

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SB 522

INTRODUCER: Senator Bradley

SUBJECT: Biodiesel Fuel

DATE: February 19, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Halley	AG	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AFT	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 522 creates an exemption for local governments that manufacture biodiesel for internal use from the reporting, bonding, and licensing requirements that apply to wholesalers of biodiesel fuel. It requires local government users of diesel fuel to report biodiesel manufactured for internal use, and remit the appropriate taxes, on a Department of Revenue (DOR) form¹ that is presently submitted rather than having to file a separate return to report manufactured biodiesel on the DOR form² that must be submitted by fuel wholesalers.

This bill substantially amends sections 206.02 and 206.874 of the Florida Statutes.

II. Present Situation:

The state imposes a tax on the sale, use, distribution, or consumption of motor and other fuels.³ Diesel fuel is addressed separately in law and taxed differently, which tax is imposed for the purpose of constructing and maintaining the highways of the state.⁴ Biodiesel is a fuel made from nonpetroleum-based oils or fats that can be used in diesel-powered engines and the term “biodiesel manufacturer” includes all industrial plants where organic products are used in the production of biodiesel, *regardless of capacity*.⁵ (emphasis supplied) Each biodiesel manufacturer must comply with the reporting, bonding, and licensing requirements required for

¹ DR-309634, Local Government User of Diesel Fuel Tax Return.

² DR-309632, Wholesaler/Importer Fuel Tax Return

³ Chapter 206, F.S.

⁴ Section 206.85, F.S.

⁵ Sections 206.86(14) and 206.86(15), F.S.

wholesalers of taxable fuel.⁶ An exemption from the tax and reporting requirements for a biodiesel manufacturer was created in 2010 for a public or private secondary school that manufactures less than 1,000 gallons on an annual basis for its own use.⁷

To obtain a wholesaler of motor fuel license, a Florida Fuel Tax Application (Form DR-156) must be submitted under oath.⁸ While a bond must simultaneously be filed with the DOR⁹, local governments are exempt from the bond requirement¹⁰ as well as a background check required of certain applicants. Each license must be renewed annually on form DR-156R. Licensed fuel wholesalers, which would include local governments who manufacture biodiesel, must file a monthly return on form DR-309632. Local government users of diesel fuel must also register with DOR and file a monthly report of acquisitions, inventory, and use of diesel fuel¹¹ on form DR-309634 and pay 3 cents of the 4-cent excise tax plus all other taxes levied under s. 206.87(1), F.S.

One local government reports that complying with the wholesale licensing and reporting requirements for the small volume of biodiesel manufactured for internal use is burdensome to the point that it has suspended its program.¹² That county's biodiesel manufacturing operation began in 2010 after it received a grant to purchase equipment to recycle waste vegetable oil as part of a fuel supply program that also was intended to achieve environmental benefits by keeping waste products out of the wastewater system. To have a diesel fuel manufacturing operation, the county was required to expend additional time and labor monthly to perform a more extensive review of diesel fuel purchased from commercial suppliers and internally produced biodiesel in order to file the monthly return required of fuel wholesalers. There are other counties and cities that have similar programs¹³ and they face the same challenges in complying with the reporting requirements of a wholesaler as well as a local government user.

III. Effect of Proposed Changes:

Section 1 amends s. 206.02, F.S., to exempt municipalities, counties, or school districts that manufacture biodiesel for internal use from the reporting, bonding and licensing requirements that apply to biodiesel manufacturers.

Section 2 amends s. 206.874, F.S., to require local government users of diesel fuel to include biodiesel manufactured for internal use on its monthly return (Local Government User of Diesel Fuel Return) to DOR and pay the appropriate taxes on it.

Section 3 provides that this act shall take effect July 1, 2013.

⁶ Section 206.02(5), F.S.

⁷ Chapter 2010-195, L.O.F.

⁸ Section 206.02(4), F.S., and Rule 12B-5.060, Florida Administrative Code.

⁹ Section 206.02(6), F.S.

¹⁰ Section 206.05(1), F.S.

¹¹ Section 206.874(4), F.S.

¹² Oral conversation with Mark Sexton, Communications Coordinator, Alachua County Manager's Office (February 2013).

¹³ The Gainesville Sun, From chicken wings and fries to powering county trucks. See <http://www.gainesville.com/article/20130129/ARTICLES/130129540>. Site last visited February, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not considered this bill yet and, accordingly, the fiscal impact, if any, due to this bill is not known at this time.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments that manufacture biodiesel for internal use will be relieved of the time and labor needed to be expended to comply with licensing and reporting requirements of fuel wholesalers. DOR reports that implementation of this bill will present an insignificant operational impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
