

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 693, Page 15, Section 137.100, Line 47,  
2 by inserting after all of said line and section the following:

3 "142.815. 1. Motor fuel used for the following nonhighway purposes is exempt from the  
4 fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided  
5 for in subdivision (1) of this subsection, if the tax has been paid and no refund has been previously  
6 issued:

7 (1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary  
8 engines owned or leased and operated by any person and used exclusively for agricultural purposes  
9 and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline  
10 made to farmers and delivered by the ultimate [vender] vendor to a farm location for agricultural  
11 purposes only. As used in this section, the term "farmer" shall mean any person engaged in farming  
12 in an authorized farm corporation, family farm, or family farm corporation as defined in section  
13 350.010. At the discretion of the ultimate [vender] vendor, the refund may be claimed by the  
14 ultimate [vender] vendor on behalf of the consumer for sales made to farmers and to persons  
15 engaged in construction for agricultural purposes as defined in section 142.800. After December 31,  
16 2000, the refund may be claimed only by the consumer and may not be claimed by the ultimate  
17 [vender] vendor unless bulk sales of gasoline are made to a farmer after January 1, 2006, as provided  
18 in this subdivision and the farmer provides an exemption certificate to the ultimate [vender] vendor,  
19 in which case the ultimate [vender] vendor may make a claim for refund under section 142.824 but  
20 shall be liable for any erroneous refund;

21 (2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or  
22 for training, testing or research purposes of aircraft engines;

23 (3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized  
24 flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly  
25 exempted pursuant to another provision.

26 2. Subject to the procedural requirements and conditions set out in this chapter, the following  
27 uses are exempt from the tax imposed by section 142.803 on motor fuel, and a deduction or a refund  
28 may be claimed:

29 (1) Motor fuel for which proof of export is available in the form of a terminal-issued  
30 destination state shipping paper and which is either:

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 (a) Exported by a supplier who is licensed in the destination state or through the bulk  
2 transfer system;

3 (b) Removed by a licensed distributor for immediate export to a state for which all the  
4 applicable taxes and fees (however nominated in that state) of the destination state have been paid to  
5 the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for  
6 use within the destination state by the federal government for which an exemption has been made  
7 available by the destination state subject to procedural rules and regulations promulgated by the  
8 director; or

9 (c) Acquired by a licensed distributor and which the tax imposed by this chapter has  
10 previously been paid or accrued either as a result of being stored outside of the bulk transfer system  
11 immediately prior to loading or as a diversion across state boundaries properly reported in  
12 conformity with this chapter and was subsequently exported from this state on behalf of the  
13 distributor; The exemption pursuant to paragraph (a) of this subdivision shall be claimed by a  
14 deduction on the report of the supplier which is otherwise responsible for remitting the tax upon  
15 removal of the product from a terminal or refinery in this state. The exemption pursuant to  
16 paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund  
17 application made to the director within three years. A refund claim may be made monthly or  
18 whenever the claim exceeds one thousand dollars;

19 (2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and  
20 constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and  
21 undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than  
22 twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall  
23 be governed by rules and regulations of the director. If no rules or regulations are promulgated by  
24 the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of  
25 the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an  
26 exemption certificate from the owner or operator of such facility stating that its sales conform to the  
27 dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate,  
28 may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by  
29 section 142.803. Having obtained such certificate in good faith, such supplier shall be relieved of  
30 any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained  
31 undyed kerosene upon which the tax levied by section 142.803 had been paid and makes sales  
32 qualifying pursuant to this subsection may apply for a refund of the tax pursuant to application, as  
33 provided in section 142.818, to the director provided the ultimate vendor did not charge such tax to  
34 the consumer;

35 (3) Motor fuel sold to the United States or any agency or instrumentality thereof. This  
36 exemption shall be claimed as provided in section 142.818;

37 (4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public  
38 roads and highways of this state when leased or owned and when being operated by a federally  
39 recognized Indian tribe in the performance of essential governmental functions, such as providing  
40 police, fire, health or water services. The exemption for use pursuant to this subdivision shall be  
41 made available to the tribal government upon a refund application stating that the motor fuel was

1 purchased for the exclusive use of the tribe in performing named essential governmental services;

2 (5) That portion of motor fuel used to operate equipment attached to a motor vehicle, if the  
3 motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir  
4 for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a  
5 separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use  
6 pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall  
7 provide evidence of an allocation of use satisfactory to the director;

8 (6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained within  
9 and consumed from the same vehicle fuel supply tank within which it was imported, except interstate  
10 motor fuel users;

11 (7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct  
12 result of a sudden and unexpected casualty or which had been accidentally contaminated so as to be  
13 unsalable as highway fuel as shown by proper documentation as required by the director. The  
14 exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor  
15 fuel at the time of the contamination or loss. Such person shall notify the director in writing of such  
16 event and the amount of motor fuel lost or contaminated within ten days from the date of discovery  
17 of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn to  
18 by the person having immediate custody of such motor fuel at the time of the loss or contamination,  
19 setting forth in full the circumstances and the amount of the loss or contamination and such other  
20 information with respect thereto as the director may require;

21 (8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be  
22 claimed as follows:

23 (a) A supplier or importer shall take a deduction against motor fuel tax owed on their  
24 monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a  
25 terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

26 (b) This exemption shall be claimed by a deduction on the report of the supplier which is  
27 otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in  
28 this state;

29 (c) This exemption shall be claimed by the distributor, upon a refund application made to the  
30 director within three years. A refund claim may be made monthly or whenever the claim exceeds  
31 one thousand dollars.

32 (9) Motor fuel delivered to any marina within this state that sells such fuel solely for use in  
33 any watercraft, as such term is defined in section 306.010, and not accessible to other motor vehicles,  
34 is exempt from the fuel tax imposed by this chapter. Any motor fuel distributor that delivers motor  
35 fuel to any marina in this state for use solely in any watercraft, as such term is defined in section  
36 306.010, may claim the exemption provided in this subsection. Any motor fuel customer who  
37 purchases motor fuel for use in any watercraft, as such term is defined in section 306.010, at a  
38 location other than a marina within this state may claim the exemption provided in this subsection by  
39 filing a claim for refund of the fuel tax."; and  
40

41 Further amend said bill, Page 30, Section 144.030, Line 296, by deleting all of said line and

1 inserting in lieu thereof the following:

2 "other materials;

3 (44) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as defined  
4 in section 306.010."; and

5  
6 Further amend said bill by amending the title, enacting clause, and intersectional references  
7 accordingly.