

By Representative Barreiro

1                                   A bill to be entitled  
2           An act relating to tax on sales, use, and other  
3           transactions; amending s. 212.06, F.S.;  
4           providing an exemption for the sale, use,  
5           consumption, or storage of tangible personal  
6           property within a specified area if the  
7           property is purchased by certain cruise  
8           passengers; defining "specified area";  
9           providing requirements for such purchases;  
10          requiring the purchaser to furnish certain  
11          information under oath to the dealer; providing  
12          penalties; specifying transactions to which the  
13          exemption does not apply; requiring that the  
14          property be removed from the state within a  
15          specified period; providing for application of  
16          use tax and a penalty if the property is not  
17          removed from the state; providing  
18          responsibilities of persons transporting  
19          persons for hire in foreign commerce; providing  
20          for issuance of a cruise arrival-departure card  
21          to passengers; providing card requirements;  
22          requiring notification to the Department of  
23          Revenue of any card issued to a person who is  
24          not a cruise passenger; requiring maintenance  
25          of records; providing a penalty for issuance of  
26          a fraudulent card for the purpose of evading  
27          tax; providing an effective date.  
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29   Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Subsection (13) is added to section 212.06,  
2 Florida Statutes, to read:

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

6 (13)(a)1. This chapter does not apply to the sale,  
7 use, consumption, or storage of tangible personal property  
8 within a specified area, which property will be removed from  
9 this state by a purchaser who either is, or will be, a  
10 passenger on a boat cruise and who, at the time of taking  
11 delivery of the property, does not make his or her permanent  
12 place of abode in this state.

13 2. For the purposes of this subsection, "specified  
14 area" means an area as defined by s. 189.403(3) that includes  
15 boundaries contiguous to a large body of water and the  
16 right-of-way to a rapid transportation system, located within  
17 a county as defined by s. 125.011(1).

18 (b) This subsection does not apply unless:

19 1. The purchaser, at the time of sale, furnishes the  
20 selling dealer a valid arrival-departure card and picture  
21 identification.

22 2. The purchase is made within 2 days prior to the  
23 purchaser's departure on a boat cruise transporting persons  
24 for hire in foreign commerce, or within 2 days after the  
25 purchaser's arrival on a boat cruise transporting persons for  
26 hire in foreign commerce. Boat cruises transporting persons  
27 outside the boundaries of this state which do not dock at  
28 destination points outside of this state are not considered to  
29 be transporting persons for hire in foreign commerce for  
30 purposes of this subsection.

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1           3. The purchaser, at the time of purchase, furnishes  
2 the selling dealer a statement which includes the purchaser's  
3 name, address, cruise arrival-departure card number, and any  
4 other information that the department may require. The  
5 statement shall be dated and signed, under oath, by the  
6 purchaser and shall include the following sentence: "Under  
7 penalties of perjury, I declare that I do not make my  
8 permanent place of abode in the State of Florida, and I have  
9 read the foregoing, and the facts alleged are true to the best  
10 of my knowledge and belief."

11  
12 Any person who knowingly aids or assists in making any false  
13 or fraudulent statement under this paragraph for the purpose  
14 of evading tax, in addition to being liable for payment of the  
15 tax plus a mandatory penalty of 200 percent of the tax,  
16 commits a felony of the third degree, punishable as provided  
17 in s. 775.082, s. 775.083, or s. 775.084.

18           (c) This subsection does not apply to:  
19           1. The sale of food or drinks.  
20           2. Sales through vending or amusement machines.  
21           3. The lease or rental of tangible personal property.  
22           4. Tangible personal property that will be used at any  
23 time in this state in any employment, trade, business, or  
24 profession.

25           (d) If the purchaser fails to remove the property from  
26 this state within 30 days after the date of purchase, the  
27 purchaser shall be liable for use tax on the cost price of the  
28 property, in addition to payment of a penalty equal to the  
29 amount of use tax due. This penalty is in lieu of the penalty  
30 imposed by s. 212.12(2), and shall be mandatory and shall not  
31 be waived by the department.

1           (e)1. The person engaged in the business of  
2 transporting persons for hire in foreign commerce is  
3 responsible for issuing the cruise arrival-departure card to a  
4 passenger. The arrival-departure card must contain: the  
5 passenger's name and address; the applicable passport or visa  
6 number; the cruise owner's name and address; the name of the  
7 port from which the cruise has originated or will originate  
8 and the scheduled date of departure; the name of the port of  
9 termination and the scheduled date of arrival; and a unique  
10 number which individually identifies the passenger to whom the  
11 arrival-departure card was issued.

12           2. Any person issuing a cruise arrival-departure card  
13 to a person who was not a passenger on the boat cruise for  
14 which the cruise arrival-departure card was issued shall  
15 notify the department, within 30 calendar days from the date  
16 of issuance, of the name and address of the person to whom the  
17 cruise arrival-departure card was issued.

18           3. The person issuing a passenger a cruise  
19 arrival-departure card shall maintain records of all persons  
20 to whom such cards were issued.

21           4. Any person who issues a false or fraudulent  
22 arrival-departure card to any passenger for the purpose of  
23 evading tax is liable for a mandatory penalty of \$1,000 for  
24 each violation.

25           Section 2. This act shall take effect July 1 of the  
26 year in which enacted.

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HOUSE SUMMARY

Provides a tax exemption for the sale, use, consumption, or storage of tangible personal property within a specified area when purchased by a cruise passenger who is not a Florida resident and who removes the property from the state within 30 days. Defines "specified area" as an independent special district contiguous to a large body of water and rapid transit right-of-way in Dade County. Provides time limitations on such sales and requires the purchaser to furnish the dealer an arrival-departure card and certain information under oath. Specifies transactions to which the exemption does not apply. Provides for application of use tax and a penalty if the property is not removed from the state within 30 days. Provides that it is the responsibility of the person operating the cruise to issue arrival-departure cards to passengers and provides requirements for such cards. Requires that records be kept and requires that the Department of Revenue be notified of any card issued to a person who is not a passenger. Provides penalties for false statements and issuance of fraudulent cards for the purpose of evading tax.