

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1524

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Transportation of Fuel

DATE: February 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Favorable/CS
2.	_____	_____	CJ	_____
3.	_____	_____	APJ	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS provides it is unlawful to possess any device for the transportation of motor or diesel fuel which does not conform to federal requirements for such fuel transportation devices. The CS provides it is a felony of the third degree, punishable by up to five years in prison and a \$5,000 fine. The CS further provides such a violation will result in the revocation of the violators driver’s license.

The CS provides if the above violation occurs, and the violator purchases or attempts to purchase fuel by using a fraudulent credit card, credit card account number, or by using unauthorized access to any computer network, the violation is also a felony of the third degree. The CS exempts containers of 8 gallons or less from the provisions of this act.

II. Present Situation:

According to the petroleum industry, there has been a recent problem, particularly in South-East Florida, concerning the illegally obtaining and selling of motor fuel. Persons fraudulently obtain fuel from a gas station, often by using a stolen or duplicate credit card, and convey the gas into an inappropriate container on the vehicle, often hundreds of gallons. The stolen gas is then sold from the vehicle at another location, typically an industrial area.

Chapter 206, F.S., requires persons transporting fuel to be licensed as a carrier and provides for various record keeping requirements. Section 206.20, F.S., provides every person transporting motor fuel over public highways must have in their possession proof of sale and payment of taxes for the fuel on board the vehicle, unless there is less than 5 gallons and it is being transported for emergency purposes. A violation is a misdemeanor of the first degree. Section 206.205, F.S., provides any vehicle found to be transporting fuel for the purpose of illegally

evading any fuel tax may be forfeited, and transporting fuel without being licensed as a carrier is a misdemeanor of the first degree.

Chapters 525 and 526, F.S., address requirements for the sale of motor fuel, including the inspection of retail motor fuel storage tanks, ensuring proper labeling of fuels, and addressing deceptive sales practices, and other requirements directed toward ensuring safe operation and fair competition among legitimate businesses.

Sections 817.57-817.685, F.S., is the "State Credit Card Crime Act." This act address various forms of credit card fraud and provides penalties. Credit card crimes which are misdemeanors of the first degree include theft by credit card which was lost, buying or selling credit cards, and false statements on credit card applications. Credit card crimes which are a third degree felony include forging a signature on a credit card, use of scanning device or reencoder to defraud, and the illegal possession of credit card making equipment.

49 Code of Federal Regulations Part 173 provides general requirements for commercial truck shipments and packaging. All commercial fuel carriers must meet federal safety requirements, however, fuel containers 8 gallons or less are exempt from federal requirements.

III. Effect of Proposed Changes:

Subsection (1) of this CS provides it is unlawful to possess any device for the transportation of motor or diesel fuel which does not conform to federal requirements for such fuel transportation devices. The CS provides it is a felony of the third degree, punishable by up to five years in prison and a \$5,000 fine. The CS further provides a violation of this section will result in the revocation of the violators driver's license.

Subsection (2) provides if a violation of subsection (1) occurs, and the violator purchases or attempts to purchase fuel by using a fraudulent credit card, credit card account number, or by using unauthorized access to any computer network, the violation is also a felony of the third degree.

The CS further provides all conveyances or vehicles, fuel tanks, related fuel, and other equipment used to transport fuel in violation of federal requirements is subject to seizure and forfeiture. The CS provides the seizing law enforcement agency must remove and reclaim, recycle, or dispose of all associated fuel, and all fuel tanks and other equipment used in violation of this CS must be destroyed, except the conveyance or vehicle.

The CS also provides any person convicted of a violation of this law is responsible for all reasonable costs incurred by the investigating law enforcement agency, including the towing and storage of the conveyance or vehicle, the removal and disposal of the fuel, and the storage and destruction of all fuel tanks and other equipment described and used in violation of this act. Any person convicted of a violation of this law is also responsible for restitution to the fuel vendor for any fuel unlawfully obtained. The CS exempts containers of 8 gallons or less from the provisions of this act.

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:

None.

B. Private Sector Impact:

According to the Florida Petroleum Council, the impact of stolen fuel upon the industry is approximately \$25 million. The extent to which this CS will lessen industry losses due to enforcement and deterrence is unknown.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.