

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 1192

INTRODUCER: Senator Gruters

SUBJECT: Tax on Aviation Fuel

DATE: January 13, 2020

REVISED: 1/14/20

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

I. Summary:

SB 1192 repeals the excise tax imposed on aviation fuel, aviation gasoline, and kerosene sold or brought into the state.

The bill takes effect July 1, 2020.

II. Present Situation:

Aviation Fuel Tax in Florida

Part III of ch. 206, F.S., imposes an excise tax of 4.27 cents per gallon on aviation fuel, aviation gasoline, and kerosene sold in or brought into the state.¹ The fuel sales tax, constitutional fuel tax, county fuel tax, and municipal fuel tax are also imposed when aviation fuel is handled under certain circumstances.²

Tax exemptions and credits are authorized under several conditions:

- Airline fuel sold to certain qualified colleges and universities and exclusively used for flight training is exempt from the excise tax. A supplier that sells aviation fuel to a qualified

¹ “Aviation fuel” means fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications. “Kerosene” means all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under chapter 206 part II, F.S. “Aviation gasoline” means any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft.

² Section 206.41(6), F.S. Current tax rates can be found in the Florida Office of Economic and Demographic Research’s *Florida Tax Handbook*, 130 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Jan. 13, 2020).

college or university and does not collect the excise tax may receive an ultimate vendor credit for the 4.27-cent excise tax previously paid.³

- Kerosene prepackaged in containers of 5 gallons or less sold for home heating and cooking is exempt from the excise tax. Packagers may qualify for a refund of taxes previously paid.⁴
- An air carrier conducting certain scheduled operations or all-cargo operations is entitled to a refund of 1.42 cents per gallon of the excise taxes imposed on aviation fuel purchased by such a carrier.⁵
- An air carrier transporting persons or property for compensation is entitled to a refund, not to exceed 0.6 percent of the wages paid by the carrier to certain employees, of the excise taxes imposed on aviation fuel purchased by such a carrier.⁶
- The tax refund provided to an air carrier may not exceed 4.27 cents per gallon of aviation fuel purchased by the carrier.⁷

Every retail dealer selling aviation fuel to the public must clearly post on each pump or dispensing device the price of the aviation fuel and whether the price includes tax.⁸

The excise tax on aviation fuel was created in 1985. In 1996, in an attempt to attract new airlines to the state, the Legislature established an aviation fuel tax credit for air carriers offering transcontinental jet services that increased their Florida workforces by more than 1000 percent. The original tax credit expired in 2001 and was reauthorized without an expiration date after the events of September 11, 2001. Chapter 16-220, L.O.F., provided that carriers may not qualify for the tax credit after 2016 but may continue receiving the credit until 2019, after which the tax credit expired and the excise tax on aviation fuel decreased from 6.9 to 4.27 cents per gallon.

The Transportation Revenue Estimating Conference reported \$56,400,000 in gross revenue from the aviation fuel excise tax in Fiscal Year 2018-2019. After \$12,800,000 in tax credits and refunds were distributed and \$3,700,000 in administrative fees and service charges were deducted, \$39,900,000 was transferred to the State Transportation Trust Fund.⁹

Aviation Fuel Tax in Other States

All but ten states impose a specific tax on aviation fuel. Oklahoma (.08 cents per gallon), Georgia (.01 cents per gallon), and Hawaii (.01 cents per gallon) impose some of the lowest taxes, and Vermont (31.01 cents per gallon), Maine (30 cents per gallon), and Massachusetts (25.3 cents per gallon) impose the highest taxes. Florida's tax is the ninth lowest state tax on aviation fuel.¹⁰

³ Section 206.9825(1)(b), F.S.

⁴ Section 206.9825(2)(c), F.S.

⁵ Section 206.9826, F.S.

⁶ Section 206.9855, F.S.

⁷ *Supra* note 3.

⁸ Section 206.9837, F.S.

⁹ Florida Office of Economic and Demographic Research, *Revenue Estimating Conference – Revenues to State Transportation Trust Fund*, 6 (August 2019), available at <http://edr.state.fl.us/Content/conferences/transportation/archives/190802transportation.pdf> (last visited Jan. 13, 2020).

¹⁰ United States Energy Information Administration, *2019 State Aviation Fuel Taxes*, available at <https://www.eia.gov/petroleum/marketing/monthly/xls/aviationtaxes.xls> (last visited Jan. 13, 2020).

III. Effect of Proposed Changes:

Section 1 repeals part III of chapter 206, F.S., to remove the excise tax imposed on aviation fuel, aviation gasoline, and kerosene sold or brought into the state.

Section 2 amends s. 163.3206(2)(a), F.S., relating to fuel terminal infrastructure, to remove a reference to the definition of “aviation fuel” in s. 206.9815, F.S., which is deleted by section 1 of the bill. The reference is replaced with the same definition of the term.

Sections 3, 4, 5, 6, 7, 8, and 9 make conforming changes to statutes containing references to the repealed provisions.

Section 10 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure, does not reduce the authority of municipalities and counties to raise revenues, and does not reduce the percentage of a state tax shared with municipalities and counties. Counties and municipalities do receive shares of certain state taxes on aviation fuel, but not the excise tax on aviation fuel that the bill would repeal. Deposits of the aviation fuel tax to the State Transportation Trust Fund are dedicated to aviation-related purposes.¹¹ The provisions of Article VII, Sections 18(b) and (c) of the Florida Constitution do not apply to the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹¹ Florida Department of Transportation, *Florida's Transportation Tax Sources*, 30 (2017), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/comptroller/pdf/gao/revmanagement/tax-primer.pdf?sfvrsn=f1eadaf7_0 (last visited Jan. 13, 2020).

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

The Revenue Estimating Conference has not yet met regarding the bill.

B. Private Sector Impact:

Dealers and purchasers paying the excise tax on aviation fuel will realize savings.

C. Government Sector Impact:

The bill will decrease deposits to the State Transportation Trust Fund by an indeterminate amount.

The Department of Revenue estimates that \$85,113 in nonrecurring funds would be required to modify the department's tax systems in order to comply with the bill's provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3206, 206.42, 206.9915, 207.003, 207.005, 213.053, 332.007, and 332.009.

This bill repeals the following sections of the Florida Statutes: 206.9815, 206.9825, 206.9826, 206.9835, 206.9837, 206.9845, 206.9855, 206.9865, and 206.9875.

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.