

## House Bill No. 237

An act relating to taxation; specifying a period during which the sale of books, clothing, and school supplies are exempt from such tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt rules; providing a popular name; providing for a reduction in the motor fuel tax for one month; providing dealer requirements; providing legislative intent; providing for a reduction in certain refunds for the same period; authorizing the executive director of the Department of Revenue to adopt emergency rules for certain purpose; making unlawful certain activities of certain entities relating to the tax reduction; providing criminal penalties; amending s. 16.56, F.S.; including offenses specified in this act under the investigation and prosecution authority of the Office of Statewide Prosecution; amending s. 206.026, F.S.; including offenses specified in this act under provisions prohibiting certain persons from holding certain licenses for certain violations; amending s. 206.404, F.S.; providing for revocation of certain licenses for violations of this act; authorizing motor fuel dealers to manage motor fuel inventory to maximize tax reduction benefits; providing criteria; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on the sale of:

(a)1. Books, clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$50 or less per item during the period from 12:01 a.m., July 24, 2004, through midnight, August 1, 2004.

2. As used in this paragraph, the term:

a. "Book" means a set of printed sheets bound together and published in a volume. For purposes of this paragraph, the term "book" does not include newspapers, magazines, or other periodicals.

b. "Clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body. For purposes of this paragraph, the term "clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(b)1. School supplies having a sales price of \$10 or less per item during the period from 12:01 a.m., July 24, 2004, through midnight, August 1, 2004.

2. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) This section does not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) Notwithstanding chapter 120, Florida Statutes, the Department of Revenue may adopt rules to carry out this section.

Section 2. Sections 3 through 11 of this act may be referred to by the popular name the “Florida Motor Fuel Tax Relief Act of 2004.”

Section 3. Beginning at 12:01 a.m. August 1, 2004, through midnight August 31, 2004, the tax levied pursuant to s. 206.41(1)(g), Florida Statutes, shall be reduced by 8 cents per gallon. During this period, licensed terminal suppliers, wholesalers, and importers of motor fuel shall charge and collect the reduced rate of tax on sales of motor fuel to retail dealers located in this state.

Section 4. It is the intent of the Legislature that the tax reduction set forth in this act be passed on to the ultimate consumer. The Attorney General may investigate violations of this act.

Section 5. Refunds authorized pursuant to s. 206.41(4), Florida Statutes, for fuel purchased during the period described in section 3 shall be reduced by the amount of the tax reduction set forth in that section.

Section 6. The executive director of the Department of Revenue is authorized to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, to implement the provisions of this act. Notwithstanding any other law, the emergency rules shall remain effective for 6 months after the date of adoption of the rules.

Section 7. It is unlawful for a terminal supplier, wholesaler, importer, reseller, or retail dealer of motor fuel to retain any part of the tax reduction set forth in this act or to interfere with providing the full benefit of the tax reduction to the retail purchaser of motor fuel. Any person violating the provisions of this act commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 8. Paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate “budget entity” as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;
3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;
4. Any violation of the provisions of the Florida Anti-Fencing Act;
5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;
6. Any crime involving, or resulting in, fraud or deceit upon any person;
7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135;
8. Any violation of the provisions of chapter 815; ~~or~~
9. Any criminal violation of part I of chapter 499; or
10. Any violation of the provisions of the Florida Motor Fuel Tax Relief Act of 2004;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

Section 9. Subsection (1) of section 206.026, Florida Statutes, is amended to read:

206.026 Certain persons prohibited from holding a terminal supplier, importer, exporter, blender, carrier, terminal operator, or wholesaler license; suspension and revocation.—

(1) No corporation, except a publicly held corporation regularly traded on a national securities exchange and not over the counter, general or limited partnership, sole proprietorship, business trust, joint venture or unincorporated association, or other business entity shall hold a terminal supplier, importer, exporter, blender, carrier, terminal operator, or wholesaler license in this state if any one of the persons or entities specified in paragraph (a) has been determined by the department not to be of good moral character or has been convicted of any offense specified in paragraph (b):

- (a)1. The licenseholder.

2. The sole proprietor of the licenseholder.
3. A corporate officer or director of the licenseholder.
4. A general or limited partner of the licenseholder.
5. A trustee of the licenseholder.
6. A member of an unincorporated association licenseholder.
7. A joint venturer of the licenseholder.
8. The owner of any equity interest in the licenseholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary.
9. An owner of any interest in the license or licenseholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the licenseholder, who by virtue thereof is able to control the business of the licenseholder.

(b)1. A felony in this state.

2. Any felony in any other state which would be a felony if committed in this state under the laws of Florida.

3. Any felony under the laws of the United States.

4. A felony under the Florida Motor Fuel Tax Relief Act of 2004.

Section 10. Subsection (3) of section 206.404, Florida Statutes, is amended to read:

206.404 License requirements for retail dealers and resellers; penalty.—

(3) Any retail dealer or reseller in violation of the provisions of this chapter or the provisions of the Florida Motor Fuel Tax Relief Act of 2004 shall be subject to revocation of his or her license under chapter 212.

Section 11. In order to accomplish the intent of the Legislature set forth in section 4 of this act, a retail dealer of motor fuel, at the dealer's option, may manage its motor fuel inventory in such a way that the benefit to residents of this state of the tax reduction is maximized during August 2004. A retail dealer of motor fuel may sell motor fuel purchased without the tax reduction at an amount determined as if the tax reduction applied and may sell motor fuel purchased with the tax reduction at an amount determined as if the tax reduction did not apply; provided the retail dealer can show that the number of gallons purchased with the reduced tax equals the number of gallons sold at a price reflecting the reduced tax.

Section 12. (1) The sum of \$206,000 is appropriated from the General Revenue Fund to the Department of Revenue for purposes of administering section 1 of this act.

(2) The sum of \$310,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of developing and implementing a public awareness campaign for and administering sections 2 through 11 of this act.

Section 13. Effective July 1, 2004, the sum of \$58 million is appropriated from the General Revenue Fund to the State Transportation Trust Fund.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor May 20, 2004.

Filed in Office Secretary of State May 20, 2004.