

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Comm: RCS
04/18/2006 04:57 PM

.
. .
. .
. .
. .
. .

The Committee on Community Affairs (Bennett) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 212.099, Florida Statutes, is created to read:

212.099 Florida Disaster Motor Fuel Supplier Program Tax Credit Program.--

(1) Any retail dealer of motor fuel which has chosen to participate in the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs may receive a credit of up to 25 percent against the tax remitted under this chapter, not to exceed \$2,000, of the value of the cost to install appropriate wiring and transfer switches required to meet certification requirements established by the Division of Emergency Management of the Department of Community Affairs or by the director of the county emergency management agency. In addition, the retail dealer may receive a credit of up to

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 25 percent against the tax remitted under this chapter, not to
 2 exceed \$12,500, of the value of the purchase of a generator,
 3 permanently affixed to the site, required to meet these
 4 certification requirements.

5 (a) An application for the credit must be filed with
 6 the Division of Emergency Management to determine whether the
 7 purchase and installation of the generator meet certification
 8 requirements established by the Division of Emergency
 9 Management or by the director of the county emergency
 10 management agency. The application for credit shall be
 11 developed by the Division of Emergency Management in
 12 consultation with the Department of Revenue.

13 (b) The application, attested to under oath, must
 14 include a sworn statement, under penalty of perjury, that the
 15 credit is for the purpose of purchasing and installing wiring
 16 and transfer switches or for purchasing a generator to comply
 17 with the provision of the Florida Disaster Motor Fuel Supplier
 18 Program to serve as an alternate power source to pump motor
 19 and other fuels described in chapter 206 during an electrical
 20 power outage in a county subject to an emergency as defined by
 21 s. 252.34, which has been declared by the Governor pursuant to
 22 s. 252.36, or declared by law.

23 (c) Within 10 working days after receipt of a
 24 completed application, the Division of Emergency Management
 25 shall inform the applicant that the application has been
 26 approved or denied and state the amount of the approved
 27 credit.

28 (d) Within 10 working days after approving an
 29 application, the Division of Emergency Management shall
 30 forward the amount of the approved credit and the prescribed
 31 information to properly establish the retail dealer's credit

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 information with the Department of Revenue.

2 (e) Within 30 days after receipt from the Division of
3 Emergency Management of the approved amount of the credit and
4 the information required to properly establish the retail
5 dealer's credit information, the Department of Revenue shall
6 notify the retail dealer of any amount of credit the retail
7 dealer is allowed and how the credit may be taken by the
8 dealer.

9 (2) Any person who knowingly and willfully gives false
10 information for the purpose of claiming reimbursement under
11 this section commits a misdemeanor of the first degree,
12 punishable as provided in s. 775.082, or by a fine not
13 exceeding \$5,000, or both.

14 (3) The department may adopt rules to establish
15 guidelines concerning the requisites for an affirmative
16 showing of qualification for the credit under this section.

17 Section 2. Section 526.143, Florida Statutes, is
18 created to read:

19 526.143 Alternate generated power capacity for motor
20 fuel dispensing facilities.--

21 (1) By June 1, 2007, each motor fuel terminal
22 facility, as defined in s. 526.303, and each wholesaler, as
23 defined in s. 526.303, which sells motor fuel in this state
24 must be capable of operating its distribution loading racks
25 using an alternate generated power source for a minimum of 72
26 hours. Pending a postdisaster examination of the equipment by
27 the operator to determine any extenuating damage that would
28 render it unsafe to use, the facility must have such alternate
29 generated power source available for operation no later than
30 36 hours after a major disaster as defined in s. 252.34.

31 Installation of appropriate wiring, including a transfer

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 switch, shall be performed by a certified electrical
 2 contractor. Each business that is subject to this subsection
 3 must keep a copy of the documentation of such installation on
 4 site or at its corporate headquarters. In addition, each
 5 business must keep a written statement attesting to the
 6 periodic testing and ensured operational capacity of the
 7 equipment. The required documents must be made available, upon
 8 request, to the Division of Emergency Management and the
 9 director of the county emergency management agency.

10 (2) Each newly constructed or substantially renovated
 11 motor fuel retail outlet, as defined in s. 526.303, for which
 12 a certificate of occupancy is issued on or after July 1, 2006,
 13 shall be prewired with an appropriate transfer switch, and
 14 capable of operating all fuel pumps, dispensing equipment,
 15 life-safety systems, and payment-acceptance equipment using an
 16 alternate generated power source. As used in this subsection,
 17 the term "substantially renovated" means a renovation that
 18 results in an increase of greater than 50 percent in the
 19 assessed value of the motor fuel retail outlet. Local building
 20 inspectors shall include this equipment and operations check
 21 in the normal inspection process before issuing a certificate
 22 of occupancy. Each retail outlet that is subject to this
 23 subsection must keep a copy of the certificate of occupancy on
 24 site or at its corporate headquarters. In addition, each
 25 retail outlet must keep a written statement attesting to the
 26 periodic testing of and ensured operational capability of the
 27 equipment. The required documents must be made available, upon
 28 request, to the Division of Emergency Management and the
 29 director of the county emergency management agency.

30 (3)(a) No later than June 1, 2007, each motor fuel
 31 retail outlet described in subparagraphs 1., 2., or 3., which

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 is located within 1/2 mile proximate to an interstate highway
 2 or state or federally designated evacuation route must be
 3 prewired with an appropriate transfer switch and be capable of
 4 operating all fuel pumps, dispensing equipment, life-safety
 5 systems, and payment-acceptance equipment using an alternate
 6 generated power source:

7 1. A motor fuel retail outlet located in a county
 8 having a population of 300,000 or more which has 16 or more
 9 fueling positions.

10 2. A motor fuel retail outlet located in a county
 11 having a population of 100,000 or more, but fewer than
 12 300,000, which has 12 or more fueling positions.

13 3. A motor fuel retail outlet located in a county
 14 having a population of fewer than 100,000 which has eight or
 15 more fueling positions.

16 (b) Installation of appropriate wiring and transfer
 17 switches must be performed by a certified electrical
 18 contractor. Each retail outlet that is subject to this
 19 subsection must keep a copy of the documentation of such
 20 installation on site or at its corporate headquarters. In
 21 addition, each retail outlet must keep a written statement
 22 attesting to the periodic testing of and ensured operational
 23 capacity of the equipment. The required documents must be made
 24 available, upon request, to the Division of Emergency
 25 Management and the director of the county emergency management
 26 agency.

27 (4)(a) Subsections (2) and (3) apply to any
 28 self-service, full-service, or combination self-service and
 29 full-service motor fuel retail outlet regardless of whether
 30 the retail outlet is located on the grounds of, or is owned
 31 by, another retail business establishment that does not engage

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 in the business of selling motor fuel.

2 (b) Subsections (2) and (3) do not apply to:

3 1. An automobile dealer;

4 2. A person who operates a fleet of motor vehicles;

5 3. A person who sells motor fuel exclusively to a

6 fleet of motor vehicles; or

7 4. A motor fuel retail outlet that has a written

8 agreement with a public hospital, in a form approved by the

9 Division of Emergency Management, wherein the public hospital

10 agrees to provide the motor fuel retail outlet with an

11 alternative means of power generation onsite so that the

12 outlet's fuel pumps may be operated in the event of a power

13 outage.

14 (5)(a) Each corporation or other entity that owns 10

15 or more motor fuel retail outlets located within this state

16 shall maintain at least one portable generator that is capable

17 of providing an alternate generated power source as required

18 under subsection (2) for every 10 outlets. If an entity owns

19 more than 10 outlets or a multiple of 10 outlets plus an

20 additional six outlets, the entity must provide one additional

21 generator to accommodate such additional outlets. Each

22 portable generator must be stored within this state, or may be

23 stored in another state if located within 250 miles of this

24 state, and must be available for use in an affected location

25 within 24 hours after a disaster.

26 (b) Each corporation or other entity that owns 10 or

27 more motor fuel retail outlets located within a single

28 domestic security region, as determined pursuant to s.

29 943.0312(1), and that does not own additional outlets located

30 outside the domestic security region shall maintain a written

31 document of agreement with one or more similarly equipped

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 entities for the use of portable generators that may be used
 2 to meet the requirements of paragraph (a) and that are located
 3 within this state but outside the affected domestic security
 4 region. The agreement may be reciprocal, may allow for payment
 5 for services rendered by the providing entity, and must
 6 guarantee the availability of the portable generators to an
 7 affected location within 24 hours after a disaster.

8 (c) For purposes of this section, ownership of a motor
 9 fuel establishment shall be the owner of record of the fuel
 10 storage systems operating at the location, as identified in
 11 the Department of Environmental Protection underground storage
 12 facilities registry pursuant to s. 376.303(1).

13 Section 3. Florida Disaster Motor Fuel Supplier
 14 Program.--

15 (1) The Florida Disaster Motor Fuel Supplier Program
 16 is created within the Department of Community Affairs. The
 17 program shall allow any motor fuel retail outlet doing
 18 business in the state to participate in a network of emergency
 19 responders for the purpose of providing fuel supplies and
 20 services to government, medical, critical infrastructure, and
 21 other responders, as well as to the general public, during a
 22 declared disaster, as described in s. 252.36, Florida
 23 Statutes. Participation in the program requires
 24 precertification of preparedness to provide emergency services
 25 by the Division of Emergency Management or the director of the
 26 county emergency management agency. Requirements for
 27 precertification shall be implemented by the Division of
 28 Emergency Management or by the director of the county
 29 emergency management agency as expeditiously as possible, but
 30 no later than June 1, 2007.

31 (a) A business that is precertified shall be issued a

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 State Emergency Response Team logo decal for public display to
 2 alert responders and the public that the business is capable
 3 of assisting in an emergency. In each county having an active
 4 program, the county emergency management agency shall be
 5 primarily responsible for administering the program within
 6 that county. In counties that do not have active programs, the
 7 Division of Emergency Management may precertify businesses as
 8 members of the State Emergency Response Team and issue
 9 appropriate signage.

10 (b) The Division of Emergency Management may adopt
 11 rules to administer this program. The Division of Emergency
 12 Management or the emergency management agency of the county
 13 may charge a fee to cover the actual costs of precertifying a
 14 location, including the cost of performing an inspection,
 15 filing the necessary forms, and producing the logo decal for
 16 public display. Additional charges may not be imposed for
 17 processing the individual documents associated with the
 18 program. Funds collected shall be deposited into the Emergency
 19 Management Preparedness Assistance Trust Fund or, if the
 20 emergency management agency of the county is administering the
 21 program, into the appropriate county operating account.

22 (2) At a minimum, each business that is precertified
 23 as a member of the State Emergency Response Team must have the
 24 capability to provide on site fuel-dispensing services to
 25 other members of the State Emergency Response Team within 24
 26 hours after a major disaster has occurred, or demonstrate the
 27 ability to have such service available and agree to make
 28 service available as needed. A business may sell fuel through
 29 a preexisting contract with local, state, or federal response
 30 agencies or may provide point-of-sale service to such
 31 agencies. In addition, a business may sell to the general

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 public or may be directed to provide such service by county or
 2 state emergency management officials pursuant to ss. 252.35
 3 and 252.38, Florida Statutes. If requested, appropriate law
 4 enforcement security personnel may be provided to the
 5 participating business to maintain civil order during
 6 operating hours.

7 (3) Persons who are designated as members of the State
 8 Emergency Response Team and who can produce appropriate
 9 identification, as determined by state or county emergency
 10 management officials, shall be given priority for purchasing
 11 fuel at businesses designated as members of the State
 12 Emergency Response Team. A business may be directed by county
 13 or state emergency management officials to remain open during
 14 a declared curfew in order to provide service for emergency
 15 personnel. Under such direction, the business is not in
 16 violation of the curfew and may not be penalized for such
 17 operation and the emergency personnel are not in violation of
 18 the curfew. A person traveling during a curfew must be able to
 19 produce valid official documentation of his or her position
 20 with the State Emergency Response Team or the local emergency
 21 management agency. Such documentation may include, but need
 22 not be limited to, current SERT identification badge, current
 23 law enforcement or other response agency identification or
 24 shield, current health care employee identification card, or
 25 current government services identification card indicating a
 26 critical services position.

27 (4) A business that is designated as a member of the
 28 State Emergency Response Team may request priority in
 29 receiving a resupply of fuel in order to continue service to
 30 emergency responders. Such request is not binding, but shall
 31 be considered by emergency management officials in determining

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 appropriate response actions.

2 (5) Pursuant to s. 212.099, Florida Statutes, a retail
3 dealer of motor fuel that chooses to participate in the
4 Florida Disaster Motor Fuel Supplier Program may receive a
5 sales tax credit of up to 25 percent of the value of the cost
6 to install appropriate wiring and transfer switches required
7 to meet certification requirements established by the Division
8 of Emergency Management or by the director of the county
9 emergency management agency. The total tax credit for a single
10 certified location may not exceed \$2,000.

11 (6) In addition, a retail dealer of motor fuel that
12 chooses to participate in the Florida Disaster Motor Fuel
13 Supplier Program may receive a sales tax credit of up to 25
14 percent of the value of the purchase of a generator,
15 permanently affixed to the site, required to meet
16 certification requirements established by the Division of
17 Emergency Management or by the director of the county
18 emergency management agency. The total tax credit for a single
19 certified location may not exceed \$12,500.

20 Section 4. Regulation of alternate power sources at
21 motor fuel outlets and other facilities preempted to the
22 state.--Notwithstanding any other law or local ordinance and
23 for the purpose of ensuring an appropriate emergency
24 management response following major disasters in this state,
25 the regulation, siting, and placement of alternate power
26 source capabilities and equipment at motor fuel terminal
27 facilities, wholesalers, and retail sales outlets are
28 preempted to the state.

29 Section 5. (1) By January 1, 2007, the Division of
30 Emergency Management shall complete an inventory of portable
31 generators owned by the state and local governments which are

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 capable of operating during a major disaster. The inventory
 2 must identify, at a minimum, the location of each generator,
 3 the number of generators stored at each specific location, to
 4 agency to which each the generator belongs, the primary use of
 5 the generator by the owner agency, and the names, addresses,
 6 and telephone numbers of persons having the authority to loan
 7 the stored generators as authorized by the Division of
 8 Emergency Management during a declared emergency.

9 (2) The division shall maintain an inventory list of
 10 generators owned by the state and local governments. In
 11 addition, the division may keep a list of private entities,
 12 along with appropriate contact information, which offer
 13 generators for sale or lease. The list of private entities
 14 shall be available to the public for inspection in written and
 15 electronic formats.

16 Section 6. Review of Florida disaster motor fuel
 17 supply distribution.--The Energy Office of the Department of
 18 Environmental Protection shall review situational progress in
 19 postdisaster motor fuel supply distribution and provide a
 20 report to the Legislature by March 1, 2007. The report must
 21 include information concerning statewide compliance with s.
 22 526.143, Florida Statutes, and an identification of all motor
 23 fuel retail outlets that are participating in the Florida
 24 Disaster Motor Fuel Supplier Program.

25 Section 7. If any provision of this act or its
 26 application to any person or circumstance is held invalid, the
 27 invalidity does not affect other provisions or applications of
 28 the act which can be given effect without the invalid
 29 provision or application, and to this end the provisions of
 30 this act are severable.

31 Section 8. This act shall take effect upon becoming a

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 law.

2

3

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

5 And the title is amended as follows:

6 Delete everything before the enacting clause

7

8 and insert:

9 A bill to be entitled

10 An act relating to emergency management;

11 creating s. 212.099, F.S.; providing a sales

12 tax credit for equipment and installation costs

13 to retail dealers of motor fuel that

14 participating in the Florida Disaster Motor

15 Fuel Supplier Program; creating s. 526.143,

16 F.S.; requiring motor fuel terminal facilities,

17 wholesalers, new or substantially renovated

18 motor fuel retail outlets, and other motor fuel

19 retail outlets meeting specified criteria for

20 size and location to be capable of operating

21 with alternate generated power; providing

22 requirements for the installation of such

23 equipment; requiring that such businesses

24 maintain documentation of compliance; providing

25 exemptions; creating the Florida Disaster Motor

26 Fuel Supplier Program within the Department of

27 Community Affairs; providing for motor fuel

28 retail outlets to participate in a network of

29 emergency responders; prescribing duties of

30 county emergency management agencies and the

31 Division of Emergency Management; prescribing

Bill No. CS for SB's 528, 530 & 858

Barcode 765692

1 requirements to participate in the program;
2 providing for security at participating
3 outlets; exempting participating outlets from
4 curfew requirements; providing a state tax
5 credit for equipment and installation costs to
6 motor fuel retail outlets participating in the
7 program; preempting regulation of alternate
8 power sources at motor fuel terminal
9 facilities, wholesalers, and motor fuel retail
10 outlets to the state; requiring the Division of
11 Emergency Management to complete an inventory
12 of generators owned by the state and local
13 governments; authorizing the division to
14 maintain a list of private entities offering
15 generators for sale or lease and make that list
16 available to the public; requiring that the
17 Energy Office of the Department of
18 Environmental Protection review the progress in
19 postdisaster fuel supply distribution and
20 provide a report to the Legislature; providing
21 for severability; providing an effective date.

22
23
24
25
26
27
28
29
30
31