

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Henriquez offered the following:

2 **Amendment (with title amendment)**

3 Remove lines 44-46, and insert:

4 Section 2. Sections 3 through 11 of this act may be  
5 referred to by the popular name the "Florida Motor Fuel Tax  
6 Relief Act of 2004."

7 Section 3. Beginning at 12:01 a.m. August 1, 2004, through  
8 midnight August 31, 2004, the tax levied pursuant to s.  
9 206.41(1)(g), Florida Statutes, shall be reduced by 10 cents per  
10 gallon. During this period, licensed terminal suppliers,  
11 wholesalers, and importers of motor fuel shall charge and  
12 collect the reduced rate of tax on sales of motor fuel to retail  
13 dealers located in this state.

14 Section 4. It is the intent of the Legislature that the  
15 tax reduction set forth in this act be passed on to the ultimate

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16 consumer. The Attorney General may investigate violations of  
17 this act.

18 Section 5. Refunds authorized pursuant to s. 206.41(4),  
19 Florida Statutes, for fuel purchased during the period described  
20 in section 3 shall be reduced by the amount of the tax reduction  
21 set forth in that section.

22 Section 6. The executive director of the Department of  
23 Revenue is authorized to adopt emergency rules under ss.  
24 120.536(1) and 120.54(4), Florida Statutes, to implement the  
25 provisions of this act. Notwithstanding any other law, the  
26 emergency rules shall remain effective for 6 months after the  
27 date of adoption of the rules.

28 Section 7. It is unlawful for a terminal supplier,  
29 wholesaler, importer, reseller, or retail dealer of motor fuel  
30 to retain any part of the tax reduction set forth in this act or  
31 to interfere with providing the full benefit of the tax  
32 reduction to the retail purchaser of motor fuel. Any person  
33 violating the provisions of this act commits a felony of the  
34 third degree, punishable as provided in s. 775.082 or s.  
35 775.083, Florida Statutes.

36 Section 8. Paragraph (a) of subsection (1) of section  
37 16.56, Florida Statutes, is amended to read:

38 16.56 Office of Statewide Prosecution.--

39 (1) There is created in the Department of Legal Affairs an  
40 Office of Statewide Prosecution. The office shall be a separate  
41 "budget entity" as that term is defined in chapter 216. The  
42 office may:

43 (a) Investigate and prosecute the offenses of:

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44 1. Bribery, burglary, criminal usury, extortion, gambling,  
45 kidnapping, larceny, murder, prostitution, perjury, robbery,  
46 carjacking, and home-invasion robbery;

47 2. Any crime involving narcotic or other dangerous drugs;

48 3. Any violation of the provisions of the Florida RICO  
49 (Racketeer Influenced and Corrupt Organization) Act, including  
50 any offense listed in the definition of racketeering activity in  
51 s. 895.02(1)(a), providing such listed offense is investigated  
52 in connection with a violation of s. 895.03 and is charged in a  
53 separate count of an information or indictment containing a  
54 count charging a violation of s. 895.03, the prosecution of  
55 which listed offense may continue independently if the  
56 prosecution of the violation of s. 895.03 is terminated for any  
57 reason;

58 4. Any violation of the provisions of the Florida Anti-  
59 Fencing Act;

60 5. Any violation of the provisions of the Florida  
61 Antitrust Act of 1980, as amended;

62 6. Any crime involving, or resulting in, fraud or deceit  
63 upon any person;

64 7. Any violation of s. 847.0135, relating to computer  
65 pornography and child exploitation prevention, or any offense  
66 related to a violation of s. 847.0135;

67 8. Any violation of the provisions of chapter 815; ~~or~~

68 9. Any criminal violation of part I of chapter 499; or

69 10. Any violation of the provisions of the Florida Motor  
70 Fuel Tax Relief Act of 2004;

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72 or any attempt, solicitation, or conspiracy to commit any of the  
73 crimes specifically enumerated above. The office shall have such  
74 power only when any such offense is occurring, or has occurred,  
75 in two or more judicial circuits as part of a related  
76 transaction, or when any such offense is connected with an  
77 organized criminal conspiracy affecting two or more judicial  
78 circuits.

79 Section 9. Subsection (1) of section 206.026, Florida  
80 Statutes, is amended to read:

81 206.026 Certain persons prohibited from holding a terminal  
82 supplier, importer, exporter, blender, carrier, terminal  
83 operator, or wholesaler license; suspension and revocation.--

84 (1) No corporation, except a publicly held corporation  
85 regularly traded on a national securities exchange and not over  
86 the counter, general or limited partnership, sole  
87 proprietorship, business trust, joint venture or unincorporated  
88 association, or other business entity shall hold a terminal  
89 supplier, importer, exporter, blender, carrier, terminal  
90 operator, or wholesaler license in this state if any one of the  
91 persons or entities specified in paragraph (a) has been  
92 determined by the department not to be of good moral character  
93 or has been convicted of any offense specified in paragraph (b):

94 (a)1. The licenseholder.

95 2. The sole proprietor of the licenseholder.

96 3. A corporate officer or director of the licenseholder.

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

98 5. A trustee of the licenseholder.

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99           6. A member of an unincorporated association  
100 licenseholder.

101           7. A joint venturer of the licenseholder.

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

105           9. An owner of any interest in the license or  
106 licenseholder, including any immediate family member of the  
107 owner, or holder of any debt, mortgage, contract, or concession  
108 from the licenseholder, who by virtue thereof is able to control  
109 the business of the licenseholder.

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

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

113           3. Any felony under the laws of the United States.

114           4. A felony under the Florida Motor Fuel Tax Relief Act of  
115 2004.

116           Section 10. Subsection (3) of section 206.404, Florida  
117 Statutes, is amended to read:

118           206.404 License requirements for retail dealers and  
119 resellers; penalty.--

120           (3) Any retail dealer or reseller in violation of the  
121 provisions of this chapter or the provisions of the Florida  
122 Motor Fuel Tax Relief Act of 2004 shall be subject to revocation  
123 of his or her license under chapter 212.

124           Section 11. In order to accomplish the intent of the  
125 Legislature set forth in section 4 of this act, a retail dealer  
126 of motor fuel, at the dealer's option, may manage its motor fuel

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127 inventory in such a way that the benefit to residents of this  
 128 state of the tax reduction is maximized during August 2004. A  
 129 retail dealer of motor fuel may sell motor fuel purchased  
 130 without the tax reduction at an amount determined as if the tax  
 131 reduction applied and may sell motor fuel purchased with the tax  
 132 reduction at an amount determined as if the tax reduction did  
 133 not apply; provided the retail dealer can show that the number  
 134 of gallons purchased with the reduced tax equals the number of  
 135 gallons sold at a price reflecting the reduced tax.

136 Section 12. (1) The sum of \$206,000 is appropriated from  
 137 the General Revenue Fund to the Department of Revenue for  
 138 purposes of administering section 1 of this act.

139 (2) The sum of \$310,000 is appropriated from the General  
 140 Revenue Fund to the Department of Revenue for the purpose of  
 141 developing and implementing a public awareness campaign for and  
 142 administering sections 2 through 11 of this act.

143 Section 13. Effective July 1, 2004, the sum of \$70 million  
 144 is appropriated from the General Revenue Fund to the State  
 145 Transportation Trust Fund.

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 147 ===== T I T L E A M E N D M E N T =====

148 Remove lines 2-7, and insert:  
 149 An act relating to taxation; specifying a period during  
 150 which the sale of books, clothing, and school supplies are  
 151 exempt from such tax; providing definitions; providing  
 152 exceptions; authorizing the Department of Revenue to adopt  
 153 rules; providing a popular name; providing for a reduction  
 154 in the motor fuel tax for one month; providing dealer

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155 requirements; providing legislative intent; providing for  
156 a reduction in certain refunds for the same period;  
157 authorizing the executive director of the Department of  
158 Revenue to adopt emergency rules for certain purpose;  
159 making unlawful certain activities of certain entities  
160 relating to the tax reduction; providing criminal  
161 penalties; amending s. 16.56, F.S.; including offenses  
162 specified in this act under the investigation and  
163 prosecution authority of the Office of Statewide  
164 Prosecution; amending s. 206.026, F.S.; including offenses  
165 specified in this act under provisions prohibiting certain  
166 persons from holding certain licenses for certain  
167 violations; amending s. 206.404, F.S.; providing for  
168 revocation of certain licenses for violations of this act;  
169 authorizing motor fuel dealers to manage motor fuel  
170 inventory to maximize tax reduction benefits; providing  
171 criteria; providing appropriations; providing an effective  
172 date.