

By Senator Dean

3-01192-09

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1                   A bill to be entitled  
2           An act relating to reimbursement of federal excise  
3           taxes on motor fuel; creating s. 206.431, F.S.;  
4           providing requirements and limitations on  
5           reimbursement provisions of certain fuel supply  
6           contracts; providing notice requirements; providing  
7           for payment security requirements; providing for  
8           electronic transfer of funds; specifying application  
9           to contracts; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Section 206.431, Florida Statutes, is created to  
14           read:

15           206.431 Reimbursement for taxes.-

16           (1) (a) If a fuel supply contract requires one party to  
17           reimburse another party for the federal excise tax imposed by 26  
18           U.S.C. s. 4081 or s. 4091, whether as a separate item or as part  
19           of the contract price, the reimbursing party, at its option and  
20           notwithstanding contrary terms of the contract, shall not be  
21           required to make the reimbursement more than one business day  
22           before the day on which the reimbursed party must remit the  
23           taxes to the Internal Revenue Service.

24           (b) Exercise of the option provided by this section shall  
25           not relieve the reimbursing party of its obligation to make the  
26           reimbursement as required by the contract, but shall affect only  
27           the timing of that reimbursement.

28           (2) (a) Written notice of the reimbursing party's intent to  
29           exercise the option provided in subsection (1) shall be given to

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30 the reimbursed party.

31 (b) The notice shall state the effective date of the  
32 exercise of the option, which shall be no earlier than 30 days  
33 after the notice of intent is received by the reimbursed party  
34 or the beginning of the reimbursed party's next federal tax  
35 quarter, whichever is later.

36 (3) (a) If a reimbursing party exercises the option provided  
37 in subsection (1), the reimbursed party may demand security for  
38 the payment of the taxes in proportion to the amount the taxes  
39 represent compared to the security demanded on the contract as a  
40 whole.

41 (b) The reimbursed party may also require reimbursement to  
42 be made by electronic transfer of funds, but may not change the  
43 other payment terms of the contract without a valid business  
44 reason.

45 (4) (a) This section applies to all wholesale transactions  
46 with terminal suppliers which are:

47 1. Continuing contracts that have no fixed expiration date  
48 and that are in effect on July 1, 2009; or

49 2. Contracts that are entered into or renewed after July 1,  
50 2009.

51 (b) All contracts in effect on July 1, 2009, which contain  
52 a fixed expiration date shall be governed by the law in  
53 existence prior to July 1, 2009.

54 Section 2. This act shall take effect July 1, 2009.