

ENROLLED  
CS/HB 423

2013 Legislature

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2 An act relating to the tax on sales, use, and other  
3 transactions; amending s. 212.05, F.S.; providing an  
4 exception to sales tax for dyed diesel fuel used in  
5 vessels for commercial fishing and aquacultural  
6 purposes; amending s. 212.0501, F.S.; providing an  
7 exception from sales tax collected by a licensed sales  
8 tax dealer for dyed diesel fuel used in vessels for  
9 commercial fishing and aquacultural purposes; amending  
10 s. 212.08, F.S.; providing a sales tax exemption for  
11 dyed diesel fuel used in vessels for commercial  
12 fishing and aquacultural purposes; providing an  
13 effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Paragraph (k) of subsection (1) of section  
18 212.05, Florida Statutes, is amended to read:

19 212.05 Sales, storage, use tax.—It is hereby declared to  
20 be the legislative intent that every person is exercising a  
21 taxable privilege who engages in the business of selling  
22 tangible personal property at retail in this state, including  
23 the business of making mail order sales, or who rents or  
24 furnishes any of the things or services taxable under this  
25 chapter, or who stores for use or consumption in this state any  
26 item or article of tangible personal property as defined herein  
27 and who leases or rents such property within the state.

28 (1) For the exercise of such privilege, a tax is levied on

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29 | each taxable transaction or incident, which tax is due and  
30 | payable as follows:

31 |       (k) At the rate of 6 percent of the sales price of each  
32 | gallon of diesel fuel not taxed under chapter 206 purchased for  
33 | use in a vessel, except dyed diesel fuel that is exempt pursuant  
34 | to s. 212.08(4)(a)4.

35 |       Section 2. Subsection (4) of section 212.0501, Florida  
36 | Statutes, is amended to read:

37 |       212.0501 Tax on diesel fuel for business purposes;  
38 | purchase, storage, and use.—

39 |       (4) Except as otherwise provided in s. 212.05(1)(k), a  
40 | licensed sales tax dealer may elect to collect such tax pursuant  
41 | to this chapter on all sales to each person who purchases diesel  
42 | fuel, except dyed diesel fuel used for commercial fishing and  
43 | aquacultural purposes listed in s. 206.41(4)(c)3., for  
44 | consumption, use, or storage by a trade or business. When the  
45 | licensed sales tax dealer has not elected to collect such tax on  
46 | all such sales, the purchaser or ultimate consumer shall be  
47 | liable for the payment of tax directly to the state.

48 |       Section 3. Paragraph (a) of subsection (4) of section  
49 | 212.08, Florida Statutes, is amended to read:

50 |       212.08 Sales, rental, use, consumption, distribution, and  
51 | storage tax; specified exemptions.—The sale at retail, the  
52 | rental, the use, the consumption, the distribution, and the  
53 | storage to be used or consumed in this state of the following  
54 | are hereby specifically exempt from the tax imposed by this  
55 | chapter.

56 |       (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

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57 (a) Also exempt are:

58 1. Water delivered to the purchaser through pipes or  
59 conduits or delivered for irrigation purposes. The sale of  
60 drinking water in bottles, cans, or other containers, including  
61 water that contains minerals or carbonation in its natural state  
62 or water to which minerals have been added at a water treatment  
63 facility regulated by the Department of Environmental Protection  
64 or the Department of Health, is exempt. This exemption does not  
65 apply to the sale of drinking water in bottles, cans, or other  
66 containers if carbonation or flavorings, except those added at a  
67 water treatment facility, have been added. Water that has been  
68 enhanced by the addition of minerals and that does not contain  
69 any added carbonation or flavorings is also exempt.

70 2. All fuels used by a public or private utility,  
71 including any municipal corporation or rural electric  
72 cooperative association, in the generation of electric power or  
73 energy for sale. Fuel other than motor fuel and diesel fuel is  
74 taxable as provided in this chapter with the exception of fuel  
75 expressly exempt herein. Motor fuels and diesel fuels are  
76 taxable as provided in chapter 206, with the exception of those  
77 motor fuels and diesel fuels used by railroad locomotives or  
78 vessels to transport persons or property in interstate or  
79 foreign commerce, which are taxable under this chapter only to  
80 the extent provided herein. The basis of the tax shall be the  
81 ratio of intrastate mileage to interstate or foreign mileage  
82 traveled by the carrier's railroad locomotives or vessels that  
83 were used in interstate or foreign commerce and that had at  
84 least some Florida mileage during the previous fiscal year of

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85 | the carrier, such ratio to be determined at the close of the  
86 | fiscal year of the carrier. However, during the fiscal year in  
87 | which the carrier begins its initial operations in this state,  
88 | the carrier's mileage apportionment factor may be determined on  
89 | the basis of an estimated ratio of anticipated miles in this  
90 | state to anticipated total miles for that year, and  
91 | subsequently, additional tax shall be paid on the motor fuel and  
92 | diesel fuels, or a refund may be applied for, on the basis of  
93 | the actual ratio of the carrier's railroad locomotives' or  
94 | vessels' miles in this state to its total miles for that year.  
95 | This ratio shall be applied each month to the total Florida  
96 | purchases made in this state of motor and diesel fuels to  
97 | establish that portion of the total used and consumed in  
98 | intrastate movement and subject to tax under this chapter. The  
99 | basis for imposition of any discretionary surtax shall be set  
100 | forth in s. 212.054. Fuels used exclusively in intrastate  
101 | commerce do not qualify for the proration of tax.

102 |         3. The transmission or wheeling of electricity.

103 |         4. Dyed diesel fuel placed into the storage tank of a  
104 | vessel used exclusively for the commercial fishing and  
105 | aquacultural purposes listed in s. 206.41(4)(c)3.

106 |         Section 4. This act shall take effect July 1, 2013.