

CHAPTER 2010-195

Committee Substitute for Senate Bill No. 1730

An act relating to biodiesel fuel; amending s. 206.874, F.S.; exempting biodiesel fuel manufactured by a public or private secondary school from taxation under certain circumstances; specifying the circumstances under which a public or private secondary school that manufactures biodiesel fuel is exempt from certain registration requirements; providing an effective date.

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

Section 1. Section 206.874, Florida Statutes, is amended to read:

206.874 Exemptions.—

(1) The provisions of this part requiring the payment of taxes do not apply to any of the following:

(a) The removal from a terminal or refinery of, or the entry or sale of, any diesel fuel if all of the following apply:

1. The person otherwise liable for tax is a diesel fuel registrant;
2. In the case of a removal from a terminal, the terminal is an approved terminal; and
3. The diesel fuel satisfies the dyeing and marking requirements of s. 206.8741.

(b) Any entry by a licensed importer into this state of diesel fuel on which taxes have been imposed by this chapter on a diesel fuel registrant pursuant to an agreement entered into with the department as provided by s. 206.872.

(c) The removal of diesel fuel if all of the following apply:

1. The diesel fuel is removed by rail car from an approved refinery or terminal and is received at an approved refinery or terminal; and
2. The refinery and the terminal are operated by the same diesel fuel registrant.

(d) Diesel fuel which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside of this state by a supplier by means of any of the following:

1. Facilities operated by the supplier.

2. Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to such out-of-state point.

3. Delivery by the supplier to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(e) Diesel fuel which is destined for delivery to a location outside of this state on which the diesel fuel registrant is required to collect the taxes of the destination state pursuant to an agreement with the state of destination.

(2) Backup tax does not apply to delivery in this state of diesel fuel into the fuel tank of a diesel-powered motor vehicle as provided in s. 206.873 for use on a farm for farming purposes.

(3) Dyed diesel fuel may be purchased and used only for the following purposes:

(a) Use on a farm for farming purposes.

(b) Exclusive use of a local government.

(c) Use in a vehicle owned by an aircraft museum.

(d) Exclusive use of the American Red Cross.

(e) Use in a vessel employed in the business of commercial transportation of persons or property or in commercial fishing.

(f) Use in a bus engaged in the transportation of students and employees of schools.

(g) Use in a local bus service that is open to the public and travels regular routes.

(h) Exclusive use of a nonprofit educational facility.

(i) Use in a motor vehicle owned by the United States Government which ~~that~~ is not used on a highway.

(j) Use in a vessel of war.

(k) Use of diesel fuel for home heating.

(l) Use in self-propelled off-road equipment or stationary equipment subject to tax under s. 212.0501.

(m) Use by a noncommercial vessel.

(4)(a) Notwithstanding the provisions of this section allowing local governments and school districts to use dyed or otherwise untaxed diesel

fuel in motor vehicles, each county, municipality, and school district, to qualify for such use, must first register with the department as a local government user of diesel fuel.

(b) Local government users of diesel fuel shall be required to file a return accounting for diesel fuel acquisitions, inventory, and use, and remit a tax equal to 3 cents of the 4-cent tax required under s. 206.87(1)(a), plus the taxes required under s. 206.87(1)(b), (c), and (d) each month to the department.

(c) Any county, municipality, or school district not licensed as a local government user of diesel fuel shall be liable for the taxes imposed by s. 206.87(1) directly to the department for any highway use of untaxed diesel fuels.

(d) Each county, municipality, or school district may receive a credit for additional taxes paid under s. 206.87 for the highway use of diesel fuel, provided the purchases of diesel fuel meet the requirements relating to refunds for motor fuel purchases under s. 206.41.

(5)(a) Notwithstanding the provisions of this section allowing local bus transit systems to use dyed or otherwise untaxed diesel fuel in qualifying motor vehicles providing local public transportation over regular routes, each qualifying mass transit provider, to qualify for such use, must first register with the department as a mass transit system.

(b) Mass transit system providers shall be required to file a return accounting for diesel fuel acquisitions, inventory, and use, and remit a tax equal to the taxes required under s. 206.87(1)(a) and (b) each month to the department.

(c) Any local provider not licensed as a mass transit system shall be liable directly to the department for any highway use of untaxed diesel fuels.

(d) Each licensed mass transit system may receive a credit for additional taxes paid under s. 206.87 for the highway use of diesel fuel, provided the purchases of diesel fuel meet the requirements relating to refunds for motor fuel purchases under s. 206.41.

(6) Diesel fuel contained in the fuel tanks of any motor vehicle entering this state and used to propel such motor vehicle into Florida from another state shall be exempt from the taxes imposed by this part but may be taxed under the provisions of chapter 207. Diesel fuel supplied by a vehicle manufacturer and contained in the fuel tanks of a new and untitled motor vehicle shall be exempt from the taxes imposed by this part. "Fuel tanks" means the reservoir or receptacle attached to the motor vehicle by the manufacturer as the container for fuel used to propel the vehicle.

(7) Biodiesel fuel manufactured by a public or private secondary school that produces less than 1,000 gallons annually for the sole use at the school, by its employees, or its students is exempt from the tax imposed by this part. A public or private secondary school that produces less than 1,000 gallons a

year of biodiesel is exempt from the registration requirements of this chapter.

Section 2. This act shall take effect July 1, 2010.

Approved by the Governor June 3, 2010.

Filed in Office Secretary of State June 3, 2010.