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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2013	.	
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The Committee on Commerce and Tourism (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who



13 stores for use or consumption in this state any item or article  
14 of tangible personal property as defined herein and who leases  
15 or rents such property within the state.

16 (1) For the exercise of such privilege, a tax is levied on  
17 each taxable transaction or incident, which tax is due and  
18 payable as follows:

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

23 Section 2. Subsection (4) of section 212.0501, Florida  
24 Statutes, is amended to read:

25 212.0501 Tax on diesel fuel for business purposes;  
26 purchase, storage, and use.—

27 (4) Except as otherwise provided in s. 212.05(1)(k), a  
28 licensed sales tax dealer may elect to collect such tax pursuant  
29 to this chapter on all sales to each person who purchases diesel  
30 fuel, except dyed diesel fuel used for commercial fishing and  
31 aquacultural purposes listed in s. 206.41(4)(c)3., for  
32 consumption, use, or storage by a trade or business. When the  
33 licensed sales tax dealer has not elected to collect such tax on  
34 all such sales, the purchaser or ultimate consumer shall be  
35 liable for the payment of tax directly to the state.

36 Section 3. Paragraph (a) of subsection (4) of section  
37 212.08, Florida Statutes, is amended to read:

38 212.08 Sales, rental, use, consumption, distribution, and  
39 storage tax; specified exemptions.—The sale at retail, the  
40 rental, the use, the consumption, the distribution, and the  
41 storage to be used or consumed in this state of the following



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42 are hereby specifically exempt from the tax imposed by this  
43 chapter.

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

45 (a) Also exempt are:

46 1. Water delivered to the purchaser through pipes or  
47 conduits or delivered for irrigation purposes. The sale of  
48 drinking water in bottles, cans, or other containers, including  
49 water that contains minerals or carbonation in its natural state  
50 or water to which minerals have been added at a water treatment  
51 facility regulated by the Department of Environmental Protection  
52 or the Department of Health, is exempt. This exemption does not  
53 apply to the sale of drinking water in bottles, cans, or other  
54 containers if carbonation or flavorings, except those added at a  
55 water treatment facility, have been added. Water that has been  
56 enhanced by the addition of minerals and that does not contain  
57 any added carbonation or flavorings is also exempt.

58 2. All fuels used by a public or private utility, including  
59 any municipal corporation or rural electric cooperative  
60 association, in the generation of electric power or energy for  
61 sale. Fuel other than motor fuel and diesel fuel is taxable as  
62 provided in this chapter with the exception of fuel expressly  
63 exempt herein. Motor fuels and diesel fuels are taxable as  
64 provided in chapter 206, with the exception of those motor fuels  
65 and diesel fuels used by railroad locomotives or vessels to  
66 transport persons or property in interstate or foreign commerce,  
67 which are taxable under this chapter only to the extent provided  
68 herein. The basis of the tax shall be the ratio of intrastate  
69 mileage to interstate or foreign mileage traveled by the  
70 carrier's railroad locomotives or vessels that were used in



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71 interstate or foreign commerce and that had at least some  
72 Florida mileage during the previous fiscal year of the carrier,  
73 such ratio to be determined at the close of the fiscal year of  
74 the carrier. However, during the fiscal year in which the  
75 carrier begins its initial operations in this state, the  
76 carrier's mileage apportionment factor may be determined on the  
77 basis of an estimated ratio of anticipated miles in this state  
78 to anticipated total miles for that year, and subsequently,  
79 additional tax shall be paid on the motor fuel and diesel fuels,  
80 or a refund may be applied for, on the basis of the actual ratio  
81 of the carrier's railroad locomotives' or vessels' miles in this  
82 state to its total miles for that year. This ratio shall be  
83 applied each month to the total Florida purchases made in this  
84 state of motor and diesel fuels to establish that portion of the  
85 total used and consumed in intrastate movement and subject to  
86 tax under this chapter. The basis for imposition of any  
87 discretionary surtax shall be set forth in s. 212.054. Fuels  
88 used exclusively in intrastate commerce do not qualify for the  
89 proration of tax.

90 3. The transmission or wheeling of electricity.

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

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

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96  
97 ===== T I T L E A M E N D M E N T =====

98 And the title is amended as follows:

99 Delete everything before the enacting clause



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100 and insert:

101                   A bill to be entitled  
102           An act relating to the tax on sales, use, and other  
103           transactions; amending s. 212.05, F.S.; providing an  
104           exception to sales tax for dyed diesel fuel used in  
105           vessels for commercial fishing and aquacultural  
106           purposes; amending s. 212.0501, F.S.; providing an  
107           exception from sales tax collected by a licensed sales  
108           tax dealer for dyed diesel fuel used in vessels for  
109           commercial fishing and aquacultural purposes; amending  
110           s. 212.08, F.S.; providing a sales tax exemption for  
111           dyed diesel fuel used in vessels for commercial  
112           fishing and aquacultural purposes; providing an  
113           effective date.