inclusive, 2 cents shall be added for taxes.

29 (d) On sales in amounts from 29 cents to 42 cents,
30 both inclusive, 3 cents shall be added for taxes.

31

1 (e) On sales in amounts from 43 cents to 57 cents,
2 both inclusive, 4 cents shall be added for taxes.

3 (f) On sales in amounts from 58 cents to 71 cents,
4 both inclusive, 5 cents shall be added for taxes.

5 (g) On sales in amounts from 72 cents to 85 cents,
6 both inclusive, 6 cents shall be added for taxes.

7 (h) On sales in amounts from 86 cents to \$1, both
8 inclusive, 7 cents shall be added for taxes.

9 (i) On sales in amounts from \$1 up to, and including,
10 the first \$5,000 in price, 7 percent shall be charged upon
11 each dollar of price, plus the appropriate bracket charge upon
12 any fractional part of a dollar.

13 (j) On sales in amounts of more than \$5,000 in price,
14 7 percent shall be added upon the first \$5,000 in price, and 6
15 percent shall be added upon each dollar of price in excess of
16 the first \$5,000 in price, plus the bracket charges upon any
17 fractional part of a dollar as provided for in subsection (9).

18 (11) The department shall make available in an
19 electronic format or otherwise ~~is authorized to provide by~~
20 ~~rule~~ the tax amounts and brackets applicable to all taxable
21 transactions that occur in counties that have a surtax at a
22 rate other than 1 percent which transactions would otherwise
23 have been transactions taxable at the rate of 6 percent.
24 Likewise, the department shall make available in an electronic
25 format or otherwise ~~is authorized to promulgate by rule~~ the
26 tax amounts and brackets applicable to transactions taxable at
27 2.5 or 3 percent pursuant to s. 212.08(3), transactions
28 taxable at 7 percent pursuant to s. 212.05(1)(e), and on
29 transactions which would otherwise have been so taxable in
30 counties which have adopted a discretionary sales surtax.

31

1 Section 18. Effective upon this act becoming a law,
2 paragraph (a) of subsection (7) of section 213.21, Florida
3 Statutes, is amended to read:

4 213.21 Informal conferences; compromises.--

5 (7)(a) When a taxpayer voluntarily self-discloses a
6 liability for tax to the department, the department may settle
7 and compromise the tax and interest due under the voluntary
8 self-disclosure to those amounts due for the 3 5 years
9 immediately preceding the date that the taxpayer initially
10 contacted the department concerning the voluntary
11 self-disclosure. For purposes of this paragraph, the term
12 "years" means tax years or calendar years, whichever is
13 applicable to the tax that is voluntarily self-disclosed. A
14 voluntary self-disclosure does not occur if the department has
15 contacted or informed the taxpayer that the department is
16 inquiring into the taxpayer's liability for tax or whether the
17 taxpayer is subject to tax in this state.

18 Section 19. The amendment to section 213.21, Florida
19 Statutes, made by this act shall take effect upon becoming a
20 law and applies to any voluntary self-disclosure made to the
21 Department of Revenue on or after that date.

22 Section 20. Paragraphs (c) and (d) of subsection (1)
23 of section 336.021, Florida Statutes, are amended to read:

24 336.021 County transportation system; levy of
25 ninth-cent fuel tax on motor fuel and diesel fuel.--

26 (1)

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

30 1. The fiscal year of July 1, 1995, through June 30,
31 1996, shall be the base year for all distributions.

1 2. Each year the tax collected, less the service and
2 administrative charges enumerated in s. 215.20 and the
3 allowances allowed under s. 206.91, on the number of gallons
4 reported, up to the total number of gallons reported in the
5 base year, shall be distributed to each county using the
6 distribution percentage calculated for the base year.

7 3. After the distribution of taxes pursuant to
8 subparagraph 2., additional taxes available for distribution
9 shall first be distributed pursuant to this subparagraph. A
10 distribution shall be made to each county in which a qualified
11 new retail station is located. A qualified new retail station
12 is a retail station that began operation after June 30, 1996,
13 and that has sales of diesel fuel exceeding 50 percent of the
14 sales of diesel fuel reported in the county in which it is
15 located during the 1995-1996 state fiscal year. The
16 determination of whether a new retail station is qualified
17 shall be based on the total gallons of diesel fuel sold at the
18 station during each full month of operation during the
19 12-month period ending January 31 ~~March 31~~, divided by the
20 number of full months of operation during those 12 months, and
21 the result multiplied by 12. The amount distributed pursuant
22 to this subparagraph to each county in which a qualified new
23 retail station is located shall equal the local option taxes
24 due on the gallons of diesel fuel sold by the new retail
25 station during the year ending January 31 ~~March 31~~, less the
26 service charges enumerated in s. 215.20 and the dealer
27 allowance provided for by s. 206.91. Gallons of diesel fuel
28 sold at the qualified new retail station shall be certified to
29 the department by the county requesting the additional
30 distribution by June 15, 1997, and by March 1 ~~May 1~~ in each
31 subsequent year. The certification shall include the beginning

1 inventory, fuel purchases and sales, and the ending inventory
2 for the new retail station for each month of operation during
3 the year, the original purchase invoices for the period, and
4 any other information the department deems reasonable and
5 necessary to establish the certified gallons. The department
6 may review and audit the retail dealer's records provided to a
7 county to establish the gallons sold by the new retail
8 station. Notwithstanding the provisions of this subparagraph,
9 when more than one county qualifies for a distribution
10 pursuant to this subparagraph and the requested distributions
11 exceed the total taxes available for distribution, each county
12 shall receive a prorated share of the moneys available for
13 distribution.

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

1 facility type shall be that established by the Department of
2 Environmental Protection by June 1, 1997, for the 1996-1997
3 fiscal year, and by January 31 for each succeeding fiscal
4 year. The storage capacities so established shall be final.
5 The storage capacity for any new retail station for which a
6 county receives a distribution pursuant to subparagraph 3.
7 shall not be included in the calculations pursuant to this
8 subparagraph.

9 (d) The tax received by the department on motor fuel
10 pursuant to this paragraph shall be distributed monthly by the
11 department to the county reported by the terminal suppliers,
12 wholesalers, and importers as the destination of the gallons
13 distributed for retail sale or use. The tax on diesel fuel
14 shall be distributed monthly by the department to each county
15 as provided in paragraph (c).

16 Section 21. Effective January 1, 2004, subsection (20)
17 of section 443.036, Florida Statutes, is amended to read:

18 443.036 Definitions.--As used in this chapter, unless
19 the context clearly requires otherwise:

20 (20) EMPLOYING UNIT.--"Employing unit" means any
21 individual or type of organization, including any partnership,
22 limited liability company, association, trust, estate,
23 joint-stock company, insurance company, or corporation,
24 whether domestic or foreign; the receiver, trustee in
25 bankruptcy, trustee, or successor of any of the foregoing; or
26 the legal representative of a deceased person, which has or
27 had in its employ one or more individuals performing services
28 for it within this state.

29 (a) Each individual employed to perform or to assist
30 in performing the work of any agent or employee of an
31 employing unit shall be deemed to be employed by such

1 | employing unit for all the purposes of this chapter, whether
2 | such individual was hired or paid directly by such employing
3 | unit or by such agent or employee, provided the employing unit
4 | had actual or constructive knowledge of the work.

5 | (b) All individuals performing services within this
6 | state for any employing unit which maintains two or more
7 | separate establishments within this state shall be deemed to
8 | be performing services for a single employing unit for all the
9 | purposes of this chapter.

10 | (c) Any person who is an officer of a corporation or a
11 | member of a limited liability company classified as a
12 | corporation for federal income tax purposes and who performs
13 | services for such corporation or limited liability company
14 | within this state, whether or not such services are
15 | continuous, shall be deemed an employee of the corporation or
16 | the limited liability company during all of each week of his
17 | or her tenure of office, regardless of whether or not he or
18 | she is compensated for such services. Services shall be
19 | presumed to have been rendered the corporation in cases where
20 | such officer is compensated by means other than dividends upon
21 | shares of stock of such corporation owned by him or her.

22 | (d) A limited liability company shall be treated as
23 | having the same status as that in which it is classified for
24 | federal income tax purposes.

25 | Section 22. Effective January 1, 2004, paragraph (g)
26 | of subsection (3) of section 443.131, Florida Statutes, is
27 | amended to read:

28 | 443.131 Contributions.--

29 | (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

30 | (g)1. For the purposes of this subsection, two or more
31 | employers who are parties to a transfer of business or the

1 subject of a merger, consolidation, or other form of
2 reorganization, effecting a change in legal identity or form,
3 shall be deemed to be a single employer and shall be
4 considered as one employer with a continuous employment record
5 if the department ~~division~~ finds that the successor employer
6 continues to carry on the employing enterprises of the
7 predecessor employer or employers and that the successor
8 employer has paid all contributions required of and due from
9 the predecessor employer or employers and has assumed
10 liability for all contributions that may become due from the
11 predecessor employer or employers. As used in this paragraph,
12 the term "contributions" means all indebtedness to the
13 department ~~division~~, including, but not limited to, interest,
14 penalty, collection fee, and service fee. A successor has 30
15 days from the date of the official notification of liability
16 by succession to accept the transfer of the predecessor's or
17 predecessors' employment record or records. If the predecessor
18 or predecessors have unpaid contributions or outstanding
19 quarterly reports, the successor has 30 days from the date of
20 the notice listing the total amount due to pay the total
21 amount with certified funds. After the total indebtedness has
22 been paid, the employment record or records of the predecessor
23 or predecessors will be transferred to the successor.
24 ~~Employment records may be transferred by the division.~~The tax
25 rate of total successor and predecessor upon the transfer of
26 employment records shall be determined by the department
27 ~~division~~ as prescribed by rule in order to calculate any tax
28 rate change resulting from the transfer of employment records.
29 To carry on the employing enterprises of the predecessor
30 employer or employers means the obligation of the successor to
31 both continue the same type of business as was primarily

1 conducted by the predecessor during the 2 quarters immediately
2 preceding the succession, irrespective of any other line of
3 business in which the successor may engage, and to continue to
4 employ at least 50 percent of the number of the predecessor's
5 employees, if any, as reported by the predecessor in the
6 quarter prior to the succession in the same type of business.
7 In determining whether the same type of business has been
8 continued, the department shall consider the NAICS
9 classification of the predecessor and the successor; however,
10 the classification is not determinative and may be rebutted
11 with other evidence of the continuation of the same type of
12 business. The obligation to carry on the employing enterprises
13 of the predecessor employer or employers shall continue for 1
14 calendar year from the date of succession. The successor shall
15 notify the department of the succession, in writing, within 90
16 days after the date of the succession or the department shall
17 deny the application for succession. If, within 1 year from
18 the date of the succession, the department determines that the
19 successor has not continued the employing enterprises, the
20 department shall redetermine the tax rate for the parties
21 retroactively as of the date of the succession, irrespective
22 of whether the tax rate has become final pursuant to paragraph
23 (i). If, within 2 years after the date of the succession, the
24 department determines that one or more parties to the transfer
25 intentionally submitted materially inaccurate information, the
26 department shall redetermine the tax rate for the parties
27 retroactively as of the date of the succession, irrespective
28 of whether the tax rate has become final pursuant to paragraph
29 (i). The department shall approve or deny the transfer,
30 subject to the successor's right after notification by the
31 department to accept or reject the employment records, within

1 60 days after the receipt of a completed application, all
2 required reports, and payment of all taxes due. The department
3 may adopt rules necessary to administer this paragraph.

4 2. Whether or not there is a transfer of employment
5 record as contemplated in this paragraph, the predecessor
6 shall in the event he or she again employs persons be treated
7 as an employer without previous employment record or, if his
8 or her coverage has been terminated as provided in s. 443.121,
9 as a new employing unit.

10 3. The division may provide by rule for partial
11 transfer of experience rating when an employer has transferred
12 at any time an identifiable and segregable portion of his or
13 her payrolls and business to a successor employing unit. As a
14 condition of such partial transfer of experience, the rules
15 shall require an application by the successor, agreement by
16 the predecessor, and such evidence as the division may
17 prescribe of the experience and payrolls attributable to the
18 transferred portion up to the date of transfer. The rules
19 shall provide that the successor employing unit, if not
20 already an employer, shall become an employer as of the date
21 of the transfer and that the experience of the transferred
22 portion of the predecessor's account shall be removed from the
23 experience-rating record of the predecessor, and for each
24 calendar year following the date of the transfer of the
25 employment record on the books of the division, the division
26 shall compute the rate of contribution payable by the
27 successor on the basis of his or her experience, if any,
28 combined with the experience of the portion of the record
29 transferred. The rules may also provide what rates shall be
30 payable by the predecessor and successor employers for the
31 period between the date of the transfer of the employment

1 record of the transferred unit on the books of the division
2 and the first day of the next calendar year.

3 4. This paragraph shall not apply to the employee
4 leasing company and client contractual agreement as defined in
5 s. 443.036. The client shall, in the event of termination of
6 the contractual agreement or failure by the employee leasing
7 company to submit reports or pay contributions as required by
8 the division, be treated as a new employer without previous
9 employment record unless otherwise eligible for a rate
10 computation.

11 5. Notwithstanding any other provision of this
12 chapter, any employer that transfers more than 500 employees
13 in any calendar quarter to an employing unit, will also be
14 deemed to have transferred a corresponding percentage of its
15 employment records to the employing unit. The percentage shall
16 be calculated by dividing the number of employees transferred
17 by the total number of employees of the employer, as reported
18 to the Agency for Workforce Innovation or its designee, for
19 the quarter prior to the transfer. The employing unit to whom
20 the employees were transferred shall report the transfer to
21 the Agency for Workforce Innovation or its designee on or
22 before the last day of the month following the calendar
23 quarter in which the transfer occurred. An employing unit that
24 fails to timely report the transfer shall pay the sum of \$10
25 for each employee not reported for each quarter that the
26 employee is not reported unless the Agency for Workforce
27 Innovation or its designee finds that the employing unit has
28 or had good reason for failure to file such report or reports.
29 The employment-records transfer becomes effective at the
30 beginning of the quarter in which the aforesaid transfer was
31 made to the employing unit. In addition, the Agency for

1 Workforce Innovation or its designee may, at any time within 5
2 years after the date of the transfer, recalculate the tax rate
3 for the year in which the transfer occurred, and all
4 subsequent years, for all employers involved in a transfer.
5 For purposes of this section, employment records are those
6 factors that are used to calculate the employer's tax rate in
7 accordance with this section. This subparagraph does not apply
8 to any transfer of employees which occurs prior to July 1,
9 2003. The Agency for Workforce Innovation or its designee may
10 adopt rules necessary to administer this subparagraph.

11 Section 23. Section 443.1316, is amended to read:
12 443.1316 Contract with Department of Revenue for
13 unemployment tax collection services.--By January 1, 2001, the
14 Agency for Workforce Innovation shall enter into a contract
15 with the Department of Revenue which shall provide for the
16 Department of Revenue to provide unemployment tax collection
17 services. Section 216.346 does not apply to the contract.The
18 Department of Revenue, in consultation with the Department of
19 Labor and Employment Security, shall determine the number of
20 positions needed to provide unemployment tax collection
21 services within the Department of Revenue. The number of
22 unemployment tax collection service positions the Department
23 of Revenue determines are needed shall not exceed the number
24 of positions that, prior to the contract, were authorized to
25 the Department of Labor and Employment Security for this
26 purpose. Upon entering into the contract with the Agency for
27 Workforce Innovation to provide unemployment tax collection
28 services, the number of required positions, as determined by
29 the Department of Revenue, shall be authorized within the
30 Department of Revenue. Beginning January 1, 2002, the Office
31 of Program Policy Analysis and Government Accountability shall

1 | conduct a feasibility study regarding privatization of
2 | unemployment tax collection services. A report on the
3 | conclusions of this study shall be submitted to the Governor,
4 | the President of the Senate, and the Speaker of the House of
5 | Representatives. The Department of Revenue is considered to be
6 | administering a revenue law of this state when the department
7 | provides unemployment compensation tax collection services
8 | pursuant to a contract of the department with the Agency for
9 | Workforce Innovation. Sections 213.018, 213.025, 213.051,
10 | 213.053, 213.055, 213.071, 213.10, 213.2201, 213.23,
11 | 213.24(2), 213.27, 213.28, 213.285, 213.37, 213.50, 213.67,
12 | 213.69, 213.73, 213.733, 213.74, and 213.757 apply to the
13 | collection of unemployment contributions by the Department of
14 | Revenue unless prohibited by federal law.

15 | Section 24. Section 832.062, Florida Statutes, is
16 | amended to read:

17 | 832.062 Prosecution for worthless checks, drafts, ~~or~~
18 | debit card orders, or electronic funds transfers made ~~given~~ to
19 | pay any tax or associated amount administered by the
20 | Department of Revenue.--

21 | (1) It is unlawful for any person, firm, or
22 | corporation to draw, make, utter, issue, or deliver to the
23 | Department of Revenue any check, draft, or other written order
24 | on any bank or depository, ~~or~~ to use a debit card, to make,
25 | send, instruct, order, or initiate any electronic funds
26 | transfer, or to cause or direct the making, sending,
27 | instructing, ordering, or initiating of any electronic funds
28 | transfer, for the payment of any taxes, penalties, interest,
29 | fees, or associated amounts administered by the Department of
30 | Revenue, knowing at the time of the drawing, making, uttering,
31 | issuing, or delivering such check, draft, or other written

1 order, ~~or~~ at the time of using such debit card, at the time of
2 making, sending, instructing, ordering, or initiating any
3 electronic funds transfer, or at the time of causing or
4 directing the making, sending, instructing, ordering,
5 initiating, or executing of any electronic funds transfer,
6 that the maker, ~~or~~ drawer, sender, or receiver thereof has not
7 sufficient funds on deposit in or credit with such bank or
8 depository with which to pay the same on presentation. ~~7 except~~
9 ~~that~~ This section does not apply to any check or electronic
10 funds transfer when the Department of Revenue knows or has
11 been expressly notified prior to the drawing or uttering of
12 the check or the sending or initiating of the electronic funds
13 transfer, or has reason to believe, that the drawer, sender,
14 or receiver did not have on deposit or to the drawer's,
15 sender's, or receiver's credit with the drawee or receiving
16 bank or depository sufficient funds to ensure payment as
17 aforesaid, and ~~nor does~~ this section does not apply to any
18 postdated check.

19 (2) A violation of ~~the provisions of~~ this section
20 constitutes a misdemeanor of the second degree, punishable as
21 provided in s. 775.082 or s. 775.083, unless the check, draft,
22 debit card order, or other written order drawn, made, uttered,
23 issued, or delivered, or electronic funds transfer made, sent,
24 instructed, ordered, or initiated, or caused or directed to be
25 made, sent, instructed, ordered, or initiated is in the amount
26 of \$150 or more. In that event, the violation constitutes a
27 felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 (3) For purposes of prosecution, a violation under
30 this section occurs in the county in which the check is issued
31 or the electronic funds transfer is sent and in the county in

1 which it is received. A check will be deemed issued at the
2 residence address of an individual taxpayer and at the
3 business address of a business taxpayer.

4 Section 25. Subsection (2) of section 206.052, Florida
5 Statutes, is amended to read:

6 206.052 Export of tax-free fuels.--

7 (2) A licensed exporter shall not divert for sale or
8 use in this state any fuel designated to a destination outside
9 this state without first obtaining a diversion number from the
10 department as specified in s. 206.416(1)(b)~~s. 206.416(1)(d)~~
11 and manually recording that number on the shipping paper prior
12 to diversion of fuel for sale or use in this state.

13 Section 26. Subsection (13) of section 199.052,
14 Florida Statutes, is repealed.

15 Section 27. Except as otherwise expressly provided in
16 this act, this act shall take effect July 1, 2003.

17 *****

18
19 SENATE SUMMARY

20 Revises various provisions governing tax administration.
21 Provides penalties for failing to report revenue and
22 taxes due under the local communications services tax.
23 Requires persons engaging in business as a biodiesel
24 manufacturer to obtain a license from the Department of
25 Revenue. Revises requirements for collecting the local
26 option fuel taxes. Requires certain wholesalers or
27 exporters to register as an importer. Requires the
28 licensure of retailers of alternative fuels. Revises
29 requirements for reporting the rental car surcharge.
30 Provides additional penalties for failing to timely
31 disclose certain taxes or fees. Deletes a requirement
that the Department of Revenue establish certain tax
amounts and brackets by rule. Changes the period for
voluntary disclosure of a tax liability from 5 years to 3
years. Revises certain provisions governing the
unemployment compensation tax. Prohibits a taxpayer from
making an electronic funds transfer if the taxpayer knows
at the time of the transfer that funds are insufficient
to cover the transfer. (See bill for details.)