

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 423 Tax On Sales, Use, & Other Transactions

SPONSOR(S): Adkins

TIED BILLS: None **IDEN./SIM. BILLS:** SB 960

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Kaiser	Blalock
2) Finance & Tax Subcommittee		Flieger	Langston
3) State Affairs Committee			

SUMMARY ANALYSIS

Under current law, a 6 percent sales and use tax is levied pursuant to ch. 212, F.S., on the sales price of dyed diesel fuel purchased for use in a vessel.

Dyed diesel fuel is used in equipment for construction and agriculture that are not intended for use on roads and highways. The fuel is dyed red so the U.S. Department of Transportation can easily tell the difference to ensure that vehicles on the highway are not using the dyed fuel. Dyed diesel is exempt from the fuel taxes imposed by ch. 206, F.S.

The bill provides an exemption from the sales and use tax on dyed diesel fuel that is used for commercial fishing and aquacultural purposes.

The Revenue Estimating Conference estimates that the provisions of this legislation will result in a negative revenue impact of \$1.7 million to state government in FY 2013-2014 (-\$1.8 million recurring). That impact will exclusively affect the State Transportation Trust Fund. There will also be a negative impact to local governments, estimated by staff at approximately \$0.2 million annually.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 212.05(1)(k), F.S., provides that the sales and use tax rate of 6 percent is to be levied on the sales price of dyed diesel fuel that is purchased for use in a vessel.

Dyed diesel fuel is generally used in equipment for construction and agriculture that are not intended for use on roads and highways. The fuel is typically dyed red so the U.S. Department of Transportation can easily tell the difference to ensure that vehicles on the highway are not using the dyed fuel. Diesel fuel that is not dyed is subject to the fuel tax imposed under ch. 206, F.S., however as discussed above dyed diesel is still subject to the sales and use tax unless specifically exempted.

Section 206.41(4)(c)3, F.S., provides that “commercial fishing and aquacultural purposes” means motor fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh waters under the jurisdiction of the state for resale to the public, and no part of which fuel is used in any vehicle or equipment driven or operated upon the highways of this state; however, the term may in no way be construed to include fuel used for sport or pleasure fishing.

Effect of Proposed Changes

The bill amends ss. 212.05, 212.0501, and 212.08, F.S., to provide a sales tax exemption for dyed diesel fuel used for commercial fishing and aquacultural purposes as defined in s. 206.41(4)(c)3., F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.05, F.S.; providing an exemption from sales and use tax for dyed diesel fuel used in vessels used for commercial fishing and aquacultural purposes.

Section 2: Amends s. 212.0501, F.S., providing an exemption from sales and use tax on dyed diesel fuel for dyed diesel fuel used for commercial fishing and aquacultural purposes.

Section 3: Amends s. 212.08, F.S.; providing an exemption from sales and use tax for dyed diesel fuel used for commercial fishing and aquacultural purposes.

Section 4: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of this legislation will result in a negative revenue impact of \$1.7 million to state government in FY 2013-2014 (-\$1.8 million recurring). That impact will exclusively affect the State Transportation Trust Fund.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Based on the state impact, staff estimates that there will be a negative impact to local governments of approximately \$0.2 million annually.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Commercial fishermen and aquaculturists will benefit from the sales tax exemption on dyed diesel fuel used to operate their commercial fishing vessels.

D. FISCAL COMMENTS:

The negative impact to the state will exclusively affect the State Transportation Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces local government's ability to raise revenue; however, the insignificant fiscal impact exemption may apply as staff estimate the impact to be negative \$0.2 million annually.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2013, the Agriculture and Natural Resources Subcommittee adopted a strike-all amendment to HB 423. The strike-all amendment extends the sales tax exemption for dyed diesel fuel to vessels used for commercial fishing and aquacultural purposes as well as vessels used for the taking of shrimp.