

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 Commerce and Tourism

BILL: SB 366

INTRODUCER: Senator Soto

SUBJECT: Sales and Use Tax Exemption for Hybrid Vehicles

DATE: October 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 366 provides an exemption from the sales and use tax for hybrid vehicles sold in Florida for 5 years. “Hybrid vehicles” are defined in the bill as motor vehicles that draw propulsion energy from a combination of onboard internal combustion or heat engine that uses combustible fuel and a rechargeable energy-storage system.

The Revenue Estimating Conference determined that the bill will reduce state and local revenues by \$49 million in Fiscal Year 2016-2017, with a recurring impact of \$53.5 million.

II. Present Situation:

Hybrid electric vehicles split their power sources between an electric motor, internal combustion engine, e.g., a gas or diesel engine, and a rechargeable battery that is charged by recaptured energy from braking.¹ Hybrid vehicles are distinct from plug-in hybrid electric, extended range electric, battery electric (full electric), or hydrogen fuel cell-powered vehicles. Plug-in hybrid and extended range electric cars rely largely on batteries that can be charged by plugging in to an electric outlet, but once the battery is depleted, the cars rely on a gas generator or gas engine for power.² A battery electric vehicle relies exclusively on batteries charged by electricity from the utility grid.³ A hydrogen fuel cell vehicle relies on polymer electrolyte membrane fuel cells to convert hydrogen fuel and oxygen to electricity for power.⁴

¹ National Conference of State Legislatures, *Transportation Energy for the Future: A Guide for Policymakers*, 20-21 (March 2012) available at: <http://www.ncsl.org/documents/energy/tranenergyfuture.pdf> (last visited October 19, 2015).

² Go Electric Drive, *FAQ Plug-in Electric Vehicles*, available at: <http://www.goelectricdrive.org/faq-glossary/plug-in-electric-vehicles> (last visited October 19, 2015).

³ *Id.*

⁴ U.S. Department of Energy, *Fuel Cell Vehicles*, available at: <https://www.fueleconomy.gov/feg/fuelcell.shtml> (last visited October 19, 2015).

Hybrid vehicle sales grew steadily from the technology's 1999 introduction in the U.S. until the 2013 peak at 495,530 annual sales.⁵ In 2014, hybrid car sales dropped to 451,702, representing 2.75 percent of total U.S. vehicle sales.⁶ In total, 570,475 electric vehicle were sold in 2014, including, e.g., plug-in electric cars.⁷ The drop in hybrid vehicle sales may be partially explained by the 2011 introduction of plug-in electric and battery electric vehicles, which grew from .14 percent of total U.S. vehicle sales in 2011 to .72 percent in 2014.⁸ Additionally, the newer battery technology qualifies for federal tax credits, while the traditional hybrid technology tax credit expired in 2010.

As of October 1, 2015, there were 37,111 Inherently Low-Emission Vehicles (ILEV)⁹ registered with the Florida Department of Highway Safety and Motor Vehicles (FDHSMV).¹⁰

The top-selling hybrid car in the U.S. in 2014 has an estimated combined city and highway fuel economy of 50 miles per gallon (mpg).^{11,12} Other popular hybrid vehicles' average combined city and highway fuel economies range from 29 mpg to 45 mpg,¹³ while the average gas mileage for all new cars and trucks sold in the U.S. in 2013 was 24.1 mpg.¹⁴

⁵ David Block, John Harrison, Paul Brooker, *Report on Electric Vehicle Sales for 2014 and Future Projections*, 2-3 (March 30, 2015) available at: <http://fsec.ucf.edu/en/publications/pdf/FSEC-CR-1998-15.pdf> (last visited October 19, 2015).

⁶ Electric Drive Transportation Association, *Electric Drive Sales Dashboard*, available at: <http://electricdrive.org/index.php?ht=d/sp/i/20952/pid/20952> (last visited October 19, 2015). Brad Tuttle, *Why This Might be the Beginning of the End for the Toyota Prius*, *Fortune.com* (January 6, 2015) available at: <http://fortune.com/2015/01/06/why-this-might-be-the-beginning-of-the-end-for-the-toyota-prius/> (last visited October 19, 2015).

⁷ Electric Drive Transportation Association, *Electric Drive Sales Dashboard*, available at: <http://electricdrive.org/index.php?ht=d/sp/i/20952/pid/20952> (last visited October 16, 2015).

⁸ David Block, ET AL., *supra* note 5, at 4.

⁹ An ILEV vehicle has been certified by the Federal Government as meeting specific emissions standards, addressed in 40 C.F.R. § 88.311-93. Generally, hybrid vehicles are classified as ILEV vehicles. *See, e.g.,* U.S. Environmental Protection Agency, *Draft List of Eligible Low-Emission and Energy Efficient Vehicles using the Hybrid-to-Gasoline Vehicle Comparison Methodology as of December 19, 2014*, available at: http://www.flhsmv.gov/dmv/epa_low_emission_list.pdf (last visited October 19, 2015).

¹⁰ Conversation with the Florida Department of Highway Safety and Motor Vehicles (October 13, 2015).

¹¹ The Toyota Prius sold 122,776 units in the U.S. in 2014. U.S. Department of Energy, Alternative Fuels Data Center, *U.S. HEV Sales by Model*, available at: <http://www.afdc.energy.gov/data/10301> (last visited October 19, 2015).

¹² U.S. Department of Energy, *Compare Side-by-Side, 2014 Toyota Prius*, available at: <https://www.fueleconomy.gov/feg/Find.do?action=sbs&id=34489> (last visited October 19, 2015).

¹³ The Buick LaCrosse eAssist averages 29 mpg, and the Honda Civic Hybrid, 45 mpg. *See, HybridCars.com, Most Fuel-Efficient Hybrids*, available at: <http://www.hybridcars.com/top-hybrid-cars-list/>, last visited October 19, 2015). U.S. Department of Energy, *Compare Side-by-side, 2014 Buick LaCrosse E-Assist*, available at: <https://www.fueleconomy.gov/feg/Find.do?action=sbs&id=34379&id=34719&id=34317&id=33838> (last visited October 19, 2015).

¹⁴ This figure is not yet available for 2014. U.S. Environmental Protection Agency, *Light-Duty Automotive Technology, Carbon Dioxide Emissions, and Fuel Economy Trends: 1975-2014*, (October 2014), available at: <http://www3.epa.gov/otaq/fetrends.htm> (last visited October 19, 2015).

Incentives and Policies To Promote Hybrid Vehicles

Florida

Section 316.0741, F.S., authorizes hybrid vehicles that are certified and labeled¹⁵ in accordance with federal regulations to be driven in High-Occupancy Vehicle (HOV) lanes at any time, regardless of the number of passengers in the car. In addition, properly labeled hybrid vehicles are exempt from tolls on I-95 Express.¹⁶ As of October 1, 2015, the FDHSMV granted 16,287 vehicles an HOV lane certification sticker.¹⁷ Pursuant to 23 U.S. Code, s. 166, this benefit will expire in 2017.

From 2006 through 2010, hydrogen-powered vehicles were eligible for a sales tax rebate under Florida law.¹⁸ However, no tax rebates were granted under this law.¹⁹

Federal

The U.S. Energy Policy Act of 2005 provided a federal income tax credit of up to \$3,400 for the purchase of new hybrid vehicles, but this credit began to phase out after the first 60,000 qualifying hybrid vehicles per manufacturer were purchased, and fully expired in 2010.²⁰ Congress switched its focus to plug-in hybrid vehicles in the 2009 American Recovery and Reinvestment Act, which instituted a tax credit for the purchase of a new, plug-in electric vehicle.²¹ The base amount of the tax credit is \$2,500, plus \$417 for each kilowatt (kWh) per hour of battery capacity in excess of 4 kWh, with a maximum tax credit amount of \$7,500 per vehicle.²² The plug-in vehicle tax credit will begin to phase out after a manufacturer has sold 200,000 eligible vehicles.

Other States

At least 37 states and the District of Columbia have some form of incentive to promote hybrid, alternative fuel, zero-emission, and plug-in vehicle purchases.²³ The most popular incentives are HOV lane exemptions, financial incentives, free parking in specific areas, and utility rate reductions. Only one other state, Colorado, currently provides a tax credit for the purchase of a

¹⁵ Section 316.0741(5), F.S. requires the Florida Department of Transportation to issue HOV lane designation decals to eligible hybrid vehicles. The FDOT is permitted to charge up to \$5.00 per year for the decal.

¹⁶ 95 Express Registration Process and Forms, available at: <http://www.95express.com/pages/usage-guidelines/registration-process-forms> (last visited October 19, 2015).

¹⁷ Conversation with the Florida Department of Highway Safety and Motor Vehicles (October 13, 2015).

¹⁸ See Ch. 2006-230, *Laws of Florida*; s. 212.08(7)(ccc), F.S.(2006).

¹⁹ Conversation with the Florida Department of Revenue (October 15, 2015).

²⁰ Virginia McConnell and Tom Turrentine, *Should Hybrid Vehicles Be Subsidized?* at 2, Backgrounder Resources for the Future and National Energy Policy Institute, (July 2010), available at: <http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-BCK-McConnellTurrentine-Hybrids.pdf> (last visited October 19, 2015).

²¹ U.S. Environmental Protection Agency, *American Recovery and Reinvestment Act of 2009: A Guide to Renewable Energy and Energy Efficiency Opportunities for Local and Tribal Governments*, at 15 (February 27, 2009), available at: http://www3.epa.gov/statelocalclimate/documents/pdf/local_guide_to_arra.pdf (last visited October 19, 2015).

²² Virginia McConnell and Tom Turrentine, *supra*, note 17 at 19.

²³ National Conference of State Legislatures, *State Efforts Promote Hybrid and Electric Vehicles*, (June 29, 2015) available at: <http://www.ncsl.org/research/energy/state-electric-vehicle-incentives-state-chart.aspx> (last visited October 19, 2015).

traditional hybrid vehicle.²⁴ The remaining state tax incentive laws apply only to plug-in electric vehicles, zero-emission vehicles, or vehicles that use exclusively alternative fuel.

Conversely, some states assess a hybrid or electric car fee to make up for lost revenue from gas tax that high mileage vehicle owners no longer proportionately contribute to as a result of their improved gas mileage vehicles.²⁵

Florida Sales and Use Tax

Florida levies a 6 percent state sales and use tax, which applies to the sale or rental of most tangible personal property, admissions, rental of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions, exclusions, deductions, and credits from the state sales and use tax.²⁶

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed by ch. 212, F.S. The discretionary sales surtax is based on the tax rate imposed in the county where the taxable goods or services are sold or delivered into.

III. Effect of Proposed Changes:

Section 1 of the bill creates a sales tax exemption for the sale of hybrid vehicles.

The bill further defines "hybrid vehicles" as motor vehicles that draw propulsion energy from onboard sources of stored energy, consisting of both:

- An internal combustion or a heat engine that uses combustible fuel, and
- A rechargeable energy-storage system.

Therefore, plug-in electric hybrids and full battery electric vehicles are not eligible for this tax exemption. However, both new and used hybrid vehicles will qualify for the sales tax exemption under this bill. Standard gasoline or diesel engine cars that are converted to qualify as a hybrid vehicle prior to their sale will also qualify.

Under the bill, this exemption will run for 5 years and expire on June 30, 2021.

Section 2 of the bill provides an effective date of July 1, 2016.

²⁴ *Id.* at 3.

²⁵ *Id.*

²⁶ Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2015.pdf> (last visited October 19, 2015).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution, governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, these requirements do not apply to laws that have an insignificant fiscal impact, which for FY 2016-2017, is \$2,012,772.30 or less.^{27,28,29}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that this bill will reduce state and local revenues by \$49 million in Fiscal Year 2016-2017m with a recurring impact of \$53.5 million.

B. Private Sector Impact:

The sales tax exemption may entice some consumers to purchase hybrid vehicles versus traditional vehicles, electric vehicles, or plug-in electric vehicles.

Sellers of hybrid vehicles may experience an increase in sales of hybrid vehicles in reaction to enactment of this sales tax exemption.

²⁷ FLA. CONST. art. VII, s. 18(d).

²⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last accessed October 2, 2015).

²⁹ Based on the Demographic Estimating Conference's population adopted on July 9, 2015. The conference packet can be found at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last accessed October 19, 2015).

C. Government Sector Impact:

The Department of Revenue reports that the bill will have an insignificant fiscal impact on the Department.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of 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.

³⁰ Department of Revenue, *SB 366 Agency Bill Analysis* (October 12, 2015) (on file with the Senate Committee on Commerce and Tourism).