

By the Committee on Commerce and Tourism; and Senator Bean

577-02587-13

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

28 (1) For the exercise of such privilege, a tax is levied on  
29 each taxable transaction or incident, which tax is due and

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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.—

57 (a) Also exempt are:

58 1. Water delivered to the purchaser through pipes or

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

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