

By Senator Gutman

34-505-98

1                                   A bill to be entitled  
2           An act relating to the tax on sales, use, and  
3           other transactions; amending s. 212.06, F.S.;  
4           providing definitions; authorizing the  
5           designation of seaport duty-free zones by  
6           counties that contain certain deepwater ports;  
7           providing an exemption from the sales and use  
8           tax for certain items purchased within a  
9           seaport duty-free zone by passengers on a sea  
10          cruise ship who reside outside this state;  
11          providing procedures; providing penalties for  
12          making a fraudulent statement for the purpose  
13          of tax evasion; providing for inapplicability  
14          of the exemption to certain commodities;  
15          providing penalties for failing to remove  
16          property from the state if the tax was not  
17          paid; authorizing a business that operates a  
18          sea cruise ship to issue cruise  
19          arrival-departure cards; requiring records to  
20          be kept; providing a mandatory fine for issuing  
21          a false or fraudulent arrival-departure card  
22          for the purpose of tax evasion; providing an  
23          effective date.

24

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

26

27           Section 1. Subsection (13) is added to section 212.06,  
28 Florida Statutes, to read:

29           212.06 Sales, storage, use tax; collectible from  
30 dealers; "dealer" defined; dealers to collect from purchasers;  
31 legislative intent as to scope of tax.--

1           (13)(a) As used in this subsection, the term:

2           1. "Sea cruise ship" means a vessel that is capable of  
3 transporting 250 or more passengers for hire to destination  
4 points outside the boundaries of this state and that actually  
5 docks and permits passengers to disembark at one or more  
6 destination points outside the boundaries of this state.

7           2. "Seaport duty-free zone" means an area designated  
8 by ordinance of the governing body of any county that contains  
9 a deepwater port eligible for funding by a grant for seaport  
10 transportation and economic development under s. 311.07(3)(a),  
11 which area must not exceed 5 square miles and must include  
12 boundaries contiguous to, but extending not more than 2 miles  
13 from, the port. The designation of a seaport duty-free zone is  
14 not required by this subsection but is authorized for any  
15 county that contains such a deepwater port.

16           (b) This part does not apply to the sale, use,  
17 consumption, or storage of tangible personal property within a  
18 seaport duty-free zone, which property is to be removed from  
19 this state by a purchaser who either is, or will be, a  
20 passenger on a sea cruise ship and who, at the time of taking  
21 delivery of the property, does not make his or her permanent  
22 place of residence in this state.

23           (c)1. This subsection does not apply unless:

24           a. The purchaser, at the time of sale, furnishes to  
25 the selling dealer a valid cruise arrival-departure card and  
26 picture identification.

27           b. The purchase is made within 2 days before the  
28 departure of the sea cruise ship or within 2 days following  
29 the arrival of the sea cruise ship.

30           c. The purchaser, at the time of purchase, furnishes  
31 the selling dealer with a statement that includes the

1 purchaser's name, address, and cruise arrival-departure card  
2 number. The statement must be dated and signed, under oath, by  
3 the purchaser and must include the sentence: "Under penalty of  
4 perjury, I declare that I do not make my permanent place of  
5 residence in the State of Florida, that I have read the  
6 foregoing, and that the facts alleged are true to the best of  
7 my knowledge and belief."

8 2. If a person knowingly aids or assists in making any  
9 fraudulent statement under this paragraph for the purpose of  
10 evading tax, the person, in addition to being liable for  
11 payment of the tax plus a mandatory penalty of 200 percent of  
12 the tax, commits a felony of the third degree, punishable as  
13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (d) Notwithstanding any other provision of this part,  
15 this subsection does not apply to:

16 1. Food or drinks;

17 2. Sales through vending or amusement machines;

18 3. The lease or rental of tangible personal property;

19 or

20 4. Tangible personal property that will be used at any  
21 time in this state in any employment, trade, business, or  
22 profession.

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

30 (f)1. Any business that operates a sea cruise ship may  
31 issue cruise arrival-departure cards to its passengers. The

1 cruise arrival-departure card must contain: the passenger's  
2 name and address; the name of the sea cruise ship; the name of  
3 the port from which the cruise has, or will, originate and the  
4 scheduled date of departure; the name of the port of  
5 termination and scheduled date of arrival; and a unique number  
6 that individually identifies the passenger to whom the cruise  
7 arrival-departure card was issued.

8       2. A business that operates a sea cruise ship and  
9 issues cruise arrival-departure cards must maintain records of  
10 all persons to whom the business has issued such cards.

11       3. Any person who issues a false or fraudulent cruise  
12 arrival-departure card to any passenger for the purpose of  
13 evading tax is liable for a mandatory penalty of \$1,000 for  
14 each violation.

15       Section 2. This act shall take effect July 1, 1998.

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18                   SENATE SUMMARY

19       Authorizes a county to designate certain deepwater ports  
20       as seaport duty-free zones. Provides an exemption from  
21       the sales and use tax for certain items purchased within  
22       a seaport duty-free zone by cruise ship passengers who  
23       reside outside the state. Provides that the cruise ship  
24       must be capable of transporting 250 or more passengers  
25       and must actually dock and permit passengers to disembark  
26       at a destination outside the boundaries of the state in  
27       order for purchases to be eligible for the tax exemption.  
28       Provides that the exemption does not apply to certain  
29       commodities. Provides requirements for issuing cruise  
30       arrival-departure cards. Provides penalties for  
31       attempting to evade the tax, failing to remove property  
      from the state on which the tax has not been paid, or  
      issuing fraudulent cruise arrival-departure cards.