

By the Committee on Ways and Means; and Senator Ostalkiewicz

301-2071A-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 residential facilities
15 for the aged; exempting utility charges paid by
16 a tenant in specified circumstances; providing
17 taxability of charges for canceling or
18 terminating a lease; amending s. 212.04, F.S.;
19 providing standards for determining taxability
20 of components of packages sold by travel
21 agents; exempting fees for entering sporting
22 events from the admissions tax when spectators
23 at such events are charged the tax; amending s.
24 212.05, F.S.; prescribing the entities that are
25 considered selling dealers for purposes of the
26 sales, storage, and use tax on aircraft and
27 boats; providing for return of aircraft to the
28 state without incurring tax liability in
29 certain circumstances; providing taxability for
30 property originally exempt which is converted
31 to the owner's use; providing guidelines for

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

14
15 Be It Enacted by the Legislature of the State of Florida:

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

20 212.02 Definitions.--The following terms and phrases
21 when used in this chapter have the meanings ascribed to them
22 in this section, except where the context clearly indicates a
23 different meaning:

24 (14)

25 (c) "Retail sales," "sale at retail," "use,"
26 "storage," and "consumption" do not include materials,
27 containers, labels, sacks, ~~or~~ bags, or similar items intended
28 to accompany a product sold to a customer without which
29 delivery of the product would be impracticable because of the
30 character of the contents and be used one time only for
31 packaging tangible personal property for sale or for the

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

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

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

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

22 Section 2. Paragraph (c) of subsection (7) of section
23 212.03, Florida Statutes, is amended to read:

24 212.03 Transient rentals tax; rate, procedure,
25 enforcement, exemptions.--

26 (7)

27 (c) The rental of facilities, as defined in s.
28 212.02(10)(f), which are intended primarily for rental as a
29 principal or permanent place of residence is exempt from the
30 tax imposed by this chapter. The rental of such facilities
31 that primarily serve transient guests is not exempt by this

1 subsection. In the application of this law, or in making any
2 determination against the exemption, the department shall
3 consider the facility as primarily serving transient guests
4 unless the facility owner makes a verified declaration on a
5 form prescribed by the department that more than half of the
6 total rental units available are occupied by tenants who have
7 a continuous residence in excess of 3 months. The owner of a
8 facility declared to be exempt by this paragraph must make a
9 determination of the taxable status of the facility at the end
10 of the owner's accounting year using any consecutive 3-month
11 period at least one month of which is in the accounting year.
12 The owner must use a selected consecutive 3-month period
13 during each annual redetermination. In the event that an
14 exempt facility no longer qualifies for exemption by this
15 paragraph, the owner must notify the department on a form
16 prescribed by the department by the 20th day of the first
17 month of the owner's next succeeding accounting year that the
18 facility no longer qualifies for such exemption. The tax
19 levied by this section shall apply to the rental of facilities
20 that no longer qualify for exemption under this paragraph
21 beginning the first day of the owner's next succeeding
22 accounting year. The provisions of this paragraph do not apply
23 to mobile home lots regulated under chapter 723.

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

27 212.031 Lease or rental of or license in real
28 property.--

29 (1)

30 (b) When a lease involves multiple use of real
31 property wherein a part of the real property is subject to the

1 tax herein, and a part of the property would be excluded from
2 the tax under subparagraph (a)1., subparagraph (a)2., or
3 subparagraph (a)3., the department shall determine, from the
4 lease or license and such other information as may be
5 available, that portion of the total rental charge which is
6 exempt from the tax imposed by this section. The portion of
7 the premises leased or rented by a for-profit entity providing
8 a residential facility for the aged will be exempt on the
9 basis of a pro-rata portion calculated by combining the square
10 footage of the areas used for residential units by the aged
11 and for the care of such residents and dividing the resultant
12 sum by the total square footage of the rented premises. For
13 purposes of this section, the term "residential facility for
14 the aged" means a facility that is licensed or certified in
15 whole or in part under chapter 400 or chapter 651; or that
16 provides residences to the elderly and is financed by a
17 mortgage or loan made or insured by the United States
18 Department of Housing and Urban Development under s. 202, s.
19 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s.
20 236 of the National Housing Act; or other such similar
21 facility that provides residences primarily for the elderly.

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

29 (8) Charges by lessors to a lessee to cancel or
30 terminate a lease agreement are presumed taxable if the lessor
31 records such charges as rental income in its books and

1 records. This presumption can be overcome by the provision of
2 sufficient documentation by either the lessor or the lessee
3 that such charges were other than for the rental of real
4 property.

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

8 212.04 Admissions tax; rate, procedure, enforcement.--

9 (1)

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

25 (2)(a)1. No tax shall be levied on admissions to
26 athletic or other events sponsored by elementary schools,
27 junior high schools, middle schools, high schools, community
28 colleges, public or private colleges and universities, deaf
29 and blind schools, facilities of the youth services programs
30 of the Department of Children and Family Services, and state
31 correctional institutions when only student, faculty, or

1 inmate talent is used. However, this exemption shall not apply
2 to admission to athletic events sponsored by an institution
3 within the State University System, and the proceeds of the
4 tax collected on such admissions shall be retained and used by
5 each institution to support women's athletics as provided in
6 s. 240.533(3)(c).

7 2.a. No tax shall be levied on dues, membership fees,
8 and admission charges imposed by not-for-profit sponsoring
9 organizations. To receive this exemption, the sponsoring
10 organization must qualify as a not-for-profit entity under the
11 provisions of s. 501(c)(3) of the Internal Revenue Code of
12 1954, as amended.

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

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

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

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

1 supervises, directs, and controls the athletic or recreational
2 program.

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

1 exemption only to the extent of \$1.5 million multiplied by the
2 ratio that such receipts bear to the total of such receipts of
3 all organizations applying for the exemption in such year;
4 however, in no event shall such exemption granted to any
5 organization exceed 6 percent of such admissions receipts
6 collected by the organization or its agents in the year
7 immediately preceding the year in which the organization
8 applies for the exemption. Each organization receiving the
9 exemption shall report each month to the department the total
10 admissions receipts collected from such events sponsored by
11 the organization during the preceding month and shall remit to
12 the department an amount equal to 6 percent of such receipts
13 reduced by any amount remaining under the exemption. Tickets
14 for such events sold by such organizations shall not reflect
15 the tax otherwise imposed under this section.

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

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

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

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

1 furnishes any of the things or services taxable under this
2 chapter, or who stores for use or consumption in this state
3 any item or article of tangible personal property as defined
4 herein and who leases or rents such property within the state.

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

8 (a)1.a. At the rate of 6 percent of the sales price of
9 each item or article of tangible personal property when sold
10 at retail in this state, computed on each taxable sale for the
11 purpose of remitting the amount of tax due the state, and
12 including each and every retail sale.

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

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

10 2. This paragraph does not apply to the sale of a boat
11 or airplane by or through a registered dealer under this
12 chapter to a purchaser who, at the time of taking delivery, is
13 a nonresident of this state, does not make his or her
14 permanent place of abode in this state, and is not engaged in
15 carrying on in this state any employment, trade, business, or
16 profession in which the boat will be used in this state, or is
17 a corporation none of the officers or directors of which is a
18 resident of, or makes his or her permanent place of abode in,
19 this state, or is a noncorporate entity that has no individual
20 vested with authority to participate in the management,
21 direction, or control of the entity's affairs who is a
22 resident of, or makes his or her permanent abode in, this
23 state. For purposes of this exemption, either a registered
24 dealer acting on his or her own behalf as seller, a registered
25 dealer acting as broker on behalf of a seller, or a registered
26 dealer acting as broker on behalf of the purchaser may be
27 deemed to be the selling dealer. This exemption shall not be
28 allowed unless:

29 a. The purchaser removes a qualifying boat, as
30 described in sub-subparagraph f., from the state within 90
31 days after the date of purchase or the purchaser removes a

1 nonqualifying boat or an airplane from this state within 10
2 days after the date of purchase or, when the boat or airplane
3 is repaired or altered, within 20 days after completion of the
4 repairs or alterations;

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

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

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

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

27 f. Unless the nonresident purchaser of a boat of 5 net
28 tons of admeasurement or larger intends to remove the boat
29 from this state within 10 days after the date of purchase or
30 when the boat is repaired or altered, within 20 days after
31 completion of the repairs or alterations, the nonresident

1 purchaser shall apply to the selling dealer for a decal which
2 authorizes 90 days after the date of purchase for removal of
3 the boat. The department is authorized to issue decals in
4 advance to dealers. The number of decals issued in advance to
5 a dealer shall be consistent with the volume of the dealer's
6 past sales of boats which qualify under this sub-subparagraph.
7 The selling dealer or his or her agent shall mark and affix
8 the decals to qualifying boats in the manner prescribed by the
9 department, prior to delivery of the boat.

10 (I) The department is hereby authorized to charge
11 dealers a fee sufficient to recover the costs of decals
12 issued.

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

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

18 (IV) The department is authorized to require dealers
19 who purchase decals to file reports with the department and
20 may prescribe all necessary records by rule. All such records
21 are subject to inspection by the department.

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

31

1 (VI) Any nonresident purchaser of a boat who removes a
2 decal prior to permanently removing the boat from the state,
3 or defaces, changes, modifies, or alters a decal in a manner
4 affecting its expiration date prior to its expiration, or who
5 causes or allows the same to be done by another, will be
6 considered prima facie to have committed a fraudulent act to
7 evade the tax and will be liable for payment of the tax plus a
8 mandatory penalty of 200 percent of the tax, and shall be
9 liable for fine and punishment as provided by law for a
10 conviction of a misdemeanor of the first degree, as provided
11 in s. 775.082 or s. 775.083.

12 (VII) The department is authorized to adopt rules
13 necessary to administer and enforce this subparagraph and to
14 publish the necessary forms and instructions.

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

18
19 If the purchaser fails to remove the qualifying boat from this
20 state within 90 days after purchase or a nonqualifying boat or
21 an airplane from this state within 10 days after purchase or,
22 when the boat or airplane is repaired or altered, within 20
23 days after completion of such repairs or alterations, or
24 permits the boat or airplane to return to this state within 6
25 months from the date of departure, or if the purchaser fails
26 to furnish the department with any of the documentation
27 required by this subparagraph within the prescribed time
28 period, the purchaser shall be liable for use tax on the cost
29 price of the boat or airplane and, in addition thereto,
30 payment of a penalty to the Department of Revenue equal to the
31 tax payable. This penalty shall be in lieu of the penalty

1 imposed by s. 212.12(2) and is mandatory and shall not be
2 waived by the department. The 90-day period following the
3 sale of a qualifying boat tax exempt to a nonresident may not
4 be tolled for any reason. Notwithstanding other provisions of
5 this paragraph to the contrary, an aircraft purchased in this
6 state under the provisions of this paragraph may be returned
7 to this state for repairs within 6 months after the date of
8 its departure without being in violation of the law and
9 without incurring liability for the payment of tax or penalty
10 on the purchase price of the aircraft if the aircraft is
11 removed from this state within 20 days after the completion of
12 the repairs and if such removal can be demonstrated by
13 invoices for fuel, tie-down, hangar charges issued by
14 out-of-state vendors or suppliers, or similar documentation.

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

29 (c) At the rate of 6 percent of the gross proceeds
30 derived from the lease or rental of tangible personal
31

1 property, as defined herein; however, the following special
2 provisions apply to the lease or rental of motor vehicles:
3 1. When a motor vehicle is leased or rented for a
4 period of less than 12 months:
5 a. If the motor vehicle is rented in Florida, the
6 entire amount of such rental is taxable, even if the vehicle
7 is dropped off in another state.
8 b. If the motor vehicle is rented in another state and
9 dropped off in Florida, the rental is exempt from Florida tax.
10 2. Except as provided in subparagraph 3, for the lease
11 or rental of a motor vehicle for a period of not less than 12
12 months, sales tax is due on the lease or rental payments if
13 the vehicle is registered in this state; provided, however,
14 that no tax shall be due if the taxpayer documents use of the
15 motor vehicle outside this state and tax is being paid on the
16 lease or rental payments in another state.
17 3. The tax imposed by this chapter does not apply to
18 except the lease or rental of a commercial motor vehicle as
19 defined in s. 316.003(66)(a) to one lessee or rentee for a
20 period of not less than 12 months when tax was paid on the
21 purchase price acquisition of such vehicle by the lessor. To
22 the extent tax was paid with respect to the purchase of such
23 vehicle in another state, territory of the United States, or
24 the District of Columbia, the Florida tax payable shall be
25 reduced in accordance with the provisions of s. 212.06(7).
26 This subparagraph shall only be available when the lease or
27 rental of such property is an established business or part of
28 an established business or the same is incidental or germane
29 to such business.
30 (h)1. At the rate of 6 percent on the retail price of
31 newspapers and magazines sold or used in Florida.

1 2. Notwithstanding other provisions of this chapter,
2 inserts of printed materials which are distributed with a
3 newspaper or magazine are a component part of the newspaper or
4 magazine and neither the sale nor use of such inserts is
5 subject to tax when:

6 a. Printed by a newspaper or magazine publisher or
7 commercial printer and distributed as a component part of a
8 newspaper or magazine, which means that the items after being
9 printed are delivered directly to a newspaper or magazine
10 publisher by the printer for inclusion in editions of the
11 distributed newspaper or magazine;

12 b. Such publications are labeled as part of the
13 designated newspaper or magazine publication into which they
14 are to be inserted; and

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

18 (m) Florists located in this state are liable for
19 sales tax on sales to retail customers regardless of where or
20 by whom the items sold are to be delivered. Florists located
21 in this state are not liable for sales tax on payments
22 received from other florists for items delivered to customers
23 in this state.

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

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

31

1 212.06 Sales, storage, use tax; collectible from
2 dealers; "dealer" defined; dealers to collect from purchasers;
3 legislative intent as to scope of tax.--

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

9 (b) For the purposes of this subsection, the term
10 "cost price" means the actual cost of printing of newspapers,
11 magazines, and other publications, without any deductions
12 therefrom on account of the cost of materials used, labor or
13 services cost, transportation charges, or other direct or
14 indirect overhead costs that are a part of printing costs of
15 the property. However, the cost of labor to manufacture,
16 produce, compound, process, or fabricate expendable items of
17 tangible personal property which are directly used by such
18 person in printing other tangible personal property for sale
19 or for his or her own use is exempt. Authors' royalties, fees,
20 or salaries, general overhead, and other costs not directly
21 related to printing shall be deemed to be labor associated
22 with manufacturing, producing, compounding, processing, or
23 fabricating expendable items.

24 Section 7. Paragraph (a) of subsection (3) of section
25 212.18, Florida Statutes, is amended to read:

26 212.18 Administration of law; registration of dealers;
27 rules.--

28 (3)(a) Every person desiring to engage in or conduct
29 business in this state as a dealer, as defined in this
30 chapter, or to lease, rent, or let or grant licenses in living
31 quarters or sleeping or housekeeping accommodations in hotels,

1 apartment houses, roominghouses, or tourist or trailer camps
2 that are subject to tax under s. 212.03, or to lease, rent, or
3 let or grant licenses in real property, as defined in this
4 chapter, and every person who sells or receives anything of
5 value by way of admissions, must file with the department an
6 application for a certificate of registration for each place
7 of business, showing the names of the persons who have
8 interests in such business and their residences, the address
9 of the business, and such other data as the department may
10 reasonably require. However, owners and operators of vending
11 machines or newspaper rack machines are required to obtain
12 only one certificate of registration for each county in which
13 such machines are located. The department, by rule, may
14 authorize a dealer that uses independent sellers to sell its
15 merchandise to remit tax on the retail sales price charged to
16 the ultimate consumer in lieu of having the independent seller
17 register as a dealer and remit the tax.The department may
18 appoint the county tax collector as the department's agent to
19 accept applications for registrations. The application must be
20 made to the department before the person, firm, copartnership,
21 or corporation may engage in such business, and it must be
22 accompanied by a registration fee of \$5. However, a
23 registration fee is not required to accompany an application
24 to engage in or conduct business to make mail order sales. The
25 department, upon receipt of such application, will grant to
26 the applicant a separate certificate of registration for each
27 place of business, which certificate may be canceled by the
28 department or its designated assistants for any failure by the
29 certificateholder to comply with any of the provisions of this
30 chapter. The certificate is not assignable and is valid only
31 for the person, firm, copartnership, or corporation to which

1 issued. The certificate must be placed in a conspicuous place
2 in the business or businesses for which it is issued and must
3 be displayed at all times. Except as provided in this
4 paragraph, no person shall engage in business as a dealer or
5 in leasing, renting, or letting of or granting licenses in
6 living quarters or sleeping or housekeeping accommodations in
7 hotels, apartment houses, roominghouses, tourist or trailer
8 camps, or real property as hereinbefore defined, nor shall any
9 person sell or receive anything of value by way of admissions,
10 without first having obtained such a certificate or after such
11 certificate has been canceled; no person shall receive any
12 license from any authority within the state to engage in any
13 such business without first having obtained such a certificate
14 or after such certificate has been canceled. The engaging in
15 the business of selling or leasing tangible personal property
16 or services or as a dealer, as defined in this chapter, or the
17 engaging in leasing, renting, or letting of or granting
18 licenses in living quarters or sleeping or housekeeping
19 accommodations in hotels, apartment houses, roominghouses, or
20 tourist or trailer camps that are taxable under this chapter,
21 or real property, or the engaging in the business of selling
22 or receiving anything of value by way of admissions, without
23 such certificate first being obtained or after such
24 certificate has been canceled by the department, is
25 prohibited. The failure or refusal of any person, firm,
26 copartnership, or corporation to so qualify when required
27 hereunder is a misdemeanor of the first degree, punishable as
28 provided in s. 775.082 or s. 775.083, or subject to injunctive
29 proceedings as provided by law. Such failure or refusal also
30 subjects the offender to a \$100 initial registration fee in
31 lieu of the \$5 registration fee authorized in this paragraph.

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

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3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 SB 1688

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6 The following substantial changes are made in the committee
7 substitute:

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1. The determination of the portion of residential
9 facilities for the aged is to be based on areas dedicated
10 to the care of residents as well as those areas in which
11 the residents live. The definition of eligible facilities
12 is also broadened to include additional types of
13 facilities.

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11 2. Tax-free sales of boats and airplanes to non-corporate
12 out-of-state entities are not allowed if the
13 non-corporate entity has an individual vested with
14 management authority resident in Florida.

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13 3. The determination of the taxability of rental cars rented
14 in Florida and returned in another state or rented in
15 another state and returned in Florida is based on the
16 state in which the vehicle is rented rather than the
17 state in which payment is made.

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