

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.)

Date: April 1, 1998 Revised: _____

Subject: Sales Tax Exemption/Aquaculture

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Keating</u>	<u>Beggs</u>	<u>WME</u>	<u>Favorable/PCS</u>
2.	<u>Keating</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>CM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill expands the exemption for items in agricultural use to include fertilizers, insecticides, herbicides, and fungicides used at aquaculture facilities and fuel used to heat structures in which fish are raised. Fish, shellfish, and alligators are added to the list of animals raised for commercial purposes, for which feeds are exempt from the sales tax.

This bill substantially amends section 212.08 of the Florida Statutes.

II. Present Situation:

Florida's sales and use tax is a tax of general applicability which applies to receipts from the sales, storage and use of all tangible personal property unless specifically exempted. Sections 212.08 (5) (a) and (e) and 212.08 (7) (d), F.S., exempt certain items used for commercial fishing or agricultural purposes from the sales and use tax. Section 1.01(12), F.S., as amended by ch. 96-247, Laws of Florida, defines agriculture and agricultural purposes as used throughout the Florida Statutes, as including aquaculture and aquacultural purposes. Therefore, whenever an exemption is granted in general terms to agriculture, it would also apply to aquaculture.

Some of the agricultural exemptions in s. 212.08, F.S., are specifically worded. Section 212.08(5)(a), F.S., exempts fertilizers, insecticides, herbicides, and fungicides used on crops and groves, but not those used at aquaculture facilities. Fuels are exempt if used to heat structures in which certain poultry are raised but not structures where fish are raised.

Section 212.08(5)(e), F.S., exempts from the sales tax, butane, propane, natural gas, and all other liquefied petroleum gases used in farm equipment that is used exclusively on a farm or for processing farm products on the farm.

Section 212.08(7)(d), F.S., exempts from the sales tax, feeds for poultry, ostriches, and livestock, which includes racehorses, dairy cows and fish raised for food. Rule 12A-1.050(1)(b), F.A.C., defines “livestock” to include all animals of equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals. In addition, “livestock” also includes other commercial agricultural endeavors, such as breeding and raising chenchillas or fish, other than goldfish or tropical fish. The Department of Revenue has identified the exclusion of “goldfish or tropical fish” from the definition of “livestock” for sales tax exemption purposes, as exceeding the rulemaking authority permitted by s. 120.536, F.S.

With the implementation of s. 1.01(12), F.S., the exclusion of goldfish or tropical fish from the sales tax exemption for feed for fish raised for commercial purposes is no longer valid. As a result, the part of Rule 12A-1.050(1)(b), F.A.C., which excludes goldfish or tropical fish from the definition of “livestock” shall be repealed effective July 1, 1999.

III. Effect of Proposed Changes:

The bill expands the exemption in s. 212.08 (5) (a), F.S., to include fertilizers, insecticides, herbicides, and fungicides used at aquaculture facilities and fuel used to heat structures in which fish are raised. The term “aquaculture facilities” is not defined in the bill.

Section 212.08(7)(d), F.S., is amended to add fish, shellfish, and alligators to the list of animals for which feeds are exempt. The proposed committee substitute requires that for feed to be exempt, it must be purchased for poultry, ostriches, livestock, fish, shellfish, and alligators raised for commercial purposes only.

The bill takes effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of s. 18, Art. VII, State Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, State Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Currently, feed for fish raised for food is exempt from the sales and use tax and would not have a fiscal impact. Since the provisions of Rule 12A-1.050(1)(b), F.A.C., excluding goldfish or livestock from the definition of “livestock” for sales tax exemption purposes shall be repealed effective July 1, 1999, there will be a first year fiscal impact only for feed for fish raised for commercial purposes, other than for food. The sale of fertilizers, insecticides, herbicides, and fungicides used for aquaculture facilities and fuel used to heat a structure for both fish raised for food and fish raised for pleasure or commercial sale would become exempt under the bill.

Estimates on the fiscal impact of the proposed committee substitute are as follows:

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
	\$	\$	\$	\$	\$	\$	\$	\$
1. Fungicides etc.aquaculture fac.	(.1)	(.1)	(*)	(*)	(*)	(*)	(.1)	(.1)
2. Fuel used to heat structures	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3. Feed for fish	<u>(.4)</u>	<u>(0)</u>	<u>(*)</u>	<u>(0)</u>	<u>(*)</u>	<u>(0)</u>	<u>(.4)</u>	<u>(0)</u>
TOTAL	(.4)	(.1)	(*)	(*)	(*)	(*)	(.5)	(.1)

* Insignificant
** Indeterminate

B. Private Sector Impact:

Businesses raising fish for food, pleasure or commercial sale would be able to purchase fertilizers, insecticides, herbicides, and fungicides used for aquaculture facilities tax-free as well as fuel used to heat a structure in which fish are raised. Feeds for fish, shellfish and alligators, raised for commercial purposes, can also be purchased tax exempt.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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