

By Senator Bean

4-00842-13

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1 A bill to be entitled

2 An act relating to the tax on sales, use, and other  
3 transactions; amending ss. 212.05 and 212.08, F.S.;  
4 providing an exemption from the tax for dyed diesel  
5 fuel used in certain vessels in a specified manner and  
6 for a specified purpose; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Paragraph (k) of subsection (1) of section  
11 212.05, Florida Statutes, is amended to read:

12 212.05 Sales, storage, use tax.—It is hereby declared to be  
13 the legislative intent that every person is exercising a taxable  
14 privilege who engages in the business of selling tangible  
15 personal property at retail in this state, including the  
16 business of making mail order sales, or who rents or furnishes  
17 any of the things or services taxable under this chapter, or who  
18 stores for use or consumption in this state any item or article  
19 of tangible personal property as defined herein and who leases  
20 or rents such property within the state.

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

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

28 Section 2. Paragraph (a) of subsection (4) of section  
29 212.08, Florida Statutes, is amended to read:

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30           212.08 Sales, rental, use, consumption, distribution, and  
31 storage tax; specified exemptions.—The sale at retail, the  
32 rental, the use, the consumption, the distribution, and the  
33 storage to be used or consumed in this state of the following  
34 are hereby specifically exempt from the tax imposed by this  
35 chapter.

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

37           (a) Also exempt are:

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

50           2. All fuels used by a public or private utility, including  
51 any municipal corporation or rural electric cooperative  
52 association, in the generation of electric power or energy for  
53 sale. Fuel other than motor fuel and diesel fuel is taxable as  
54 provided in this chapter with the exception of fuel expressly  
55 exempt herein. Motor fuels and diesel fuels are taxable as  
56 provided in chapter 206, with the exception of those motor fuels  
57 and diesel fuels used by railroad locomotives or vessels to  
58 transport persons or property in interstate or foreign commerce,

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59 which are taxable under this chapter only to the extent provided  
60 herein. The basis of the tax shall be the ratio of intrastate  
61 mileage to interstate or foreign mileage traveled by the  
62 carrier's railroad locomotives or vessels that were used in  
63 interstate or foreign commerce and that had at least some  
64 Florida mileage during the previous fiscal year of the carrier,  
65 such ratio to be determined at the close of the fiscal year of  
66 the carrier. However, during the fiscal year in which the  
67 carrier begins its initial operations in this state, the  
68 carrier's mileage apportionment factor may be determined on the  
69 basis of an estimated ratio of anticipated miles in this state  
70 to anticipated total miles for that year, and subsequently,  
71 additional tax shall be paid on the motor fuel and diesel fuels,  
72 or a refund may be applied for, on the basis of the actual ratio  
73 of the carrier's railroad locomotives' or vessels' miles in this  
74 state to its total miles for that year. This ratio shall be  
75 applied each month to the total Florida purchases made in this  
76 state of motor and diesel fuels to establish that portion of the  
77 total used and consumed in intrastate movement and subject to  
78 tax under this chapter. The basis for imposition of any  
79 discretionary surtax shall be set forth in s. 212.054. Fuels  
80 used exclusively in intrastate commerce do not qualify for the  
81 proration of tax.

82 3. The transmission or wheeling of electricity.

83 4. Dyed diesel fuel placed into the storage tank of a  
84 vessel designed, constructed, and used exclusively for the  
85 taking of shrimp from salt and fresh waters for sale. The  
86 exemption does not apply unless the purchaser of the dyed diesel  
87 fuel provides the seller with a written statement, signed by the

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88 purchaser, verifying that the dyed diesel fuel is to be used by  
89 the vessel exclusively for the taking of shrimp from salt and  
90 fresh waters for sale. Any dyed diesel fuel that is not used  
91 exclusively as verified in such statement is subject to the tax  
92 levied under s. 212.05(1)(k), due and payable by the purchaser.

93 Section 3. This act shall take effect July 1, 2013.