

1 A bill to be entitled

2 An act relating to taxation; specifying a period during
3 which the sale of books, clothing, and school supplies are
4 exempt from such tax; providing definitions; providing
5 exceptions; authorizing the Department of Revenue to adopt
6 rules; providing a popular name; providing for a reduction
7 in the motor fuel tax for one month; providing dealer
8 requirements; providing legislative intent; providing for
9 a reduction in certain refunds for the same period;
10 authorizing the executive director of the Department of
11 Revenue to adopt emergency rules for certain purpose;
12 making unlawful certain activities of certain entities
13 relating to the tax reduction; providing criminal
14 penalties; amending s. 16.56, F.S.; including offenses
15 specified in this act under the investigation and
16 prosecution authority of the Office of Statewide
17 Prosecution; amending s. 206.026, F.S.; including offenses
18 specified in this act under provisions prohibiting certain
19 persons from holding certain licenses for certain
20 violations; amending s. 206.404, F.S.; providing for
21 revocation of certain licenses for violations of this act;
22 authorizing motor fuel dealers to manage motor fuel
23 inventory to maximize tax reduction benefits; providing
24 criteria; providing appropriations; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. (1) No tax levied under the provisions of
30 chapter 212, Florida Statutes, shall be collected on the sale
31 of:

32 (a)1. Books, clothing, wallets, or bags, including
33 handbags, backpacks, fanny packs, and diaper bags, but excluding
34 briefcases, suitcases, and other garment bags, having a sales
35 price of \$100 or less per item during the period from 12:01
36 a.m., July 24, 2004, through midnight, August 1, 2004.

37 2. As used in this paragraph, the term:

38 a. "Book" means a set of printed sheets bound together and
39 published in a volume. For purposes of this paragraph, the term
40 "book" does not include newspapers, magazines, or other
41 periodicals.

42 b. "Clothing" means any article of wearing apparel,
43 including all footwear, except skis, swim fins, roller blades,
44 and skates, intended to be worn on or about the human body. For
45 purposes of this paragraph, the term "clothing" does not include
46 watches, watchbands, jewelry, umbrellas, or handkerchiefs.

47 (b)1. School supplies having a sales price of \$10 or less
48 per item during the period from 12:01 a.m., July 24, 2004,
49 through midnight, August 1, 2004.

50 2. As used in this paragraph, the term "school supplies"
51 means pens, pencils, erasers, crayons, notebooks, notebook
52 filler paper, legal pads, composition books, poster paper,
53 scissors, cellophane tape, glue or paste, rulers, computer
54 disks, protractors, compasses, and calculators.

55 (2) This section does not apply to sales within a theme
56 park or entertainment complex as defined in s. 509.013(9),

57 Florida Statutes, within a public lodging establishment as
58 defined in s. 509.013(4), Florida Statutes, or within an airport
59 as defined in s. 330.27(2), Florida Statutes.

60 (3) Notwithstanding chapter 120, Florida Statutes, the
61 Department of Revenue may adopt rules to carry out this section.

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

65 Section 3. Beginning at 12:01 a.m. August 1, 2004, through
66 midnight August 31, 2004, the tax levied pursuant to s.
67 206.41(1)(g), Florida Statutes, shall be reduced by 10 cents per
68 gallon. During this period, licensed terminal suppliers,
69 wholesalers, and importers of motor fuel shall charge and
70 collect the reduced rate of tax on sales of motor fuel to retail
71 dealers located in this state.

72 Section 4. It is the intent of the Legislature that the
73 tax reduction set forth in this act be passed on to the ultimate
74 consumer. The Attorney General may investigate violations of
75 this act.

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

80 Section 6. The executive director of the Department of
81 Revenue is authorized to adopt emergency rules under ss.
82 120.536(1) and 120.54(4), Florida Statutes, to implement the
83 provisions of this act. Notwithstanding any other law, the

84 emergency rules shall remain effective for 6 months after the
85 date of adoption of the rules.

86 Section 7. It is unlawful for a terminal supplier,
87 wholesaler, importer, reseller, or retail dealer of motor fuel
88 to retain any part of the tax reduction set forth in this act or
89 to interfere with providing the full benefit of the tax
90 reduction to the retail purchaser of motor fuel. Any person
91 violating the provisions of this act commits a felony of the
92 third degree, punishable as provided in s. 775.082 or s.
93 775.083, Florida Statutes.

94 Section 8. Paragraph (a) of subsection (1) of section
95 16.56, Florida Statutes, is amended to read:

96 16.56 Office of Statewide Prosecution.--

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

101 (a) Investigate and prosecute the offenses of:

102 1. Bribery, burglary, criminal usury, extortion, gambling,
103 kidnapping, larceny, murder, prostitution, perjury, robbery,
104 carjacking, and home-invasion robbery;

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

106 3. Any violation of the provisions of the Florida RICO
107 (Racketeer Influenced and Corrupt Organization) Act, including
108 any offense listed in the definition of racketeering activity in
109 s. 895.02(1)(a), providing such listed offense is investigated
110 in connection with a violation of s. 895.03 and is charged in a
111 separate count of an information or indictment containing a

112 count charging a violation of s. 895.03, the prosecution of
 113 which listed offense may continue independently if the
 114 prosecution of the violation of s. 895.03 is terminated for any
 115 reason;

116 4. Any violation of the provisions of the Florida Anti-
 117 Fencing Act;

118 5. Any violation of the provisions of the Florida
 119 Antitrust Act of 1980, as amended;

120 6. Any crime involving, or resulting in, fraud or deceit
 121 upon any person;

122 7. Any violation of s. 847.0135, relating to computer
 123 pornography and child exploitation prevention, or any offense
 124 related to a violation of s. 847.0135;

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

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

127 10. Any violation of the provisions of the Florida Motor
 128 Fuel Tax Relief Act of 2004;

129
 130 or any attempt, solicitation, or conspiracy to commit any of the
 131 crimes specifically enumerated above. The office shall have such
 132 power only when any such offense is occurring, or has occurred,
 133 in two or more judicial circuits as part of a related
 134 transaction, or when any such offense is connected with an
 135 organized criminal conspiracy affecting two or more judicial
 136 circuits.

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

139 206.026 Certain persons prohibited from holding a terminal
 140 supplier, importer, exporter, blender, carrier, terminal
 141 operator, or wholesaler license; suspension and revocation.--

142 (1) No corporation, except a publicly held corporation
 143 regularly traded on a national securities exchange and not over
 144 the counter, general or limited partnership, sole
 145 proprietorship, business trust, joint venture or unincorporated
 146 association, or other business entity shall hold a terminal
 147 supplier, importer, exporter, blender, carrier, terminal
 148 operator, or wholesaler license in this state if any one of the
 149 persons or entities specified in paragraph (a) has been
 150 determined by the department not to be of good moral character
 151 or has been convicted of any offense specified in paragraph (b):

- 152 (a)1. The licenseholder.
- 153 2. The sole proprietor of the licenseholder.
- 154 3. A corporate officer or director of the licenseholder.
- 155 4. A general or limited partner of the licenseholder.
- 156 5. A trustee of the licenseholder.
- 157 6. A member of an unincorporated association
 158 licenseholder.
- 159 7. A joint venturer of the licenseholder.
- 160 8. The owner of any equity interest in the licenseholder,
 161 whether as a common shareholder, general or limited partner,
 162 voting trustee, or trust beneficiary.
- 163 9. An owner of any interest in the license or
 164 licenseholder, including any immediate family member of the
 165 owner, or holder of any debt, mortgage, contract, or concession

166 | from the licenseholder, who by virtue thereof is able to control
167 | the business of the licenseholder.

168 | (b)1. A felony in this state.

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

171 | 3. Any felony under the laws of the United States.

172 | 4. A felony under the Florida Motor Fuel Tax Relief Act of
173 | 2004.

174 | Section 10. Subsection (3) of section 206.404, Florida
175 | Statutes, is amended to read:

176 | 206.404 License requirements for retail dealers and
177 | resellers; penalty.--

178 | (3) Any retail dealer or reseller in violation of the
179 | provisions of this chapter or the provisions of the Florida
180 | Motor Fuel Tax Relief Act of 2004 shall be subject to revocation
181 | of his or her license under chapter 212.

182 | Section 11. In order to accomplish the intent of the
183 | Legislature set forth in section 4 of this act, a retail dealer
184 | of motor fuel, at the dealer's option, may manage its motor fuel
185 | inventory in such a way that the benefit to residents of this
186 | state of the tax reduction is maximized during August 2004. A
187 | retail dealer of motor fuel may sell motor fuel purchased
188 | without the tax reduction at an amount determined as if the tax
189 | reduction applied and may sell motor fuel purchased with the tax
190 | reduction at an amount determined as if the tax reduction did
191 | not apply; provided the retail dealer can show that the number
192 | of gallons purchased with the reduced tax equals the number of
193 | gallons sold at a price reflecting the reduced tax.

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

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

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

204 Section 14. This act shall take effect upon becoming a
205 law.