

By Senator Oelrich

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1 A bill to be entitled
2 An act relating to biodiesel fuel; amending s.
3 206.874, F.S.; exempting biodiesel fuel manufactured
4 by a public or private secondary school from taxation
5 under certain circumstances; specifying the
6 circumstances under which a public or private
7 secondary school that manufactures biodiesel fuel is
8 exempt from certain registration requirements;
9 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 206.874, Florida Statutes, is amended to
14 read:

15 206.874 Exemptions.—

16 (1) The provisions of this part requiring the payment of
17 taxes do not apply to any of the following:

18 (a) The removal from a terminal or refinery of, or the
19 entry or sale of, any diesel fuel if all of the following apply:

20 1. The person otherwise liable for tax is a diesel fuel
21 registrant;

22 2. In the case of a removal from a terminal, the terminal
23 is an approved terminal; and

24 3. The diesel fuel satisfies the dyeing and marking
25 requirements of s. 206.8741.

26 (b) Any entry by a licensed importer into this state of
27 diesel fuel on which taxes have been imposed by this chapter on
28 a diesel fuel registrant pursuant to an agreement entered into
29 with the department as provided by s. 206.872.

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30 (c) The removal of diesel fuel if all of the following
31 apply:

32 1. The diesel fuel is removed by rail car from an approved
33 refinery or terminal and is received at an approved refinery or
34 terminal; and

35 2. The refinery and the terminal are operated by the same
36 diesel fuel registrant.

37 (d) Diesel fuel which, pursuant to the contract of sale, is
38 required to be shipped and is shipped to a point outside of this
39 state by a supplier by means of any of the following:

40 1. Facilities operated by the supplier.

41 2. Delivery by the supplier to a carrier, customs broker,
42 or forwarding agent, whether hired by the purchaser or not, for
43 shipment to such out-of-state point.

44 3. Delivery by the supplier to any vessel clearing from a
45 port of this state for a port outside of this state and actually
46 exported from this state in the vessel.

47 (e) Diesel fuel which is destined for delivery to a
48 location outside of this state on which the diesel fuel
49 registrant is required to collect the taxes of the destination
50 state pursuant to an agreement with the state of destination.

51 (2) Backup tax does not apply to delivery in this state of
52 diesel fuel into the fuel tank of a diesel-powered motor vehicle
53 as provided in s. 206.873 for use on a farm for farming
54 purposes.

55 (3) Dyed diesel fuel may be purchased and used only for the
56 following purposes:

57 (a) Use on a farm for farming purposes.

58 (b) Exclusive use of a local government.

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- 59 (c) Use in a vehicle owned by an aircraft museum.
- 60 (d) Exclusive use of the American Red Cross.
- 61 (e) Use in a vessel employed in the business of commercial
62 transportation of persons or property or in commercial fishing.
- 63 (f) Use in a bus engaged in the transportation of students
64 and employees of schools.
- 65 (g) Use in a local bus service that is open to the public
66 and travels regular routes.
- 67 (h) Exclusive use of a nonprofit educational facility.
- 68 (i) Use in a motor vehicle owned by the United States
69 Government which ~~that~~ is not used on a highway.
- 70 (j) Use in a vessel of war.
- 71 (k) Use of diesel fuel for home heating.
- 72 (l) Use in self-propelled off-road equipment or stationary
73 equipment subject to tax under s. 212.0501.
- 74 (m) Use by a noncommercial vessel.
- 75 (4) (a) Notwithstanding the provisions of this section
76 allowing local governments and school districts to use dyed or
77 otherwise untaxed diesel fuel in motor vehicles, each county,
78 municipality, and school district, to qualify for such use, must
79 first register with the department as a local government user of
80 diesel fuel.
- 81 (b) Local government users of diesel fuel shall be required
82 to file a return accounting for diesel fuel acquisitions,
83 inventory, and use, and remit a tax equal to 3 cents of the 4-
84 cent tax required under s. 206.87(1)(a), plus the taxes required
85 under s. 206.87(1)(b), (c), and (d) each month to the
86 department.
- 87 (c) Any county, municipality, or school district not

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88 licensed as a local government user of diesel fuel shall be
89 liable for the taxes imposed by s. 206.87(1) directly to the
90 department for any highway use of untaxed diesel fuels.

91 (d) Each county, municipality, or school district may
92 receive a credit for additional taxes paid under s. 206.87 for
93 the highway use of diesel fuel, provided the purchases of diesel
94 fuel meet the requirements relating to refunds for motor fuel
95 purchases under s. 206.41.

96 (5) (a) Notwithstanding the provisions of this section
97 allowing local bus transit systems to use dyed or otherwise
98 untaxed diesel fuel in qualifying motor vehicles providing local
99 public transportation over regular routes, each qualifying mass
100 transit provider, to qualify for such use, must first register
101 with the department as a mass transit system.

102 (b) Mass transit system providers shall be required to file
103 a return accounting for diesel fuel acquisitions, inventory, and
104 use, and remit a tax equal to the taxes required under s.
105 206.87(1) (a) and (b) each month to the department.

106 (c) Any local provider not licensed as a mass transit
107 system shall be liable directly to the department for any
108 highway use of untaxed diesel fuels.

109 (d) Each licensed mass transit system may receive a credit
110 for additional taxes paid under s. 206.87 for the highway use of
111 diesel fuel, provided the purchases of diesel fuel meet the
112 requirements relating to refunds for motor fuel purchases under
113 s. 206.41.

114 (6) Diesel fuel contained in the fuel tanks of any motor
115 vehicle entering this state and used to propel such motor
116 vehicle into Florida from another state shall be exempt from the

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117 taxes imposed by this part but may be taxed under the provisions
118 of chapter 207. Diesel fuel supplied by a vehicle manufacturer
119 and contained in the fuel tanks of a new and untitled motor
120 vehicle shall be exempt from the taxes imposed by this part.
121 "Fuel tanks" means the reservoir or receptacle attached to the
122 motor vehicle by the manufacturer as the container for fuel used
123 to propel the vehicle.

124 (7) Biodiesel fuel manufactured by a public or private
125 secondary school that produces less than 1,000 gallons annually
126 for the sole use of the school, its employees, or its students
127 is exempt from the tax imposed by this part. A public or private
128 secondary school that produces less than 1,000 gallons a year of
129 biodiesel is exempt from the registration requirements of this
130 chapter.

131 Section 2. This act shall take effect July 1, 2010.