

By Senator Ostalkiewicz

12-1539-98

1                                   A bill to be entitled  
2           An act relating to taxation (RAB); amending s.  
3           212.02, F.S.; redefining the term "retail  
4           sales" to revise standards for the exclusion of  
5           packaging materials; redefining the term "sales  
6           price" to exclude certain federal tax;  
7           redefining the term "use" to exclude the loan  
8           of an automobile for use by a driver education  
9           program; amending s. 212.03, F.S.; revising  
10          provisions for eligibility for the exemption  
11          provided for rental in trailer parks and  
12          similar facilities; amending s. 212.031, F.S.;  
13          providing partial exemption for rentals of  
14          certain property used as nursing homes,  
15          assisted living facilities, and hospices;  
16          exempting utility charges paid by a tenant in  
17          specified circumstances; providing taxability  
18          of charges for canceling or terminating a  
19          lease; amending s. 212.04, F.S.; providing  
20          standards for determining taxability of  
21          components of packages sold by travel agents;  
22          exempting fees for entering sporting events  
23          from the admissions tax when spectators at such  
24          events are charged the tax; amending s. 212.05,  
25          F.S.; prescribing the entities that are  
26          considered selling dealers for purposes of the  
27          sales, storage, and use tax on aircraft and  
28          boats; providing for return of aircraft to the  
29          state without incurring tax liability in  
30          certain circumstances; providing taxability for  
31          property originally exempt which is converted

1 to the owner's use; providing guidelines for  
2 taxability of lease or rental of motor  
3 vehicles; providing taxability of sales of  
4 newspapers; providing guidelines for taxability  
5 of newspaper and magazine inserts; providing  
6 taxability of certain sales by florists;  
7 providing for calculating tax on prizes  
8 distributed by concessionaires; amending s.  
9 212.06, F.S.; providing taxability of  
10 newspapers, magazines, and periodicals used by  
11 the publisher thereof; amending s. 212.18,  
12 F.S.; providing for rules relating to  
13 registration of vending machines and newspaper  
14 rack machines; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Paragraph (c) of subsection (14) and  
19 subsections (16) and (20) of section 212.02, Florida Statutes,  
20 are amended to read:

21 212.02 Definitions.--The following terms and phrases  
22 when used in this chapter have the meanings ascribed to them  
23 in this section, except where the context clearly indicates a  
24 different meaning:

25 (14)

26 (c) "Retail sales," "sale at retail," "use,"  
27 "storage," and "consumption" do not include materials,  
28 containers, labels, sacks, or bags when accompanying the  
29 product sold to the final buyer or ultimate consumer without  
30 which delivery of the product would be impracticable because  
31 of the character of the contents and for which there is no

1 separate charge, when such items are ~~intended to be~~ used one  
2 time only for packaging tangible personal property for sale or  
3 for the convenience of the retail customer or for packaging in  
4 the process of providing a service taxable under this chapter.  
5 When a separate charge for packaging materials is made, the  
6 charge shall be considered part of the selling price or rental  
7 charge and is taxable. The term also does ~~and do~~ not include  
8 the sale, use, storage, or consumption of industrial  
9 materials, including chemicals and fuels except as provided  
10 herein, for future processing, manufacture, or conversion into  
11 articles of tangible personal property for resale when such  
12 industrial materials, including chemicals and fuels except as  
13 provided herein, become a component or ingredient of the  
14 finished product. However, the ~~said~~ terms include the sale,  
15 use, storage, or consumption of tangible personal property,  
16 including machinery and equipment or parts thereof, purchased  
17 electricity, and fuels used to power machinery, when such ~~said~~  
18 items are used and dissipated in fabricating, converting, or  
19 processing tangible personal property for sale, even though  
20 they may become ingredients or components of the tangible  
21 personal property for sale through accident, wear, tear,  
22 erosion, corrosion, or similar means.

23 (16) "Sales price" means the total amount paid for  
24 tangible personal property, including any services that are a  
25 part of the sale, valued in money, whether paid in money or  
26 otherwise, and includes any amount for which credit is given  
27 to the purchaser by the seller, without any deduction  
28 therefrom on account of the cost of the property sold, the  
29 cost of materials used, labor or service cost, interest  
30 charged, losses, or any other expense whatsoever. "Sales  
31 price" also includes the consideration for a transaction which

1 requires both labor and material to alter, remodel, maintain,  
2 adjust, or repair tangible personal property. Trade-ins or  
3 discounts allowed and taken at the time of sale shall not be  
4 included within the purview of this subsection. "Sales price"  
5 also includes the full face value of any coupon used by a  
6 purchaser to reduce the price paid to a retailer for an item  
7 of tangible personal property; where the retailer will be  
8 reimbursed for such coupon, in whole or in part, by the  
9 manufacturer of the item of tangible personal property; or  
10 whenever it is not practicable for the retailer to determine,  
11 at the time of sale, the extent to which reimbursement for the  
12 coupon will be made. The term "sales price" does not include  
13 federal excise taxes imposed upon the retailer on the sale of  
14 tangible personal property. The term "sales price" does  
15 include federal manufacturers' excise taxes, even if the  
16 federal tax is listed as a separate item on the invoice.

17 (20) "Use" means and includes the exercise of any  
18 right or power over tangible personal property incident to the  
19 ownership thereof, or interest therein, except that it does  
20 not include the sale at retail of that property in the regular  
21 course of business. The term "use" does not include the loan  
22 of an automobile by a motor vehicle dealer to a high school  
23 for use in its driver education and safety program.

24 Section 2. Paragraph (c) of subsection (7) of section  
25 212.03, Florida Statutes, is amended to read:

26 212.03 Transient rentals tax; rate, procedure,  
27 enforcement, exemptions.--

28 (7)

29 (c) The rental of facilities, as defined in s.  
30 212.02(10)(f), except mobile home lots regulated under chapter  
31 723, which are intended primarily for rental as a principal or

1 permanent place of residence is exempt from the tax imposed by  
2 this chapter. The rental of such facilities that primarily  
3 serve transient guests is not exempt by this subsection. In  
4 the application of this law, or in making any determination  
5 against the exemption, the department shall consider the  
6 facility as primarily serving transient guests unless the  
7 facility owner makes a verified declaration on a form  
8 prescribed by the department that more than half of the total  
9 rental units available are occupied by tenants who have a  
10 continuous residence in excess of 3 months. The owner of a  
11 facility declared to be exempt by this paragraph must make a  
12 determination of the taxable status of the facility at the end  
13 of the owner's accounting year using any consecutive 3-month  
14 period during the accounting year. The owner must use a  
15 selected consecutive 3-month period during each annual  
16 redetermination. In the event that an exempt facility no  
17 longer qualifies for exemption by this paragraph, the owner  
18 must notify the department on a form prescribed by the  
19 department by the 20th day of the first month of the owner's  
20 next succeeding accounting year that the facility no longer  
21 qualifies for such exemption. The tax levied by this section  
22 shall apply to the rental of facilities that no longer qualify  
23 for exemption under this paragraph beginning the first day of  
24 the owner's next succeeding accounting year.

25 Section 3. Paragraph (b) of subsection (1) of section  
26 212.031, Florida Statutes, is amended, and subsections (7) and  
27 (8) are added to that section, to read:

28 212.031 Lease or rental of or license in real  
29 property.--

30 (1)

31

1           (b) When a lease involves multiple use of real  
2 property wherein a part of the real property is subject to the  
3 tax herein, and a part of the property would be excluded from  
4 the tax under subparagraph (a)1., subparagraph (a)2., or  
5 subparagraph (a)3., the department shall determine, from the  
6 lease or license and such other information as may be  
7 available, that portion of the total rental charge which is  
8 exempt from the tax imposed by this section. The portion of  
9 the premises leased or rented by for-profit entities licensed  
10 as a nursing home under part II of chapter 400, an assisted  
11 living facility under part III of chapter 400, or a hospice  
12 licensed under part VI of chapter 400 which is used as a  
13 dwelling unit is exempt on a pro-rata basis. The pro-rata  
14 portion shall be determined by the square footage of the  
15 portion of the dwelling and other real property subject to the  
16 lease or license which is normally accessed and used by the  
17 residents, compared to the total square footage of the home,  
18 facility, or hospice and other real property subject to the  
19 lease or license.

20           (7) Utility charges subject to sales tax which are  
21 paid by a tenant to the lessor and which are part of a payment  
22 for the privilege or right to use or occupy real property are  
23 exempt from tax if the lessor has paid sales tax on the  
24 purchase of such utilities and the charges billed by the  
25 lessor to the tenant are separately stated and at the same or  
26 a lower price than those paid by the lessor.

27           (8) Charges by lessors to a lessee to cancel or  
28 terminate a lease agreement are presumed taxable if the lessor  
29 records such charges as rental income in its books and  
30 records. This presumption can be overcome by the provision of  
31 sufficient documentation by either the lessor or the lessee

1 that such charges were other than for the rental of real  
2 property.

3 Section 4. Paragraph (d) of subsection (1) and  
4 paragraph (a) of subsection (2) of section 212.04, Florida  
5 Statutes, are amended to read:

6 212.04 Admissions tax; rate, procedure, enforcement.--

7 (1)

8 (d) No additional tax is due on components an  
9 ~~admission if the admission is~~ incorporated as part of a  
10 package sold by a travel agent ~~if the package includes~~ two or  
11 more components such as admissions, and transient rentals,  
12 transportation, or meals; if all of the components were  
13 purchased by the travel agent from other parties and any sales  
14 tax due on such purchases was paid; and if there is no  
15 separate itemization of the admission, transient rental,  
16 transportation, ~~or meal, or other components~~ in the sales  
17 price of the package. This paragraph does not apply if the  
18 actual price charged for a component ~~the admission~~ by the  
19 dealer to a travel agent is less than the price charged to  
20 unrelated parties under normal industry practices and the  
21 dealer and the travel agent are members of the same controlled  
22 group of corporations for federal income tax purposes.

23 (2)(a)1. No tax shall be levied on admissions to  
24 athletic or other events sponsored by elementary schools,  
25 junior high schools, middle schools, high schools, community  
26 colleges, public or private colleges and universities, deaf  
27 and blind schools, facilities of the youth services programs  
28 of the Department of Children and Family Services, and state  
29 correctional institutions when only student, faculty, or  
30 inmate talent is used. However, this exemption shall not apply  
31 to admission to athletic events sponsored by an institution

1 within the State University System, and the proceeds of the  
2 tax collected on such admissions shall be retained and used by  
3 each institution to support women's athletics as provided in  
4 s. 240.533(3)(c).

5           2.a. No tax shall be levied on dues, membership fees,  
6 and admission charges imposed by not-for-profit sponsoring  
7 organizations. To receive this exemption, the sponsoring  
8 organization must qualify as a not-for-profit entity under the  
9 provisions of s. 501(c)(3) of the Internal Revenue Code of  
10 1954, as amended.

11           b. No tax imposed by this section and not actually  
12 collected before August 1, 1992, shall be due from any museum  
13 or historic building owned by any political subdivision of the  
14 state.

15           3. No tax shall be levied on an admission paid by a  
16 student, or on the student's behalf, to any required place of  
17 sport or recreation if the student's participation in the  
18 sport or recreational activity is required as a part of a  
19 program or activity sponsored by, and under the jurisdiction  
20 of, the student's educational institution, provided his or her  
21 attendance is as a participant and not as a spectator.

22           4. No tax shall be levied on admissions to the  
23 National Football League championship game.

24           5. A participation fee or sponsorship fee imposed by a  
25 governmental entity as described in s. 212.08(6) for an  
26 athletic or recreational program is exempt when the  
27 governmental entity by itself, or in conjunction with an  
28 organization exempt under s. 501(c)(3) of the Internal Revenue  
29 Code of 1954, as amended, sponsors, administers, plans,  
30 supervises, directs, and controls the athletic or recreational  
31 program.



1           6. Also exempt from the tax imposed by this section to  
2 the extent provided in this subparagraph are admissions to  
3 live theater, live opera, or live ballet productions in this  
4 state which are sponsored by an organization that has received  
5 a determination from the Internal Revenue Service that the  
6 organization is exempt from federal income tax under s.  
7 501(c)(3) of the Internal Revenue Code of 1954, as amended, if  
8 the organization actively participates in planning and  
9 conducting the event, is responsible for the safety and  
10 success of the event, is organized for the purpose of  
11 sponsoring live theater, live opera, or live ballet  
12 productions in this state, has more than 10,000 subscribing  
13 members and has among the stated purposes in its charter the  
14 promotion of arts education in the communities which it  
15 serves, and will receive at least 20 percent of the net  
16 profits, if any, of the events which the organization sponsors  
17 and will bear the risk of at least 20 percent of the losses,  
18 if any, from the events which it sponsors if the organization  
19 employs other persons as agents to provide services in  
20 connection with a sponsored event. Prior to March 1 of each  
21 year, such organization may apply to the department for a  
22 certificate of exemption for admissions to such events  
23 sponsored in this state by the organization during the  
24 immediately following state fiscal year. The application shall  
25 state the total dollar amount of admissions receipts collected  
26 by the organization or its agents from such events in this  
27 state sponsored by the organization or its agents in the year  
28 immediately preceding the year in which the organization  
29 applies for the exemption. Such organization shall receive the  
30 exemption only to the extent of \$1.5 million multiplied by the  
31 ratio that such receipts bear to the total of such receipts of

1 all organizations applying for the exemption in such year;  
2 however, in no event shall such exemption granted to any  
3 organization exceed 6 percent of such admissions receipts  
4 collected by the organization or its agents in the year  
5 immediately preceding the year in which the organization  
6 applies for the exemption. Each organization receiving the  
7 exemption shall report each month to the department the total  
8 admissions receipts collected from such events sponsored by  
9 the organization during the preceding month and shall remit to  
10 the department an amount equal to 6 percent of such receipts  
11 reduced by any amount remaining under the exemption. Tickets  
12 for such events sold by such organizations shall not reflect  
13 the tax otherwise imposed under this section.

14 7. Also exempt from the tax imposed by this section  
15 are entry fees for participation in freshwater fishing  
16 tournaments.

17 8. Also exempt from the tax imposed by this section  
18 are participation or entry fees charged to participants in a  
19 game, race, or other sport or recreational event if spectators  
20 are charged a taxable admission to such event.

21 Section 5. Paragraphs (a), (b), (c), and (h) of  
22 subsection (1) of section 212.05, Florida Statutes, are  
23 amended, and paragraphs (m) and (n) are added to that  
24 subsection, to read:

25 212.05 Sales, storage, use tax.--It is hereby declared  
26 to be the legislative intent that every person is exercising a  
27 taxable privilege who engages in the business of selling  
28 tangible personal property at retail in this state, including  
29 the business of making mail order sales, or who rents or  
30 furnishes any of the things or services taxable under this  
31 chapter, or who stores for use or consumption in this state

1 any item or article of tangible personal property as defined  
2 herein and who leases or rents such property within the state.

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

6 (a)1.

7 a. At the rate of 6 percent of the sales price of each  
8 item or article of tangible personal property when sold at  
9 retail in this state, computed on each taxable sale for the  
10 purpose of remitting the amount of tax due the state, and  
11 including each and every retail sale.

12 b. Each occasional or isolated sale of an aircraft,  
13 boat, mobile home, or motor vehicle of a class or type which  
14 is required to be registered, licensed, titled, or documented  
15 in this state or by the United States Government shall be  
16 subject to tax at the rate provided in this paragraph. The  
17 department shall by rule adopt any nationally recognized  
18 publication for valuation of used motor vehicles as the  
19 reference price list for any used motor vehicle which is  
20 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),  
21 (b), (c), or (e), or (9). If any party to an occasional or  
22 isolated sale of such a vehicle reports to the tax collector a  
23 sales price which is less than 80 percent of the average loan  
24 price for the specified model and year of such vehicle as  
25 listed in the most recent reference price list, the tax levied  
26 under this paragraph shall be computed by the department on  
27 such average loan price unless the parties to the sale have  
28 provided to the tax collector an affidavit signed by each  
29 party, or other substantial proof, stating the actual sales  
30 price. Any party to such sale who reports a sales price less  
31 than the actual sales price is guilty of a misdemeanor of the

1 first degree, punishable as provided in s. 775.082 or s.  
2 775.083. The department shall collect or attempt to collect  
3 from such party any delinquent sales taxes. In addition, such  
4 party shall pay any tax due and any penalty and interest  
5 assessed plus a penalty equal to twice the amount of the  
6 additional tax owed. Notwithstanding any other provision of  
7 law, the Department of Revenue may waive or compromise any  
8 penalty imposed pursuant to this subparagraph.

9           2. This paragraph does not apply to the sale of a boat  
10 or airplane by or through a registered dealer under this  
11 chapter to a purchaser who, at the time of taking delivery, is  
12 a nonresident of this state, does not make his or her  
13 permanent place of abode in this state, and is not engaged in  
14 carrying on in this state any employment, trade, business, or  
15 profession in which the boat will be used in this state, or is  
16 a corporation none of the officers or directors of which is a  
17 resident of, or makes his or her permanent place of abode in,  
18 this state. For purposes of this exemption, either a  
19 registered dealer acting on his or her own behalf as seller, a  
20 registered dealer acting as broker on behalf of a seller, or a  
21 registered dealer acting as broker on behalf of the purchaser  
22 may be deemed to be the selling dealer. This exemption shall  
23 not be allowed unless:

24           a. The purchaser removes a qualifying boat, as  
25 described in sub-subparagraph f., from the state within 90  
26 days after the date of purchase or the purchaser removes a  
27 nonqualifying boat or an airplane from this state within 10  
28 days after the date of purchase or, when the boat or airplane  
29 is repaired or altered, within 20 days after completion of the  
30 repairs or alterations;

31

1           b. The purchaser, within 30 days from the date of  
2 departure, shall provide the department with written proof  
3 that the purchaser licensed, registered, titled, or documented  
4 the boat or airplane outside the state. If such written proof  
5 is unavailable, within 30 days the purchaser shall provide  
6 proof that the purchaser applied for such license, title,  
7 registration, or documentation. The purchaser shall forward  
8 to the department proof of title, license, registration, or  
9 documentation upon receipt.

10           c. The purchaser, within 10 days of removing the boat  
11 or airplane from Florida, shall furnish the department with  
12 proof of removal in the form of receipts for fuel, dockage,  
13 slippage, tie-down, or hangaring from outside of Florida. The  
14 information so provided must clearly and specifically identify  
15 the boat or aircraft;

16           d. The selling dealer, within 5 days of the date of  
17 sale, shall provide to the department a copy of the sales  
18 invoice, closing statement, bills of sale, and the original  
19 affidavit signed by the purchaser attesting that he or she has  
20 read the provisions of this section;

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

23           f. Unless the nonresident purchaser of a boat of 5 net  
24 tons of admeasurement or larger intends to remove the boat  
25 from this state within 10 days after the date of purchase or  
26 when the boat is repaired or altered, within 20 days after  
27 completion of the repairs or alterations, the nonresident  
28 purchaser shall apply to the selling dealer for a decal which  
29 authorizes 90 days after the date of purchase for removal of  
30 the boat. The department is authorized to issue decals in  
31 advance to dealers. The number of decals issued in advance to

1 a dealer shall be consistent with the volume of the dealer's  
2 past sales of boats which qualify under this sub-subparagraph.  
3 The selling dealer or his or her agent shall mark and affix  
4 the decals to qualifying boats in the manner prescribed by the  
5 department, prior to delivery of the boat.

6 (I) The department is hereby authorized to charge  
7 dealers a fee sufficient to recover the costs of decals  
8 issued.

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

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

14 (IV) The department is authorized to require dealers  
15 who purchase decals to file reports with the department and  
16 may prescribe all necessary records by rule. All such records  
17 are subject to inspection by the department.

18 (V) Any dealer or his or her agent who issues a decal  
19 falsely, fails to affix a decal, mismarks the expiration date  
20 of a decal, or fails to properly account for decals will be  
21 considered prima facie to have committed a fraudulent act to  
22 evade the tax and will be liable for payment of the tax plus a  
23 mandatory penalty of 200 percent of the tax, and shall be  
24 liable for fine and punishment as provided by law for a  
25 conviction of a misdemeanor of the first degree, as provided  
26 in s. 775.082 or s. 775.083.

27 (VI) Any nonresident purchaser of a boat who removes a  
28 decal prior to permanently removing the boat from the state,  
29 or defaces, changes, modifies, or alters a decal in a manner  
30 affecting its expiration date prior to its expiration, or who  
31 causes or allows the same to be done by another, will be

1 considered prima facie to have committed a fraudulent act to  
2 evade the tax and will be liable for payment of the tax plus a  
3 mandatory penalty of 200 percent of the tax, and shall be  
4 liable for fine and punishment as provided by law for a  
5 conviction of a misdemeanor of the first degree, as provided  
6 in s. 775.082 or s. 775.083.

7 (VII) The department is authorized to adopt rules  
8 necessary to administer and enforce this subparagraph and to  
9 publish the necessary forms and instructions.

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

13  
14 If the purchaser fails to remove the qualifying boat from this  
15 state within 90 days after purchase or a nonqualifying boat or  
16 an airplane from this state within 10 days after purchase or,  
17 when the boat or airplane is repaired or altered, within 20  
18 days after completion of such repairs or alterations, or  
19 permits the boat or airplane to return to this state within 6  
20 months from the date of departure, or if the purchaser fails  
21 to furnish the department with any of the documentation  
22 required by this subparagraph within the prescribed time  
23 period, the purchaser shall be liable for use tax on the cost  
24 price of the boat or airplane and, in addition thereto,  
25 payment of a penalty to the Department of Revenue equal to the  
26 tax payable. This penalty shall be in lieu of the penalty  
27 imposed by s. 212.12(2) and is mandatory and shall not be  
28 waived by the department. The 90-day period following the  
29 sale of a qualifying boat tax exempt to a nonresident may not  
30 be tolled for any reason. Notwithstanding other provisions of  
31 this paragraph to the contrary, an aircraft purchased in this

1 state under the provisions of this paragraph may be returned  
2 to this state for repairs within 6 months after the date of  
3 its departure without being in violation of the law and  
4 without incurring liability for the payment of tax or penalty  
5 on the purchase price of the aircraft if the aircraft is  
6 removed from this state within 20 days after the completion of  
7 the repairs and if such removal can be demonstrated by  
8 invoices for fuel, tie-down, hangar charges issued by  
9 out-of-state vendors or suppliers, or similar documentation.

10 (b) At the rate of 6 percent of the cost price of each  
11 item or article of tangible personal property when the same is  
12 not sold but is used, consumed, distributed, or stored for use  
13 or consumption in this state; however, for tangible property  
14 originally purchased exempt from tax for use exclusively for  
15 lease and which is converted to the owner's own use, tax may  
16 be paid on the fair market value of the property at the time  
17 of conversion. If the fair market value of the property cannot  
18 be determined, use tax at the time of conversion shall be  
19 based on the owner's acquisition cost. Under no circumstances  
20 may the aggregate amount of sales tax from leasing the  
21 property and use tax due at the time of conversion be less  
22 than the total sales tax that would have been due on the  
23 original acquisition cost paid by the owner.

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

28 1. For the lease or rental of a motor vehicle for less  
29 than 12 months, sales tax is due when payment for such lease  
30 or rental is made to a Florida dealer, regardless of where the  
31 vehicle was delivered, returned, or driven.



1           2. For the lease or rental of a motor vehicle for 12  
2 months or more, sales tax is due when the vehicle is  
3 registered, licensed, or titled in this state, regardless of  
4 where the vehicle is to be used. A vehicle leased from a  
5 person outside this state is presumed to be taxable if it is  
6 registered, licensed, or titled in this state. This  
7 presumption may be rebutted by documentary evidence that,  
8 after the vehicle was rented or leased, it was used outside  
9 this state continuously for 30 days or more before it was  
10 brought into this state.

11           ~~3.~~except The lease or rental of a commercial motor  
12 vehicle as defined in s. 316.003(66)(a) to one lessee or  
13 rentee for a period of not less than 12 months when tax was  
14 paid on the acquisition of such vehicle by the lessor, when  
15 the lease or rental of such property is an established  
16 business or part of an established business or the same is  
17 incidental or germane to such business.

18           (h)1. At the rate of 6 percent on the retail price of  
19 newspapers and magazines sold or used in Florida.

20           2. Notwithstanding other provisions of this chapter,  
21 inserts of printed materials which are distributed with a  
22 newspaper or magazine are a component part of the newspaper or  
23 magazine when:

24           a. Printed by a newspaper or magazine publisher or  
25 commercial printer and distributed as a component part of a  
26 newspaper or magazine, which means that the items after being  
27 printed are delivered directly to a newspaper or magazine  
28 publisher by the printer for inclusion in editions of the  
29 distributed newspaper or magazine; and

30  
31

1           b. Such publications are labeled as part of the  
2 designated newspaper or magazine publication into which they  
3 are to be inserted.

4           (m) Florists located in this state are liable for  
5 sales tax on sales to retail customers regardless of where or  
6 by whom the items sold are to be delivered. Florists located  
7 in this state are not liable for sales tax on payments  
8 received from other florists for items delivered to customers  
9 in this state.

10           (n) Operators of game concessions or other  
11 concessionaires who customarily award tangible personal  
12 property as prizes may, in lieu of paying tax on the cost  
13 price of such property, pay tax on 25 percent of the gross  
14 receipts from such concession activity.

15           Section 6. Subsection (13) is added to section 212.06,  
16 Florida Statutes, to read:

17           212.06 Sales, storage, use tax; collectible from  
18 dealers; "dealer" defined; dealers to collect from purchasers;  
19 legislative intent as to scope of tax.--

20           (13)(a) Notwithstanding other provisions of this  
21 chapter, the use by the publisher of a newspaper, magazine, or  
22 periodical of copies for his or her own consumption or to be  
23 given away is taxable at the usual retail price thereof, if  
24 any, or at the "cost price."

25           (b) For the purposes of this subsection, the term  
26 "cost price" means the actual cost of printing of newspapers,  
27 magazines, and other publications, without any deductions  
28 therefrom on account of the cost of materials used, labor or  
29 services cost, transportation charges, or other direct or  
30 indirect overhead costs that are a part of printing costs of  
31 the property. However, the cost of labor to manufacture,

1 produce, compound, process, or fabricate expendable items of  
2 tangible personal property which are directly used by such  
3 person in printing other tangible personal property for sale  
4 or for his or her own use is exempt. Authors' royalties, fees,  
5 or salaries, general overhead, and other costs not directly  
6 related to printing shall be deemed to be labor associated  
7 with manufacturing, producing, compounding, processing, or  
8 fabricating expendable items.

9           Section 7. Paragraph (a) of subsection (3) of section  
10 212.18, Florida Statutes, is amended to read:

11           212.18 Administration of law; registration of dealers;  
12 rules.--

13           (3)(a) Every person desiring to engage in or conduct  
14 business in this state as a dealer, as defined in this  
15 chapter, or to lease, rent, or let or grant licenses in living  
16 quarters or sleeping or housekeeping accommodations in hotels,  
17 apartment houses, roominghouses, or tourist or trailer camps  
18 that are subject to tax under s. 212.03, or to lease, rent, or  
19 let or grant licenses in real property, as defined in this  
20 chapter, and every person who sells or receives anything of  
21 value by way of admissions, must file with the department an  
22 application for a certificate of registration for each place  
23 of business, showing the names of the persons who have  
24 interests in such business and their residences, the address  
25 of the business, and such other data as the department may  
26 reasonably require. However, owners and operators of vending  
27 machines or newspaper rack machines are required to obtain  
28 only one certificate of registration for each county in which  
29 such machines are located. The department, by rule, may  
30 authorize a dealer that uses independent sellers to sell its  
31 merchandise to remit tax on the retail sales price charged to

1 the ultimate consumer in lieu of having the independent seller  
2 register as a dealer and remit the tax.The department may  
3 appoint the county tax collector as the department's agent to  
4 accept applications for registrations. The application must be  
5 made to the department before the person, firm, copartnership,  
6 or corporation may engage in such business, and it must be  
7 accompanied by a registration fee of \$5. However, a  
8 registration fee is not required to accompany an application  
9 to engage in or conduct business to make mail order sales. The  
10 department, upon receipt of such application, will grant to  
11 the applicant a separate certificate of registration for each  
12 place of business, which certificate may be canceled by the  
13 department or its designated assistants for any failure by the  
14 certificateholder to comply with any of the provisions of this  
15 chapter. The certificate is not assignable and is valid only  
16 for the person, firm, copartnership, or corporation to which  
17 issued. The certificate must be placed in a conspicuous place  
18 in the business or businesses for which it is issued and must  
19 be displayed at all times. Except as provided in this  
20 paragraph, no person shall engage in business as a dealer or  
21 in leasing, renting, or letting of or granting licenses in  
22 living quarters or sleeping or housekeeping accommodations in  
23 hotels, apartment houses, roominghouses, tourist or trailer  
24 camps, or real property as hereinbefore defined, nor shall any  
25 person sell or receive anything of value by way of admissions,  
26 without first having obtained such a certificate or after such  
27 certificate has been canceled; no person shall receive any  
28 license from any authority within the state to engage in any  
29 such business without first having obtained such a certificate  
30 or after such certificate has been canceled. The engaging in  
31 the business of selling or leasing tangible personal property

1 or services or as a dealer, as defined in this chapter, or the  
2 engaging in leasing, renting, or letting of or granting  
3 licenses in living quarters or sleeping or housekeeping  
4 accommodations in hotels, apartment houses, roominghouses, or  
5 tourist or trailer camps that are taxable under this chapter,  
6 or real property, or the engaging in the business of selling  
7 or receiving anything of value by way of admissions, without  
8 such certificate first being obtained or after such  
9 certificate has been canceled by the department, is  
10 prohibited. The failure or refusal of any person, firm,  
11 copartnership, or corporation to so qualify when required  
12 hereunder is a misdemeanor of the first degree, punishable as  
13 provided in s. 775.082 or s. 775.083, or subject to injunctive  
14 proceedings as provided by law. Such failure or refusal also  
15 subjects the offender to a \$100 initial registration fee in  
16 lieu of the \$5 registration fee authorized in this paragraph.

17 Section 8. This act shall take effect July 1, 1998.

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19 \*\*\*\*\*

20 SENATE SUMMARY

21 Redefines the terms "retail sales," "sales price," and  
22 "use" for purposes of ch. 212, F.S. Revises provisions  
23 relating to taxability or exemption of a variety of  
24 property and services, including rentals in trailer parks  
25 and similar facilities; rentals in property used as  
26 nursing homes, assisted living facilities, and hospices;  
27 utility charges paid by a tenant; charges for terminating  
28 or canceling a lease; entry fees for contestants at  
29 sporting events for admission to which spectators are  
30 also charged tax; boats and aircraft; exempt property  
31 converted to the owner's own use after initial purchase;  
newspapers, magazines, and other periodicals and inserts  
therefor; and vending machine and newspaper rack machine  
sales.