

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0281	Date: January 15, 2015
Prime Sponsor(s): Rep. Becker J. Sen. Sonnenberg	Bill Status: House Finance
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BILL TOPIC: SALES & USE TAX EXEMPTION FOR DYED DIESEL

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	See State Revenue section.	
State Expenditures		
Impact on TABOR Surplus	See TABOR section.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill expands the sales and use tax exemption for dyed diesel fuel. It also exempts dyed diesel from sales taxes levied by counties and cities.

Background

Dyed diesel fuel is fuel used for off-road use only and is not subject to the state's special fuels taxes. Dyed diesel can only be used in equipment that is not used on public roads. This includes farm equipment, heavy construction equipment, and generator use.

There are currently sales and use tax exemptions for:

- fuel used in farm equipment;
- energy used for industrial, manufacturing, and similar purposes; and
- fuel used to supply residential heat, light and power.

The existing sales tax exemptions cover the majority of uses for dyed diesel and fuel distributors have not generally collected sales and use taxes on dyed diesel.

This bill only impacts sales and use tax revenue deposited in the General Fund. It has no impact on the special fuels tax that is deposited in the Highway Users Tax Fund.

State Revenue

This bill may reduce General Fund revenue. Any revenue reduction will be equal to the amount of sales and use tax revenue that is currently being remitted on sales of dyed diesel that is not currently exempt. The amount of sales taxes remitted on dyed diesel is not available, but it is believed to be negligible.

Assumptions. This bill expands the sales and use tax exemption to all dyed diesel fuel. Most dyed diesel is already exempt from the state sales and use tax because of other exemptions in law. While fuel retailers have a statutory obligation to collect sales taxes of fuel that is taxable, it is difficult to identify which sales of dyed diesel are subject to sales taxes and which are not. In general, fuel retailers do not collect sales taxes on dyed diesel.

It is assumed for this fiscal note that most retailers do not collect and remit sales taxes on dyed diesel fuel that would be exempt under this bill. Some retailers may be collecting sales taxes on taxable sales of dyed diesel fuel, but this amount is likely to be minimal. The bill may reduce audit collections in the future, but the Department of Revenue has not identified sales and use tax audit collections tied to the sale of dyed diesel.

TABOR Impact

This bill may decrease General Fund revenue, which will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund in the year following the excess collections.

Local Government Impact

The sales tax exemption in this bill applies to sales and use taxes levied by home-rule cities, statutory cities, counties, and special districts. Similar to the state, this may reduce revenue to local jurisdictions. The impact is likely to be small.

To the extent that home rule cities tax dyed diesel that is not exempt at the state level, the impact could be larger. The amount of any revenue reduction has not been estimated.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Revenue Municipalities Counties