

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1846

SPONSOR: Fiscal Resource Committee and Senator Sebesta

SUBJECT: Tax on Diesel Fuel

DATE: April 16, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill provides certain motor coach owners with a diesel fuel tax refund on fuel purchased and consumed in Florida by a “qualified motor coach” when the engine is idling to run climate control and electrical systems. The bill limits the refund to once per year and provides that the refund must be offset by sales tax due under chapter 212 on the price of the diesel fuel, net the diesel fuel tax paid. The current tax rate on diesel fuel is 25 cents per gallon.

This bill substantially amends sections 206.8745 and 206.41(5)(b) of the Florida Statutes.

## II. Present Situation:

State law imposes fuel taxes on each gallon of taxable fuel sold in Florida. These fuel taxes are administered by the Department of Revenue (DOR). The current fuel tax rates for diesel and uses of tax revenue are as follows:

- ▶ 2 cents - Constitutional Fuel Tax - Local government transportation needs.
- ▶ 1 cent - County Fuel Tax - Local government transportation needs.
- ▶ 1 cent - Municipal Fuel Tax - Local government transportation needs.
- ▶ 7 cents - Local Option & Ninth-Cent Fuel Taxes\* - Local government transportation needs.
- ▶ 5 cents - State Comprehensive Enhanced Transportation System (SCETS) Tax - State transportation needs in the county of collection.
- ▶ 9 cents - Fuel Sales Tax - State transportation needs.

(\*As of 1994 the tax rates for both the Local Option Fuel Tax and the Ninth-Cent Fuel Tax were equalized statewide at a total of 7 cents per gallon for diesel fuel.)

Currently, tax refunds are authorized for diesel fuel consumed for unloading bulk cargo by pumping; for turning a concrete mixer drum; and for compacting solid waste. Requests for these

refunds are processed by DOR as provided by agency rule. Based on industry conducted studies, DOR established fixed guidelines by rule for the portion of diesel fuel purchased which would be subject to refund. For both the concrete mixing industry and the trash compacting industry DOR rules provide that 35 percent of fuel purchased is subject to refund. For the bulk cargo pumping industry DOR rules provide that 10 gallons of fuel purchased for each load is subject to refund.

Bills filed with the 1998 Legislature (HB 4011 and SB 1758) proposed a refund of tax paid on diesel fuel used during idle time by motor coaches to power electrical systems and climate control systems. While the bills died in committee, the Legislature in Chapter 98-342, Laws of Florida, required the Department of Revenue, in consultation with the Division of Economic and Demographic Research, to conduct a study on the equity of the refund provisions for diesel fuel taxes pursuant to s. 206.8745, F.S., with regard to their applicability to commercial carriers using fuel in a similar manner. The Department issued a report on its findings to the President of the Senate and the Speaker of the House of Representatives December 30, 1998. The Department made no recommendations to the Legislature on the refund provisions for diesel fuel taxes.

Section 206.41(5)(b)1., F.S., provides that when motor fuel or diesel fuel is sold to a person who claims to be entitled to a refund under subsection (4), the seller of such motor fuel or diesel fuel shall make out a sales invoice, which shall contain the following information: a) the name, post office address, and residence address of the purchaser; b) the number of gallons purchased; c) the date on which the purchase was made; d) the price paid for the motor fuel or diesel fuel; e) the name and place of business of the seller of the motor fuel or diesel fuel; f) the license number, or other identification number, of the motor vehicle or boat of the purchaser; and g) the Department of Environmental Protection storage tank facility identification number for the seller's location, if the location is required to be registered in accordance with s. 376.303.

### **III. Effect of Proposed Changes:**

This bill amends s. 206.8745, adding a new subsection (8) which provides that diesel fuel purchased in Florida and consumed by the engine of a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund. "Qualified motor coach" is defined in the bill to mean a privately owned vehicle designed to carry nine or more passengers with a gross vehicle weight of at least 33,000 pounds, which is used exclusively for transporting passengers for compensation and which has the capacity to measure diesel fuel consumed in Florida during idling, separate from diesel fuel consumed to propel the vehicle in Florida, by way of an on-board computer.

The bill allows the purchaser to make one refund claim per calendar year. The refund claim shall be submitted prior to April 1 of the year subsequent to the year in which the tax was paid, and after December 31, 1999. The purchaser must submit original or copies of original purchase invoices showing the taxes paid, or in lieu of original invoices, a purchaser may submit a schedule of purchases containing the information required by s. 206.41(5)(b)1. The purchaser must remit as an offset to the refund, sales tax due under chapter 212 based on the purchase price of the fuel, net of the state tax refunded.

The Department of Revenue is granted authority to adopt rules to implement subsection (8).

The bill amends s. 206.41(5)(b)1., F.S., requiring the seller of motor fuel or diesel fuel who sells to a person who claims to be entitled to a refund of such motor fuel or diesel fuel pursuant to s. 206.8745, must make out a sales invoice containing the information outlined in s. 206.41(5)(b)1.

The bill will take effect January 1, 2000.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

There will be an indeterminate loss of fuel tax revenue to the State Transportation Trust Fund of the Department of Transportation and an indeterminate loss of fuel tax revenue to county and municipal governments as a result of passage of this bill. Since the amount of fuel consumed by qualified motor coaches that would be subject to refund is unknown, the fiscal impact of this bill cannot be determined.

##### **B. Private Sector Impact:**

The motor coach industry with the capacity to measure diesel fuel consumed in Florida during idling, separate from diesel fuel consumed to propel the vehicle in Florida, by way of an on-board computer, will benefit from refunds of fuel taxes paid on diesel fuel consumed while a motor coach 's engine is idling.

##### **C. Government Sector Impact:**

The Department of Revenue will have to adopt rules to implement the changes proposed by the bill.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Based on a survey of the Florida Motor Coach Association, the ratio of diesel fuel consumption at idle to total fuel consumption varied from 11 percent to 33 percent.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---