

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 Policy and Steering Committee on Ways and Means

BILL: CS/SB 1730

INTRODUCER: Higher Education Committee and Senator Oelrich

SUBJECT: Biodiesel Fuel

DATE: April 15, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>HE</u>	Fav/CS
2.	<u>ODonnell</u>	<u>McKee</u>	<u>FT</u>	Favorable
3.	<u>McVaney</u>	<u>Coburn</u>	<u>WPSC</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates a fuel tax exemption for biodiesel fuel manufactured by a public or private secondary school in an amount not to exceed 1,000 gallons on an annual basis, when it is used solely at the school, by its employees or its students.

Schools that qualify for the tax exemption are also exempt from the diesel fuel registration requirements.

The Revenue Estimating Conference has determined that the revenue impact of the bill is insignificant.

This bill substantially amends section 206.874 of the Florida Statutes.

II. Present Situation:

The state imposes a tax on the sale, use, distribution, or consumption of motor fuel.¹ Diesel fuel is addressed separately in law, taxed differently, and generally considered to be subject to a highway tax, imposed for the purpose of constructing and maintaining the highways of the state.² Biodiesel fuel, a type of diesel fuel, is a product made from nonpetroleum-based oils or fats that can be used to fuel diesel-powered engines.³ Biodiesel manufacturers are subject to the same reporting and licensing requirements as wholesalers.⁴

The amount of tax varies, but includes the following:

- A 4 cent per gallon excise tax;
- A 1 cent per gallon tax, known as a “ninth-cent fuel tax”;
- A 6 cent per gallon tax known as a “local option fuel tax”;
- An additional tax set by the State Comprehensive Enhanced Transportation System Tax; and
- An additional tax, known as a “fuel sales tax”, to be set annually by the Department of Revenue.⁵

Section 206.874, F.S., provides for a tax exemption on diesel fuel under certain conditions relating to the tax status of the person involved in the removal or entry of the diesel fuel, the delivery of diesel fuel out-of-state, or fuel limited to specified local use.⁶ The exemption for local use typically pertains to off-road, non-highway activity, such as the use of diesel fuel for home heating, or for contained farming operations. However, statutory authority does recognize as an authorized use of dyed diesel fuel (fuel marked for nontaxable purposes) school bus transportation of students and employees.⁷ Pursuant to this provision, a school district is still required to register as a “local government user of diesel fuel”, and to remit a return, but is authorized to apply for credit.⁸ Other than this provision relating to the use of diesel fuel for school bus transport purposes, current law does not expressly provide an exemption for the manufacture of diesel fuel and for the use of biodiesel fuel for other school purposes.

III. Effect of Proposed Changes:

A new fuel tax exemption is provided for biodiesel fuel manufactured and used by schools in certain circumstances.

To be eligible for the exemption, the following must apply:

- The biodiesel fuel must be made by a public or private secondary school;

¹ ch. 206, F.S., provides for the taxation of motor and other fuels.

² s. 206.85, F.S.

³ s. 206.86(14), F.S.

⁴ s. 206.02(5), F.S.

⁵ s. 206.87(1), F.S.

⁶ s. 206.874, F.S.

⁷ s. 206.874(3)(f), F.S.

⁸ s. 206.874(4)(a),(b), and (d), F.S.

- The school must not produce more than 1,000 gallons of the fuel annually; and
- Use of the fuel is physically limited to the school environment, by its employees or its students.

A school that qualifies for the tax exemption is exempt from diesel fuel registrant requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the revenue impact of the bill is insignificant.

B. Private Sector Impact:

Private schools whose students or employees are engaged in qualifying biodiesel fuel manufacture and use will not have to pay fuel taxes on such activity.

C. Government Sector Impact:

Public schools whose students or employees are engaged in qualifying biodiesel fuel manufacture and use will not have to pay fuel taxes on such activity.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue indicates that they do not expect any operational impact from this bill.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on March 10, 2010:

This committee substitute restricts the use of the manufactured biodiesel fuel to the school environment.

- B. **Amendments:**

None.