

By Senator Gruters

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1 A bill to be entitled
2 An act relating to taxation; amending s. 192.001,
3 F.S.; revising the definition of the term "inventory,"
4 for purposes of ad valorem taxation, to include
5 certain rented construction, earthmoving, or
6 industrial equipment; defining the terms "dealer of
7 heavy equipment rental property" and "short-term
8 rental"; amending s. 212.02, F.S.; revising the
9 definition of the term "retail sale"; amending s.
10 212.031, F.S.; reducing the rate of the tax on rental
11 or licensee fees for the use of real property;
12 amending s. 212.05, F.S.; conforming a provision to
13 changes made by the act; amending s. 212.0596, F.S.;
14 replacing the term "mail order sales" with the term
15 "remote sales"; defining the terms "remote sales" and
16 "making a substantial number of remote sales";
17 revising applicability and construction; deleting an
18 exemption for certain dealers from collecting and
19 remitting local option surtaxes; deleting a provision
20 authorizing the department to establish certain
21 procedures by rule; creating s. 212.05965, F.S.;
22 defining terms; providing that certain marketplace
23 providers are subject to dealer requirements for the
24 registration, collection, and remittance of sales
25 taxes; requiring such marketplace providers to certify
26 to their marketplace sellers that they will collect
27 and remit sales taxes on certain sales; providing that
28 the certification may be included in an agreement
29 between the marketplace provider and the marketplace

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30 seller; prohibiting marketplace sellers from
31 collecting and remitting sales taxes under certain
32 circumstances; requiring such marketplace sellers to
33 exclude certain sales from their tax returns;
34 requiring certain marketplace sellers to register,
35 collect, and remit sales taxes on all taxable retail
36 sales made outside of the marketplace; requiring
37 certain marketplace sellers to remit sales taxes on
38 all taxable sales made outside of the marketplace;
39 requiring marketplace providers to allow the
40 department to examine books and records; prohibiting
41 the department from proposing certain tax assessments
42 under certain circumstances; providing that a
43 marketplace seller, and not the marketplace provider,
44 is liable for sales taxes under certain circumstances;
45 authorizing a marketplace provider to recover paid
46 taxes, interest, and penalties from the marketplace
47 seller under certain circumstances; authorizing the
48 department to compromise certain taxes, interest, or
49 penalties; providing applicability and construction;
50 amending s. 212.06, F.S.; revising the definition of
51 the term "dealer"; conforming provisions to changes
52 made by the act; providing sales tax exemptions on the
53 sale of specified disaster preparedness supplies
54 during a specified timeframe; providing applicability
55 for certain exemptions; authorizing the department to
56 adopt emergency rules; specifying locations where the
57 exemptions do not apply; providing an appropriation;
58 amending ss. 212.12 and 212.18, F.S.; conforming

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59 provisions to changes made by the act; reenacting s.
60 212.20(4), F.S., relating to refunds of taxes
61 adjudicated unconstitutionally collected, to
62 incorporate the amendment made to s. 212.0596, F.S.,
63 in a reference thereto; authorizing the department to
64 adopt emergency rules; providing for expiration of the
65 authorization; providing for severability; providing
66 effective dates.

67

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

69

70 Section 1. Paragraph (c) of subsection (11) of section
71 192.001, Florida Statutes, is amended to read:

72 192.001 Definitions.—All definitions set out in chapters 1
73 and 200 that are applicable to this chapter are included herein.
74 In addition, the following definitions shall apply in the
75 imposition of ad valorem taxes:

76 (11) "Personal property," for the purposes of ad valorem
77 taxation, shall be divided into four categories as follows:

78 (c)1. "Inventory" means only those chattels consisting of
79 items commonly referred to as goods, wares, and merchandise (as
80 well as inventory) which are held for sale or lease to customers
81 in the ordinary course of business. Supplies and raw materials
82 shall be considered to be inventory only to the extent that they
83 are acquired for sale or lease to customers in the ordinary
84 course of business or will physically become a part of
85 merchandise intended for sale or lease to customers in the
86 ordinary course of business. Partially finished products which
87 when completed will be held for sale or lease to customers in

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88 the ordinary course of business shall be deemed items of
89 inventory. All livestock shall be considered inventory. Items of
90 inventory held for lease to customers in the ordinary course of
91 business, rather than for sale, shall be deemed inventory only
92 prior to the initial lease of such items. For the purposes of
93 this section, fuels used in the production of electricity shall
94 be considered inventory.

95 2. "Inventory" also means construction and agricultural
96 equipment weighing 1,000 pounds or more that is returned to a
97 dealership under a rent-to-purchase option and held for sale to
98 customers in the ordinary course of business. This subparagraph
99 may not be considered in determining whether property that is
100 not construction and agricultural equipment weighing 1,000
101 pounds or more that is returned under a rent-to-purchase option
102 is inventory under subparagraph 1.

103 3. "Inventory" also means any construction equipment,
104 earthmoving equipment, or industrial equipment that is mobile
105 and rented by a dealer of heavy equipment rental property,
106 including attachments for the equipment or other ancillary
107 equipment or tools. Qualified heavy equipment property is mobile
108 if it is not permanently affixed to real property and is moved
109 among worksites. For the purposes of this chapter and chapter
110 196, the term "dealer of heavy equipment rental property" means
111 a person or entity principally engaged in the business of short-
112 term rental of property as described under North American
113 Industrial Classification System code 532412, as published by
114 the Office of Management and Budget, Executive Office of the
115 President. As used in this subparagraph, the term "short-term
116 rental" means the rental of a dealer's heavy equipment rental

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117 property for a period of less than 1 year, for an undefined
118 period, or under a contract with unlimited terms.

119 Section 2. Paragraph (e) of subsection (14) of section
120 212.02, Florida Statutes, is amended, and paragraph (f) is added
121 to that subsection, to read:

122 212.02 Definitions.—The following terms and phrases when
123 used in this chapter have the meanings ascribed to them in this
124 section, except where the context clearly indicates a different
125 meaning:

126 (14)

127 (e) The term "retail sale" includes a remote ~~mail order~~
128 sale, as defined in s. 212.0596(1).

129 (f) The term "retail sale" includes a sale facilitated
130 through a marketplace, as defined in s. 212.05965(1).

131 Section 3. Paragraphs (c) and (d) of subsection (1) of
132 section 212.031, Florida Statutes, are amended to read:

133 212.031 Tax on rental or license fee for use of real
134 property.—

135 (1)

136 (c) For the exercise of such privilege, a tax is levied at
137 the rate of 4.2 ~~5.7~~ percent of and on the total rent or license
138 fee charged for such real property by the person charging or
139 collecting the rental or license fee. The total rent or license
140 fee charged for such real property shall include payments for
141 the granting of a privilege to use or occupy real property for
142 any purpose and shall include base rent, percentage rents, or
143 similar charges. Such charges shall be included in the total
144 rent or license fee subject to tax under this section whether or
145 not they can be attributed to the ability of the lessor's or

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146 licensor's property as used or operated to attract customers.
147 Payments for intrinsically valuable personal property such as
148 franchises, trademarks, service marks, logos, or patents are not
149 subject to tax under this section. In the case of a contractual
150 arrangement that provides for both payments taxable as total
151 rent or license fee and payments not subject to tax, the tax
152 shall be based on a reasonable allocation of such payments and
153 shall not apply to that portion which is for the nontaxable
154 payments.

155 (d) When the rental or license fee of any such real
156 property is paid by way of property, goods, wares, merchandise,
157 services, or other thing of value, the tax shall be at the rate
158 of 4.2 ~~5.7~~ percent of the value of the property, goods, wares,
159 merchandise, services, or other thing of value.

160 Section 4. Section 212.05, Florida Statutes, is amended to
161 read:

162 212.05 Sales, storage, use tax.—It is hereby declared to be
163 the legislative intent that every person is exercising a taxable
164 privilege who engages in the business of selling tangible
165 personal property at retail in this state, including the
166 business of making remote ~~mail-order~~ sales; ~~or~~ who rents or
167 furnishes any of the things or services taxable under this
168 chapter; ~~or~~ who stores for use or consumption in this state any
169 item or article of tangible personal property as defined herein
170 and who leases or rents such property within the state.

171 (1) For the exercise of such privilege, a tax is levied on
172 each taxable transaction or incident, which tax is due and
173 payable as follows:

174 (a)1.a. At the rate of 6 percent of the sales price of each

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175 item or article of tangible personal property when sold at
176 retail in this state, computed on each taxable sale for the
177 purpose of remitting the amount of tax due the state, and
178 including each and every retail sale.

179 b. Each occasional or isolated sale of an aircraft, boat,
180 mobile home, or motor vehicle of a class or type which is
181 required to be registered, licensed, titled, or documented in
182 this state or by the United States Government shall be subject
183 to tax at the rate provided in this paragraph. The department
184 shall by rule adopt any nationally recognized publication for
185 valuation of used motor vehicles as the reference price list for
186 any used motor vehicle which is required to be licensed pursuant
187 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
188 party to an occasional or isolated sale of such a vehicle
189 reports to the tax collector a sales price which is less than 80
190 percent of the average loan price for the specified model and
191 year of such vehicle as listed in the most recent reference
192 price list, the tax levied under this paragraph shall be
193 computed by the department on such average loan price unless the
194 parties to the sale have provided to the tax collector an
195 affidavit signed by each party, or other substantial proof,
196 stating the actual sales price. Any party to such sale who
197 reports a sales price less than the actual sales price is guilty
198 of a misdemeanor of the first degree, punishable as provided in
199 s. 775.082 or s. 775.083. The department shall collect or
200 attempt to collect from such party any delinquent sales taxes.
201 In addition, such party shall pay any tax due and any penalty
202 and interest assessed plus a penalty equal to twice the amount
203 of the additional tax owed. Notwithstanding any other provision

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204 of law, the Department of Revenue may waive or compromise any
205 penalty imposed pursuant to this subparagraph.

206 2. This paragraph does not apply to the sale of a boat or
207 aircraft by or through a registered dealer under this chapter to
208 a purchaser who, at the time of taking delivery, is a
209 nonresident of this state, does not make his or her permanent
210 place of abode in this state, and is not engaged in carrying on
211 in this state any employment, trade, business, or profession in
212 which the boat or aircraft will be used in this state, or is a
213 corporation none of the officers or directors of which is a
214 resident of, or makes his or her permanent place of abode in,
215 this state, or is a noncorporate entity that has no individual
216 vested with authority to participate in the management,
217 direction, or control of the entity's affairs who is a resident
218 of, or makes his or her permanent abode in, this state. For
219 purposes of this exemption, either a registered dealer acting on
220 his or her own behalf as seller, a registered dealer acting as
221 broker on behalf of a seller, or a registered dealer acting as
222 broker on behalf of the purchaser may be deemed to be the
223 selling dealer. This exemption shall not be allowed unless:

224 a. The purchaser removes a qualifying boat, as described in
225 sub-subparagraph f., from the state within 90 days after the
226 date of purchase or extension, or the purchaser removes a
227 nonqualifying boat or an aircraft from this state within 10 days
228 after the date of purchase or, when the boat or aircraft is
229 repaired or altered, within 20 days after completion of the
230 repairs or alterations; or if the aircraft will be registered in
231 a foreign jurisdiction and:

232 (I) Application for the aircraft's registration is properly

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233 filed with a civil airworthiness authority of a foreign
234 jurisdiction within 10 days after the date of purchase;

235 (II) The purchaser removes the aircraft from the state to a
236 foreign jurisdiction within 10 days after the date the aircraft
237 is registered by the applicable foreign airworthiness authority;
238 and

239 (III) The aircraft is operated in the state solely to
240 remove it from the state to a foreign jurisdiction.

241
242 For purposes of this sub-subparagraph, the term "foreign
243 jurisdiction" means any jurisdiction outside of the United
244 States or any of its territories;

245 b. The purchaser, within 30 days from the date of
246 departure, provides the department with written proof that the
247 purchaser licensed, registered, titled, or documented the boat
248 or aircraft outside the state. If such written proof is
249 unavailable, within 30 days the purchaser shall provide proof
250 that the purchaser applied for such license, title,
251 registration, or documentation. The purchaser shall forward to
252 the department proof of title, license, registration, or
253 documentation upon receipt;

254 c. The purchaser, within 10 days of removing the boat or
255 aircraft from Florida, furnishes the department with proof of
256 removal in the form of receipts for fuel, dockage, slippage,
257 tie-down, or hangaring from outside of Florida. The information
258 so provided must clearly and specifically identify the boat or
259 aircraft;

260 d. The selling dealer, within 5 days of the date of sale,
261 provides to the department a copy of the sales invoice, closing

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262 statement, bills of sale, and the original affidavit signed by
263 the purchaser attesting that he or she has read the provisions
264 of this section;

265 e. The seller makes a copy of the affidavit a part of his
266 or her record for as long as required by s. 213.35; and

267 f. Unless the nonresident purchaser of a boat of 5 net tons
268 of admeasurement or larger intends to remove the boat from this
269 state within 10 days after the date of purchase or when the boat
270 is repaired or altered, within 20 days after completion of the
271 repairs or alterations, the nonresident purchaser applies to the
272 selling dealer for a decal which authorizes 90 days after the
273 date of purchase for removal of the boat. The nonresident
274 purchaser of a qualifying boat may apply to the selling dealer
275 within 60 days after the date of purchase for an extension decal
276 that authorizes the boat to remain in this state for an
277 additional 90 days, but not more than a total of 180 days,
278 before the nonresident purchaser is required to pay the tax
279 imposed by this chapter. The department is authorized to issue
280 decals in advance to dealers. The number of decals issued in
281 advance to a dealer shall be consistent with the volume of the
282 dealer's past sales of boats which qualify under this sub-
283 subparagraph. The selling dealer or his or her agent shall mark
284 and affix the decals to qualifying boats in the manner
285 prescribed by the department, before delivery of the boat.

286 (I) The department is hereby authorized to charge dealers a
287 fee sufficient to recover the costs of decals issued, except the
288 extension decal shall cost \$425.

289 (II) The proceeds from the sale of decals will be deposited
290 into the administrative trust fund.

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291 (III) Decals shall display information to identify the boat
292 as a qualifying boat under this sub-subparagraph, including, but
293 not limited to, the decal's date of expiration.

294 (IV) The department is authorized to require dealers who
295 purchase decals to file reports with the department and may
296 prescribe all necessary records by rule. All such records are
297 subject to inspection by the department.

298 (V) Any dealer or his or her agent who issues a decal
299 falsely, fails to affix a decal, mismarks the expiration date of
300 a decal, or fails to properly account for decals will be
301 considered prima facie to have committed a fraudulent act to
302 evade the tax and will be liable for payment of the tax plus a
303 mandatory penalty of 200 percent of the tax, and shall be liable
304 for fine and punishment as provided by law for a conviction of a
305 misdemeanor of the first degree, as provided in s. 775.082 or s.
306 775.083.

307 (VI) Any nonresident purchaser of a boat who removes a
308 decal before permanently removing the boat from the state, or
309 defaces, changes, modifies, or alters a decal in a manner
310 affecting its expiration date before its expiration, or who
311 causes or allows the same to be done by another, will be
312 considered prima facie to have committed a fraudulent act to
313 evade the tax and will be liable for payment of the tax plus a
314 mandatory penalty of 200 percent of the tax, and shall be liable
315 for fine and punishment as provided by law for a conviction of a
316 misdemeanor of the first degree, as provided in s. 775.082 or s.
317 775.083.

318 (VII) The department is authorized to adopt rules necessary
319 to administer and enforce this subparagraph and to publish the

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320 necessary forms and instructions.

321 (VIII) The department is hereby authorized to adopt
322 emergency rules pursuant to s. 120.54(4) to administer and
323 enforce the provisions of this subparagraph.

324

325 If the purchaser fails to remove the qualifying boat from this
326 state within the maximum 180 days after purchase or a
327 nonqualifying boat or an aircraft from this state within 10 days
328 after purchase or, when the boat or aircraft is repaired or
329 altered, within 20 days after completion of such repairs or
330 alterations, or permits the boat or aircraft to return to this
331 state within 6 months from the date of departure, except as
332 provided in s. 212.08(7)(fff), or if the purchaser fails to
333 furnish the department with any of the documentation required by
334 this subparagraph within the prescribed time period, the
335 purchaser shall be liable for use tax on the cost price of the
336 boat or aircraft and, in addition thereto, payment of a penalty
337 to the Department of Revenue equal to the tax payable. This
338 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
339 The maximum 180-day period following the sale of a qualifying
340 boat tax-exempt to a nonresident may not be tolled for any
341 reason.

342 (b) At the rate of 6 percent of the cost price of each item
343 or article of tangible personal property when the same is not
344 sold but is used, consumed, distributed, or stored for use or
345 consumption in this state; however, for tangible property
346 originally purchased exempt from tax for use exclusively for
347 lease and which is converted to the owner's own use, tax may be
348 paid on the fair market value of the property at the time of

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349 conversion. If the fair market value of the property cannot be
350 determined, use tax at the time of conversion shall be based on
351 the owner's acquisition cost. Under no circumstances may the
352 aggregate amount of sales tax from leasing the property and use
353 tax due at the time of conversion be less than the total sales
354 tax that would have been due on the original acquisition cost
355 paid by the owner.

356 (c) At the rate of 6 percent of the gross proceeds derived
357 from the lease or rental of tangible personal property, as
358 defined herein; however, the following special provisions apply
359 to the lease or rental of motor vehicles:

360 1. When a motor vehicle is leased or rented for a period of
361 less than 12 months:

362 a. If the motor vehicle is rented in Florida, the entire
363 amount of such rental is taxable, even if the vehicle is dropped
364 off in another state.

365 b. If the motor vehicle is rented in another state and
366 dropped off in Florida, the rental is exempt from Florida tax.

367 2. Except as provided in subparagraph 3., for the lease or
368 rental of a motor vehicle for a period of not less than 12
369 months, sales tax is due on the lease or rental payments if the
370 vehicle is registered in this state; provided, however, that no
371 tax shall be due if the taxpayer documents use of the motor
372 vehicle outside this state and tax is being paid on the lease or
373 rental payments in another state.

374 3. The tax imposed by this chapter does not apply to the
375 lease or rental of a commercial motor vehicle as defined in s.
376 316.003(13)(a) to one lessee or rentee for a period of not less
377 than 12 months when tax was paid on the purchase price of such

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378 vehicle by the lessor. To the extent tax was paid with respect
379 to the purchase of such vehicle in another state, territory of
380 the United States, or the District of Columbia, the Florida tax
381 payable shall be reduced in accordance with the provisions of s.
382 212.06(7). This subparagraph shall only be available when the
383 lease or rental of such property is an established business or
384 part of an established business or the same is incidental or
385 germane to such business.

386 (d) At the rate of 6 percent of the lease or rental price
387 paid by a lessee or rentee, or contracted or agreed to be paid
388 by a lessee or rentee, to the owner of the tangible personal
389 property.

390 (e)1. At the rate of 6 percent on charges for:

391 a. Prepaid calling arrangements. The tax on charges for
392 prepaid calling arrangements shall be collected at the time of
393 sale and remitted by the selling dealer.

394 (I) "Prepaid calling arrangement" has the same meaning as
395 provided in s. 202.11.

396 (II) If the sale or recharge of the prepaid calling
397 arrangement does not take place at the dealer's place of
398 business, it shall be deemed to have taken place at the
399 customer's shipping address or, if no item is shipped, at the
400 customer's address or the location associated with the
401 customer's mobile telephone number.

402 (III) The sale or recharge of a prepaid calling arrangement
403 shall be treated as a sale of tangible personal property for
404 purposes of this chapter, regardless of whether a tangible item
405 evidencing such arrangement is furnished to the purchaser, and
406 such sale within this state subjects the selling dealer to the

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407 jurisdiction of this state for purposes of this subsection.

408 (IV) No additional tax under this chapter or chapter 202 is
409 due or payable if a purchaser of a prepaid calling arrangement
410 who has paid tax under this chapter on the sale or recharge of
411 such arrangement applies one or more units of the prepaid
412 calling arrangement to obtain communications services as
413 described in s. 202.11(9)(b)3., other services that are not
414 communications services, or products.

415 b. The installation of telecommunication and telegraphic
416 equipment.

417 c. Electrical power or energy, except that the tax rate for
418 charges for electrical power or energy is 4.35 percent. Charges
419 for electrical power and energy do not include taxes imposed
420 under ss. 166.231 and 203.01(1)(a)3.

421 2. Section 212.17(3), regarding credit for tax paid on
422 charges subsequently found to be worthless, is equally
423 applicable to any tax paid under this section on charges for
424 prepaid calling arrangements, telecommunication or telegraph
425 services, or electric power subsequently found to be
426 uncollectible. As used in this paragraph, the term "charges"
427 does not include any excise or similar tax levied by the Federal
428 Government, a political subdivision of this state, or a
429 municipality upon the purchase, sale, or recharge of prepaid
430 calling arrangements or upon the purchase or sale of
431 telecommunication, television system program, or telegraph
432 service or electric power, which tax is collected by the seller
433 from the purchaser.

434 (f) At the rate of 6 percent on the sale, rental, use,
435 consumption, or storage for use in this state of machines and

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436 equipment, and parts and accessories therefor, used in
437 manufacturing, processing, compounding, producing, mining, or
438 quarrying personal property for sale or to be used in furnishing
439 communications, transportation, or public utility services.

440 (g)1. At the rate of 6 percent on the retail price of
441 newspapers and magazines sold or used in Florida.

442 2. Notwithstanding other provisions of this chapter,
443 inserts of printed materials which are distributed with a
444 newspaper or magazine are a component part of the newspaper or
445 magazine, and neither the sale nor use of such inserts is
446 subject to tax when:

447 a. Printed by a newspaper or magazine publisher or
448 commercial printer and distributed as a component part of a
449 newspaper or magazine, which means that the items after being
450 printed are delivered directly to a newspaper or magazine
451 publisher by the printer for inclusion in editions of the
452 distributed newspaper or magazine;

453 b. Such publications are labeled as part of the designated
454 newspaper or magazine publication into which they are to be
455 inserted; and

456 c. The purchaser of the insert presents a resale
457 certificate to the vendor stating that the inserts are to be
458 distributed as a component part of a newspaper or magazine.

459 (h)1. A tax is imposed at the rate of 4 percent on the
460 charges for the use of coin-operated amusement machines. The tax
461 shall be calculated by dividing the gross receipts from such
462 charges for the applicable reporting period by a divisor,
463 determined as provided in this subparagraph, to compute gross
464 taxable sales, and then subtracting gross taxable sales from

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465 gross receipts to arrive at the amount of tax due. For counties
466 that do not impose a discretionary sales surtax, the divisor is
467 equal to 1.04; for counties that impose a 0.5 percent
468 discretionary sales surtax, the divisor is equal to 1.045; for
469 counties that impose a 1 percent discretionary sales surtax, the
470 divisor is equal to 1.050; and for counties that impose a 2
471 percent sales surtax, the divisor is equal to 1.060. If a county
472 imposes a discretionary sales surtax that is not listed in this
473 subparagraph, the department shall make the applicable divisor
474 available in an electronic format or otherwise. Additional
475 divisors shall bear the same mathematical relationship to the
476 next higher and next lower divisors as the new surtax rate bears
477 to the next higher and next lower surtax rates for which
478 divisors have been established. When a machine is activated by a
479 slug, token, coupon, or any similar device which has been
480 purchased, the tax is on the price paid by the user of the
481 device for such device.

482 2. As used in this paragraph, the term "operator" means any
483 person who possesses a coin-operated amusement machine for the
484 purpose of generating sales through that machine and who is
485 responsible for removing the receipts from the machine.

486 a. If the owner of the machine is also the operator of it,
487 he or she shall be liable for payment of the tax without any
488 deduction for rent or a license fee paid to a location owner for
489 the use of any real property on which the machine is located.

490 b. If the owner or lessee of the machine is also its
491 operator, he or she shall be liable for payment of the tax on
492 the purchase or lease of the machine, as well as the tax on
493 sales generated through the machine.

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494 c. If the proprietor of the business where the machine is
495 located does not own the machine, he or she shall be deemed to
496 be the lessee and operator of the machine and is responsible for
497 the payment of the tax on sales, unless such responsibility is
498 otherwise provided for in a written agreement between him or her
499 and the machine owner.

500 3.a. An operator of a coin-operated amusement machine may
501 not operate or cause to be operated in this state any such
502 machine until the operator has registered with the department
503 and has conspicuously displayed an identifying certificate
504 issued by the department. The identifying certificate shall be
505 issued by the department upon application from the operator. The
506 identifying certificate shall include a unique number, and the
507 certificate shall be permanently marked with the operator's
508 name, the operator's sales tax number, and the maximum number of
509 machines to be operated under the certificate. An identifying
510 certificate shall not be transferred from one operator to
511 another. The identifying certificate must be conspicuously
512 displayed on the premises where the coin-operated amusement
513 machines are being operated.

514 b. The operator of the machine must obtain an identifying
515 certificate before the machine is first operated in the state
516 and by July 1 of each year thereafter. The annual fee for each
517 certificate shall be based on the number of machines identified
518 on the application times \$30 and is due and payable upon
519 application for the identifying device. The application shall
520 contain the operator's name, sales tax number, business address
521 where the machines are being operated, and the number of
522 machines in operation at that place of business by the operator.

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523 No operator may operate more machines than are listed on the
524 certificate. A new certificate is required if more machines are
525 being operated at that location than are listed on the
526 certificate. The fee for the new certificate shall be based on
527 the number of additional machines identified on the application
528 form times \$30.

529 c. A penalty of \$250 per machine is imposed on the operator
530 for failing to properly obtain and display the required
531 identifying certificate. A penalty of \$250 is imposed on the
532 lessee of any machine placed in a place of business without a
533 proper current identifying certificate. Such penalties shall
534 apply in addition to all other applicable taxes, interest, and
535 penalties.

536 d. Operators of coin-operated amusement machines must
537 obtain a separate sales and use tax certificate of registration
538 for each county in which such machines are located. One sales
539 and use tax certificate of registration is sufficient for all of
540 the operator's machines within a single county.

541 4. The provisions of this paragraph do not apply to coin-
542 operated amusement machines owned and operated by churches or
543 synagogues.

544 5. In addition to any other penalties imposed by this
545 chapter, a person who knowingly and willfully violates any
546 provision of this paragraph commits a misdemeanor of the second
547 degree, punishable as provided in s. 775.082 or s. 775.083.

548 6. The department may adopt rules necessary to administer
549 the provisions of this paragraph.

550 (i)1. At the rate of 6 percent on charges for all:

551 a. Detective, burglar protection, and other protection

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552 services (NAICS National Numbers 561611, 561612, 561613, and
553 561621). Fingerprint services required under s. 790.06 or s.
554 790.062 are not subject to the tax. Any law enforcement officer,
555 as defined in s. 943.10, who is performing approved duties as
556 determined by his or her local law enforcement agency in his or
557 her capacity as a law enforcement officer, and who is subject to
558 the direct and immediate command of his or her law enforcement
559 agency, and in the law enforcement officer's uniform as
560 authorized by his or her law enforcement agency, is performing
561 law enforcement and public safety services and is not performing
562 detective, burglar protection, or other protective services, if
563 the law enforcement officer is performing his or her approved
564 duties in a geographical area in which the law enforcement
565 officer has arrest jurisdiction. Such law enforcement and public
566 safety services are not subject to tax irrespective of whether
567 the duty is characterized as "extra duty," "off-duty," or
568 "secondary employment," and irrespective of whether the officer
569 is paid directly or through the officer's agency by an outside
570 source. The term "law enforcement officer" includes full-time or
571 part-time law enforcement officers, and any auxiliary law
572 enforcement officer, when such auxiliary law enforcement officer
573 is working under the direct supervision of a full-time or part-
574 time law enforcement officer.

575 b. Nonresidential cleaning, excluding cleaning of the
576 interiors of transportation equipment, and nonresidential
577 building pest control services (NAICS National Numbers 561710
578 and 561720).

579 2. As used in this paragraph, "NAICS" means those
580 classifications contained in the North American Industry

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581 Classification System, as published in 2007 by the Office of
582 Management and Budget, Executive Office of the President.

583 3. Charges for detective, burglar protection, and other
584 protection security services performed in this state but used
585 outside this state are exempt from taxation. Charges for
586 detective, burglar protection, and other protection security
587 services performed outside this state and used in this state are
588 subject to tax.

589 4. If a transaction involves both the sale or use of a
590 service taxable under this paragraph and the sale or use of a
591 service or any other item not taxable under this chapter, the
592 consideration paid must be separately identified and stated with
593 respect to the taxable and exempt portions of the transaction or
594 the entire transaction shall be presumed taxable. The burden
595 shall be on the seller of the service or the purchaser of the
596 service, whichever applicable, to overcome this presumption by
597 providing documentary evidence as to which portion of the
598 transaction is exempt from tax. The department is authorized to
599 adjust the amount of consideration identified as the taxable and
600 exempt portions of the transaction; however, a determination
601 that the taxable and exempt portions are inaccurately stated and
602 that the adjustment is applicable must be supported by
603 substantial competent evidence.

604 5. Each seller of services subject to sales tax pursuant to
605 this paragraph shall maintain a monthly log showing each
606 transaction for which sales tax was not collected because the
607 services meet the requirements of subparagraph 3. for out-of-
608 state use. The log must identify the purchaser's name, location
609 and mailing address, and federal employer identification number,

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610 if a business, or the social security number, if an individual,
611 the service sold, the price of the service, the date of sale,
612 the reason for the exemption, and the sales invoice number. The
613 monthly log shall be maintained pursuant to the same
614 requirements and subject to the same penalties imposed for the
615 keeping of similar records pursuant to this chapter.

616 (j)1. Notwithstanding any other provision of this chapter,
617 there is hereby levied a tax on the sale, use, consumption, or
618 storage for use in this state of any coin or currency, whether
619 in circulation or not, when such coin or currency:

620 a. Is not legal tender;

621 b. If legal tender, is sold, exchanged, or traded at a rate
622 in excess of its face value; or

623 c. Is sold, exchanged, or traded at a rate based on its
624 precious metal content.

625 2. Such tax shall be at a rate of 6 percent of the price at
626 which the coin or currency is sold, exchanged, or traded, except
627 that, with respect to a coin or currency which is legal tender
628 of the United States and which is sold, exchanged, or traded,
629 such tax shall not be levied.

630 3. There are exempt from this tax exchanges of coins or
631 currency which are in general circulation in, and legal tender
632 of, one nation for coins or currency which are in general
633 circulation in, and legal tender of, another nation when
634 exchanged solely for use as legal tender and at an exchange rate
635 based on the relative value of each as a medium of exchange.

636 4. With respect to any transaction that involves the sale
637 of coins or currency taxable under this paragraph in which the
638 taxable amount represented by the sale of such coins or currency

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639 exceeds \$500, the entire amount represented by the sale of such
640 coins or currency is exempt from the tax imposed under this
641 paragraph. The dealer must maintain proper documentation, as
642 prescribed by rule of the department, to identify that portion
643 of a transaction which involves the sale of coins or currency
644 and is exempt under this subparagraph.

645 (k) At the rate of 6 percent of the sales price of each
646 gallon of diesel fuel not taxed under chapter 206 purchased for
647 use in a vessel, except dyed diesel fuel that is exempt pursuant
648 to s. 212.08(4)(a)4.

649 (l) Florists located in this state are liable for sales tax
650 on sales to retail customers regardless of where or by whom the
651 items sold are to be delivered. Florists located in this state
652 are not liable for sales tax on payments received from other
653 florists for items delivered to customers in this state.

654 (m) Operators of game concessions or other concessionaires
655 who customarily award tangible personal property as prizes may,
656 in lieu of paying tax on the cost price of such property, pay
657 tax on 25 percent of the gross receipts from such concession
658 activity.

659 (2) The tax shall be collected by the dealer, as defined
660 herein, and remitted by the dealer to the state at the time and
661 in the manner as hereinafter provided.

662 (3) The tax so levied is in addition to all other taxes,
663 whether levied in the form of excise, license, or privilege
664 taxes, and in addition to all other fees and taxes levied.

665 (4) The tax imposed pursuant to this chapter shall be due
666 and payable according to the brackets set forth in s. 212.12.

667 (5) Notwithstanding any other provision of this chapter,

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668 the maximum amount of tax imposed under this chapter and
669 collected on each sale or use of a boat in this state may not
670 exceed \$18,000 and on each repair of a boat in this state may
671 not exceed \$60,000.

672 Section 5. Section 212.0596, Florida Statutes, is amended
673 to read:

674 212.0596 Taxation of remote ~~mail order~~ sales.-

675 (1) For purposes of this chapter, a "remote ~~mail order~~
676 sale" is a retail sale of tangible personal property or services
677 taxable under this chapter which is, ~~ordered by mail,~~ telephone,
678 the Internet, or other means of communication, from a dealer who
679 receives the order outside of this state ~~in another state of the~~
680 ~~United States, or in a commonwealth, territory, or other area~~
681 ~~under the jurisdiction of the United States,~~ and transports the
682 property, ~~or~~ causes the property to be transported, or provides
683 the services ~~whether or not by mail,~~ from any jurisdiction ~~of~~
684 ~~the United States,~~ including this state, to a person in this
685 state, including the person who ordered the property or
686 services.

687 (2) Every dealer as defined in s. 212.06(2)(c) who makes a
688 remote ~~mail order~~ sale is subject to the power of this state to
689 levy and collect the tax imposed by this chapter when any of the
690 following applies:

691 (a) The dealer is a corporation doing business under the
692 laws of this state or is a person domiciled in, a resident of,
693 or a citizen of, this state.~~.~~

694 (b) The dealer maintains retail establishments or offices
695 in this state, regardless of whether the remote ~~mail order~~ sales
696 thus subject to taxation by this state result from or are

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697 related in any other way to the activities of such
698 establishments or offices.†

699 (c) The dealer has agents in this state who solicit
700 business or transact business on behalf of the dealer,
701 regardless of whether the remote ~~mail-order~~ sales thus subject
702 to taxation by this state result from or are related in any
703 other way to such solicitation or transaction of business,
704 except that a printer who mails or delivers for an out-of-state
705 print purchaser material the printer printed for it is ~~shall~~ not
706 ~~be~~ deemed to be the print purchaser's agent for purposes of this
707 paragraph.†

708 (d) The property was delivered in this state in fulfillment
709 of a sales contract that was entered into in this state, in
710 accordance with applicable conflict of laws rules, when a person
711 in this state accepted an offer by ordering the property.†

712 (e) The dealer, by purposefully or systematically
713 exploiting the market provided by this state by any media-
714 assisted, media-facilitated, or media-solicited means,
715 including, but not limited to, direct mail advertising,
716 unsolicited distribution of catalogs, computer-assisted
717 shopping, television, radio, or other electronic media, or
718 magazine or newspaper advertisements or other media, creates
719 nexus with this state.†

720 (f) Through compact or reciprocity with another
721 jurisdiction of the United States, that jurisdiction uses its
722 taxing power and its jurisdiction over the retailer in support
723 of this state's taxing power.†

724 (g) The dealer consents, expressly or by implication, to
725 the imposition of the tax imposed under ~~by~~ this chapter.†

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726 (h) The dealer is subject to service of process under s.
727 48.181.~~7~~

728 (i) The dealer's remote ~~mail-order~~ sales are subject to the
729 power of this state to tax sales or to require the dealer to
730 collect use taxes under a statute or statutes of the United
731 States.~~7~~

732 (j) The dealer owns real property or tangible personal
733 property that is physically in this state. For purposes of this
734 paragraph, ~~except that~~ a dealer whose only property, ~~(including~~
735 ~~property owned by an affiliate,~~) in this state is located at the
736 premises of a printer with which the vendor has contracted for
737 printing, and is either a final printed product, ~~or~~ property
738 that ~~which~~ becomes a part of the final printed product, or
739 property from which the printed product is produced, is not
740 deemed to own such property. ~~for purposes of this paragraph;~~

741 (k) The dealer, while not having nexus with this state on
742 any of the bases described in paragraphs (a)-(j) or paragraph
743 (l), is a corporation that is a member of an affiliated group of
744 corporations, as defined in s. 1504(a) of the Internal Revenue
745 Code, whose members are includable under s. 1504(b) of the
746 Internal Revenue Code and whose members are eligible to file a
747 consolidated tax return for federal corporate income tax
748 purposes and any parent or subsidiary corporation in the
749 affiliated group has nexus with this state on one or more of the
750 bases described in paragraphs (a)-(j) or paragraph (l).~~;~~ ~~or~~

751 (l) The dealer or the dealer's activities, have sufficient
752 ~~connection with or relationship to this state or its residents~~
753 ~~of some type~~ other than those described in paragraphs (a)-(k),
754 result in making a substantial number of remote sales under

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755 ~~subsection (3) to create nexus empowering this state to tax its~~
756 ~~mail order sales or to require the dealer to collect sales tax~~
757 ~~or accrue use tax.~~

758 (3) (a) Every person dealer engaged in the business of
759 making a substantial number of remote mail order sales is a
760 dealer for purposes of this chapter subject to the requirements
761 of this chapter for cooperation of dealers in collection of
762 taxes and in administration of this chapter, except that no fee
763 shall be imposed upon such dealer for carrying out any required
764 activity.

765 (b) As used in this section, the term "making a substantial
766 number of remote sales" means:

767 1. Conducting 200 or more separate retail sales of tangible
768 personal property or services taxable under this chapter in the
769 previous calendar year to be delivered to a location within this
770 state; or

771 2. Conducting any number of retail sales of tangible
772 personal property or services taxable under this chapter in an
773 amount exceeding \$100,000 in the previous calendar year to be
774 delivered to a location within this state.

775
776 For purposes of this paragraph, tangible personal property or
777 services taxable under this chapter which are delivered to a
778 location within this state are presumed to be used, consumed,
779 distributed, or stored to be used or consumed in this state.

780 (4) The department shall, with the consent of another
781 jurisdiction of the United States whose cooperation is needed,
782 enforce this chapter in that jurisdiction, either directly or,
783 at the option of that jurisdiction, through its officers or

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784 employees.

785 (5) The tax required under this section to be collected and
786 any amount unreturned to a purchaser that is not tax but was
787 collected from the purchaser under the representation that it
788 was tax constitute funds of the State of Florida from the moment
789 of collection.

790 ~~(6) Notwithstanding other provisions of law, a dealer who~~
791 ~~makes a mail order sale in this state is exempt from collecting~~
792 ~~and remitting any local option surtax on the sale, unless the~~
793 ~~dealer is located in a county that imposes a surtax within the~~
794 ~~meaning of s. 212.054(3) (a), the order is placed through the~~
795 ~~dealer's location in such county, and the property purchased is~~
796 ~~delivered into such county or into another county in this state~~
797 ~~that levies the surtax, in which case the provisions of s.~~
798 ~~212.054(3) (a) are applicable.~~

799 ~~(7) The department may establish by rule procedures for~~
800 ~~collecting the use tax from unregistered persons who but for~~
801 ~~their mail order purchases would not be required to remit sales~~
802 ~~or use tax directly to the department. The procedures may~~
803 ~~provide for waiver of registration, provisions for irregular~~
804 ~~remittance of tax, elimination of the collection allowance, and~~
805 ~~nonapplication of local option surtaxes.~~

806 Section 6. Section 212.05965, Florida Statutes, is created
807 to read:

808 212.05965 Taxation of marketplace sales.-

809 (1) As used in this section, the term:

810 (a) "Marketplace" means any physical place or electronic
811 medium through which tangible personal property or services
812 taxable under this chapter are offered for sale.

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813 (b) "Marketplace provider" means any person who facilitates
814 through a marketplace a retail sale by a marketplace seller and
815 engages:

816 1. Directly or indirectly, including through one or more
817 members of an affiliated group as defined in s. 1504(a) of the
818 Internal Revenue Code of 1986, in any of the following:

819 a. Transmitting or otherwise communicating the offer or
820 acceptance between the buyer and seller.

821 b. Owning or operating the infrastructure, whether
822 electronic or physical, or the technology that brings buyers and
823 sellers together.

824 c. Providing a virtual currency that buyers are allowed or
825 required to use to purchase products from the seller.

826 d. Software development or research and development
827 activities related to any of the activities described in
828 subparagraph 2., if such activities are directly related to a
829 marketplace operated by the person or by an affiliated group;
830 and

831 2. In any of the following activities with respect to the
832 seller's products:

833 a. Providing payment processing services.

834 b. Providing fulfillment or storage services.

835 c. Listing products for sale.

836 d. Setting prices.

837 e. Branding sales as those of the marketplace provider.

838 f. Taking orders.

839 g. Advertising or promoting.

840 h. Providing customer service or accepting or assisting
841 with returns or exchanges.

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842 (c) "Marketplace seller" means a person who has an
843 agreement with a marketplace provider and makes retail sales of
844 tangible personal property or services taxable under this
845 chapter through a marketplace owned, operated, or controlled by
846 a marketplace provider.

847 (2) Every marketplace provider that is physically located
848 in this state, or that is making or facilitating through a
849 marketplace a substantial number of remote sales as defined in
850 s. 212.0596(3)(b), is subject to the requirements imposed by
851 this chapter on dealers for registration and for the collection
852 and remittance of taxes and the administration of this chapter.

853 (3) A marketplace provider shall certify to its marketplace
854 sellers that it will collect and remit the tax imposed under
855 this chapter on taxable retail sales made through the
856 marketplace. Such certification may be included in the agreement
857 between the marketplace provider and marketplace seller.

858 (4) (a) A marketplace seller may not collect and remit the
859 tax under this chapter on a taxable retail sale when the sale is
860 made through the marketplace and the marketplace provider
861 certifies, as required by subsection (3), that it will collect
862 and remit such tax. A marketplace seller shall exclude such
863 sales made through the marketplace from the marketplace seller's
864 tax return under s. 212.11.

865 (b)1. A marketplace seller physically located in this state
866 shall register, collect, and remit the tax imposed under this
867 chapter on all taxable retail sales made outside of the
868 marketplace.

869 2. A marketplace seller making a substantial number of
870 remote sales as defined in s. 212.0596(3)(b) shall register,

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871 collect, and remit the tax imposed under this chapter on all
872 taxable retail sales made outside of the marketplace. Sales made
873 through the marketplace are not considered for purposes of
874 determining if the seller has made a substantial number of
875 remote sales.

876 (5) (a) A marketplace provider shall allow the department to
877 examine and audit its books and records pursuant to s. 212.13.
878 If the department audits a marketplace provider, the department
879 may not propose a tax assessment on the marketplace seller for
880 the same retail sales unless the marketplace seller provides
881 incorrect or incomplete information to the marketplace provider
882 as described in paragraph (b).

883 (b) The marketplace provider is relieved of liability for
884 the tax for the retail sale, and the marketplace seller or
885 customer is liable for the tax imposed under this chapter if:

886 1. The marketplace provider demonstrates to the
887 satisfaction of the department that the marketplace provider
888 made a reasonable effort to obtain accurate information related
889 to the retail sales facilitated through the marketplace from the
890 marketplace seller, but the failure to collect and pay the
891 correct amount of tax imposed under this chapter was due to
892 incorrect or incomplete information provided by the marketplace
893 seller to the marketplace provider; or

894 2. The marketplace seller or the customer has already
895 remitted the tax imposed under this chapter for a taxable retail
896 sale.

897

898 This paragraph does not apply to a retail sale for which the
899 marketplace provider is the seller, if the marketplace provider

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900 and marketplace seller are related parties, or if transactions
901 between a marketplace seller and marketplace buyer are not
902 conducted at arm's length.

903 (6) For purposes of registration pursuant to s. 212.18, a
904 marketplace is deemed a separate place of business.

905 (7) A marketplace provider and marketplace seller may agree
906 by contract, or otherwise, that if a marketplace provider pays
907 the tax imposed under this chapter on a retail sale facilitated
908 through a marketplace for a marketplace seller as a result of an
909 audit or otherwise, the marketplace provider has the right to
910 recover such tax and any associated interest and penalties from
911 the marketplace seller.

912 (8) Consistent with s. 213.21, the department may
913 compromise any tax, interest, or penalty assessed on retail
914 sales conducted through a marketplace.

915 (9) For purposes of this section, the limitations in ss.
916 213.30(3) and 213.756(2) apply.

917 Section 7. Paragraph (c) of subsection (2) and paragraph
918 (a) of subsection (5) of section 212.06, Florida Statutes, are
919 amended to read:

920 212.06 Sales, storage, use tax; collectible from dealers;
921 "dealer" defined; dealers to collect from purchasers;
922 legislative intent as to scope of tax.—

923 (2)

924 (c) The term "dealer" is further defined to mean every
925 person, as used in this chapter, who sells at retail or who
926 offers for sale at retail, or who has in his or her possession
927 for sale at retail; or for use, consumption, or distribution; or
928 for storage to be used or consumed in this state, tangible

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929 personal property as defined herein, including a retailer who
930 transacts a remote ~~mail-order~~ sale and a marketplace provider.

931 (5) (a) 1. Except as provided in subparagraph 2., it is not
932 the intention of this chapter to levy a tax upon tangible
933 personal property imported, produced, or manufactured in this
934 state for export, provided that tangible personal property may
935 not be considered as being imported, produced, or manufactured
936 for export unless the importer, producer, or manufacturer
937 delivers the same to a licensed exporter for exporting or to a
938 common carrier for shipment outside the state or mails the same
939 by United States mail to a destination outside the state; or, in
940 the case of aircraft being exported under their own power to a
941 destination outside the continental limits of the United States,
942 by submission to the department of a duly signed and validated
943 United States customs declaration, showing the departure of the
944 aircraft from the continental United States; and further with
945 respect to aircraft, the canceled United States registry of said
946 aircraft; or in the case of parts and equipment installed on
947 aircraft of foreign registry, by submission to the department of
948 documentation, the extent of which shall be provided by rule,
949 showing the departure of the aircraft from the continental
950 United States; nor is it the intention of this chapter to levy a
951 tax on any sale which the state is prohibited from taxing under
952 the Constitution or laws of the United States. Every retail sale
953 made to a person physically present at the time of sale shall be
954 presumed to have been delivered in this state.

955 2.a. Notwithstanding subparagraph 1., a tax is levied on
956 each sale of tangible personal property to be transported to a
957 cooperating state as defined in sub-subparagraph c., at the rate

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958 specified in sub-subparagraph d. However, a Florida dealer will
959 be relieved from the requirements of collecting taxes pursuant
960 to this subparagraph if the Florida dealer obtains from the
961 purchaser an affidavit setting forth the purchaser's name,
962 address, state taxpayer identification number, and a statement
963 that the purchaser is aware of his or her state's use tax laws,
964 is a registered dealer in Florida or another state, or is
965 purchasing the tangible personal property for resale or is
966 otherwise not required to pay the tax on the transaction. The
967 department may, by rule, provide a form to be used for the
968 purposes set forth herein.

969 b. For purposes of this subparagraph, "a cooperating state"
970 is one determined by the executive director of the department to
971 cooperate satisfactorily with this state in collecting taxes on
972 remote ~~mail-order~~ sales. No state shall be so determined unless
973 it meets all the following minimum requirements:

974 (I) It levies and collects taxes on remote ~~mail-order~~ sales
975 of property transported from that state to persons in this
976 state, as described in s. 212.0596, upon request of the
977 department.

978 (II) The tax so collected shall be at the rate specified in
979 s. 212.05, not including any local option or tourist or
980 convention development taxes collected pursuant to s. 125.0104
981 or this chapter.

982 (III) Such state agrees to remit to the department all
983 taxes so collected no later than 30 days from the last day of
984 the calendar quarter following their collection.

985 (IV) Such state authorizes the department to audit dealers
986 within its jurisdiction who make remote ~~mail-order~~ sales that

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987 are the subject of s. 212.0596, or makes arrangements deemed
988 adequate by the department for auditing them with its own
989 personnel.

990 (V) Such state agrees to provide to the department records
991 obtained by it from retailers or dealers in such state showing
992 delivery of tangible personal property into this state upon
993 which no sales or use tax has been paid in a manner similar to
994 that provided in sub-subparagraph g.

995 c. For purposes of this subparagraph, "sales of tangible
996 personal property to be transported to a cooperating state"
997 means remote ~~mail-order~~ sales to a person who is in the
998 cooperating state at the time the order is executed, from a
999 dealer who receives that order in this state.

1000 d. The tax levied by sub-subparagraph a. shall be at the
1001 rate at which such a sale would have been taxed pursuant to the
1002 cooperating state's tax laws if consummated in the cooperating
1003 state by a dealer and a purchaser, both of whom were physically
1004 present in that state at the time of the sale.

1005 e. The tax levied by sub-subparagraph a., when collected,
1006 shall be held in the State Treasury in trust for the benefit of
1007 the cooperating state and shall be paid to it at a time agreed
1008 upon between the department, acting for this state, and the
1009 cooperating state or the department or agency designated by it
1010 to act for it; however, such payment shall in no event be made
1011 later than 30 days from the last day of the calendar quarter
1012 after the tax was collected. Funds held in trust for the benefit
1013 of a cooperating state shall not be subject to the service
1014 charges imposed by s. 215.20.

1015 f. The department is authorized to perform such acts and to

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1016 provide such cooperation to a cooperating state with reference
 1017 to the tax levied by sub-subparagraph a. as is required of the
 1018 cooperating state by sub-subparagraph b.

1019 g. In furtherance of this act, dealers selling tangible
 1020 personal property for delivery in another state shall make
 1021 available to the department, upon request of the department,
 1022 records of all tangible personal property so sold. Such records
 1023 shall include a description of the property, the name and
 1024 address of the purchaser, the name and address of the person to
 1025 whom the property was sent, the purchase price of the property,
 1026 information regarding whether sales tax was paid in this state
 1027 on the purchase price, and such other information as the
 1028 department may by rule prescribe.

1029 Section 8. Disaster preparedness supplies; sales tax
 1030 holiday.-

1031 (1) The tax levied under chapter 212, Florida Statutes, may
 1032 not be collected during the period from June 1, 2019, through
 1033 June 14, 2019, on the retail sale of:

1034 (a) A portable self-powered light source selling for \$20 or
 1035 less.

1036 (b) A portable self-powered radio, two-way radio, or
 1037 weather-band radio selling for \$50 or less.

1038 (c) A tarpaulin or other flexible waterproof sheeting
 1039 selling for \$50 or less.

1040 (d) An item normally sold as, or generally advertised as, a
 1041 ground anchor system or tie-down kit and selling for \$50 or
 1042 less.

1043 (e) A gas or diesel fuel tank selling for \$25 or less.

1044 (f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,

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1045 or 9-volt batteries, excluding automobile and boat batteries,
1046 selling for \$30 or less.

1047 (g) A nonelectric food storage cooler selling for \$30 or
1048 less.

1049 (h) A portable generator used to provide light or
1050 communications or preserve food in the event of a power outage
1051 and selling for \$750 or less.

1052 (i) Reusable ice selling for \$10 or less.

1053 (j) Impact-resistant windows, when sold in units of 20 or
1054 fewer.

1055 (k) Impact-resistant doors, when sold in units of 10 or
1056 fewer.

1057
1058 The exemptions under paragraphs (j) and (k) apply to purchases
1059 made by an owner of residential real property where the impact-
1060 resistant windows or impact-resistant doors will be installed.

1061 (2) The Department of Revenue may, and all conditions are
1062 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
1063 Florida Statutes, to implement this section.

1064 (3) The tax exemptions provided in this section do not
1065 apply to sales within a theme park or an entertainment complex
1066 as defined in s. 509.013(9), Florida Statutes, within a public
1067 lodging establishment as defined in s. 509.013(4), Florida
1068 Statutes, or within an airport as defined in s. 330.27(2),
1069 Florida Statutes.

1070 (4) For the 2018-2019 fiscal year, the sum of \$70,072 in
1071 nonrecurring funds is appropriated from the General Revenue Fund
1072 to the Department of Revenue for the purpose of implementing
1073 this section.

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1074 (5) This section shall take effect upon this act becoming a
1075 law.

1076 Section 9. Paragraph (a) of subsection (1) and paragraph
1077 (a) of subsection (5) of section 212.12, Florida Statutes, are
1078 amended to read:

1079 212.12 Dealer's credit for collecting tax; penalties for
1080 noncompliance; powers of Department of Revenue in dealing with
1081 delinquents; brackets applicable to taxable transactions;
1082 records required.—

1083 (1) (a) 1. Notwithstanding any other law and for the purpose
1084 of compensating persons granting licenses for and the lessors of
1085 real and personal property taxed hereunder, for the purpose of
1086 compensating dealers in tangible personal property, for the
1087 purpose of compensating dealers providing communication services
1088 and taxable services, for the purpose of compensating owners of
1089 places where admissions are collected, and for the purpose of
1090 compensating remitters of any taxes or fees reported on the same
1091 documents utilized for the sales and use tax, as compensation
1092 for the keeping of prescribed records, filing timely tax
1093 returns, and the proper accounting and remitting of taxes by
1094 them, such seller, person, lessor, dealer, owner, and remitter
1095 (except dealers who make remote ~~mail-order~~ sales) who files the
1096 return required pursuant to s. 212.11 only by electronic means
1097 and who pays the amount due on such return only by electronic
1098 means shall be allowed 2.5 percent of the amount of the tax due,
1099 accounted for, and remitted to the department in the form of a
1100 deduction. However, if the amount of the tax due and remitted to
1101 the department by electronic means for the reporting period
1102 exceeds \$1,200, an allowance is not allowed for all amounts in

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1103 excess of \$1,200. For purposes of this subparagraph, the term
1104 "electronic means" has the same meaning as provided in s.
1105 213.755(2)(c).

1106 2. The executive director of the department is authorized
1107 to negotiate a collection allowance, pursuant to rules
1108 promulgated by the department, with a dealer who makes remote
1109 ~~mail-order~~ sales. The rules of the department shall provide
1110 guidelines for establishing the collection allowance based upon
1111 the dealer's estimated costs of collecting the tax, the volume
1112 and value of the dealer's remote ~~mail-order~~ sales to purchasers
1113 in this state, and the administrative and legal costs and
1114 likelihood of achieving collection of the tax absent the
1115 cooperation of the dealer. However, in no event shall the
1116 collection allowance negotiated by the executive director exceed
1117 10 percent of the tax remitted for a reporting period.

1118 (5)(a) The department is authorized to audit or inspect the
1119 records and accounts of dealers defined herein, including audits
1120 or inspections of dealers who make remote ~~mail-order~~ sales to
1121 the extent permitted by another state, and to correct by credit
1122 any overpayment of tax, and, in the event of a deficiency, an
1123 assessment shall be made and collected. No administrative
1124 finding of fact is necessary prior to the assessment of any tax
1125 deficiency.

1126 Section 10. Paragraph (f) of subsection (3) of section
1127 212.18, Florida Statutes, is amended to read:

1128 212.18 Administration of law; registration of dealers;
1129 rules.—

1130 (3)

1131 (f) As used in this paragraph, the term "exhibitor" means a

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1132 person who enters into an agreement authorizing the display of
1133 tangible personal property or services at a convention or a
1134 trade show. The following provisions apply to the registration
1135 of exhibitors as dealers under this chapter:

1136 1. An exhibitor whose agreement prohibits the sale of
1137 tangible personal property or services subject to the tax
1138 imposed in this chapter is not required to register as a dealer.

1139 2. An exhibitor whose agreement provides for the sale at
1140 wholesale only of tangible personal property or services subject
1141 to the tax imposed by this chapter must obtain a resale
1142 certificate from the purchasing dealer but is not required to
1143 register as a dealer.

1144 3. An exhibitor whose agreement authorizes the retail sale
1145 of tangible personal property or services subject to the tax
1146 imposed by this chapter must register as a dealer and collect
1147 the tax on such sales.

1148 4. An exhibitor who makes a remote ~~mail order~~ sale pursuant
1149 to s. 212.0596 must register as a dealer.

1150
1151 A person who conducts a convention or a trade show must make his
1152 or her exhibitor's agreements available to the department for
1153 inspection and copying.

1154 Section 11. For the purpose of incorporating the amendment
1155 made by this act to section 212.0596, Florida Statutes, in a
1156 reference thereto, subsection (4) of section 212.20, Florida
1157 Statutes, is reenacted to read:

1158 212.20 Funds collected, disposition; additional powers of
1159 department; operational expense; refund of taxes adjudicated
1160 unconstitutionally collected.-

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1161 (4) When there has been a final adjudication that any tax
1162 pursuant to s. 212.0596 was levied, collected, or both, contrary
1163 to the Constitution of the United States or the State
1164 Constitution, the department shall, in accordance with rules,
1165 determine, based upon claims for refund and other evidence and
1166 information, who paid such tax or taxes, and refund to each such
1167 person the amount of tax paid. For purposes of this subsection,
1168 a "final adjudication" is a decision of a court of competent
1169 jurisdiction from which no appeal can be taken or from which the
1170 official or officials of this state with authority to make such
1171 decisions has or have decided not to appeal.

1172 Section 12. (1) The Department of Revenue is authorized,
1173 and all conditions are deemed met, to adopt emergency rules
1174 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
1175 administering this act.

1176 (2) Notwithstanding any other law, emergency rules adopted
1177 pursuant to subsection (1) are effective for 6 months after
1178 adoption and may be renewed during the pendency of procedures to
1179 adopt permanent rules addressing the subject of the emergency
1180 rules.

1181 (3) This section shall take effect upon this act becoming a
1182 law and expires July 1, 2020.

1183 Section 13. If any provision of this act or its application
1184 to any person or circumstance is held invalid, the invalidity
1185 does not affect other provisions or applications of the act
1186 which can be given effect without the invalid provision or
1187 application, and to this end the provisions of this act are
1188 severable.

1189 Section 14. Except as otherwise expressly provided in this

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1190 act and except for this section, which shall take effect upon
1191 this act becoming a law, this act shall take effect July 1,
1192 2019.