

# 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: SB 142

SPONSOR: Senators Holzendorf and Thomas

SUBJECT: Sales Tax Exemption/Truck Stops

DATE: March 18, 1999 REVISED: \_\_\_\_\_

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

## I. Summary:

This bill provides an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. The bill defines “travel center/truck stop facility” for the purposes of the subparagraph as “any facility that has declared its primary business activity, under s. 206.404(1)(g), as the sale of diesel fuel at retail, which facility operates a minimum of 6 diesel fuel dispensers.”

This bill substantially amends s. 212.031 of the Florida Statutes.

## II. Present Situation:

Since 1969, every person that engages in the business of leasing, renting, or letting real property is engaging in a taxable privilege, however, there are some exceptions. Under current law, the renting, leasing, letting or granting of license for use of real property is not taxable if the property is:

- 1) assessed as agricultural property under s. 193.461, F.S.
- 2) used exclusively as dwelling units.
- 3) property subject to tax on parking, docking, or storage spaces under s. 212.03(6), F.S.
- 4) recreational property or the common elements of a condominium under certain conditions.
- 5) public or private street or right of way occupied or used by a utility for utility purposes.
- 6) a public street or road used for transportation purposes.
- 7) airport property used for aircraft taxiing and landing, loading or unloading of passengers or property, or fueling aircraft.
- 8) property used at a port authority, as defined in s. 315.02(2), F.S., exclusively for the purposes of oceangoing vessels or tugs docking, loading or unloading passengers or cargo, fueling, or to the extent that charges for the use of such property are based upon the tonnage actually imported or exported.
- 9) property used as an integral part of any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b).

- 10) property used to provide food and drink concessionaire services within a movie theater, publicly owned arena, sports stadium, convention or exhibition hall, auditorium or recreational facility or any business operated under a permit issued under chapter 550. F.S.
- 11) any property occupied pursuant to an instrument calling for payments which the Department of Revenue has declared in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c) of the Florida Administrative Code.

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

The bill provides an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. The bill defines "travel center/truck stop facility" for the purposes of the subparagraph as "any facility that has declared its primary business activity, under s. 206.404(1)(g), as the sale of diesel fuel at retail, which facility operates a minimum of 6 diesel fuel dispensers."

The bill provides for an effective date of July 1, 1999.

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

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

This bill initially falls under subsection (b) of section 18 of Article VII, Florida 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, Florida 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:**

Travel centers/truck stops whose primary business is the sale of diesel fuel, which operates a minimum of 6 diesel fuel pumps would be exempt from the sales tax on the rental or lease of the travel center/truck stop. A 1998 survey was performed by the Florida Truck & Fuel Stop Operator Association of the 136 Florida Facilities listed in TRUCK STOPS - A Complete Guide to Over 5,000 Truck Stops in the U.S. & Canada. The results are as follows:

- 91 facilities are owned and operated;
- 13 facilities with 6 or more diesel fuel pumps are leased; and
- 8 facilities with less than 6 diesel pumps are leased.

The estimated fiscal impact of the exemption is an annualized loss to the General Revenue Fund of \$.4 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Sales Tax Exemption: Truck Stops/Leases	\$ (0.4)	\$ (0.4)	\$ (*)	\$ (*)	\$ (*)	\$ (*)	\$ (0.4)	\$ (0.4)

- \* Insignificant
- \*\* Indeterminate

**B. Private Sector Impact:**

Travel centers/truck stops that rent or lease their property and are operating 6 or more diesel fuel pumps will not be required to pay sales tax on their rent or lease payments.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In October, 1998, the Senate Committee on Ways and Means, Finance and Tax Subcommittee, published Report No. 98-65, "Impact of the International Fuel Tax Agreement on Diesel Fuel Sales in Florida". One of the recommendations of the report was to provide tax relief to North Florida truck stop operators who claim to be losing fuel sales to the contiguous states of Alabama and Georgia, states with fuel tax rates significantly lower than Florida's. The proposed tax relief

would be in the form of offering a sales tax exemption on the renting or leasing of certain travel center/truck stop facilities.

SB 862 by the Senate Committee on Fiscal Resource is identical and HB 47 is similar to SB 142.

**VIII. Amendments:**

None.

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

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