

By Senator Silver

38-366-99

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 (17) is added to section 212.06,
28 Florida Statutes, 1998 Supplement, to read:

29

30 212.06 Sales, storage, use tax; collectible from
31 dealers; "dealer" defined; dealers to collect from purchasers;
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 originated or will
4 originate, and the scheduled date of departure; the name of
5 the port of termination and scheduled date of arrival; and a
6 unique number that individually identifies the passenger to
7 whom the cruise 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, 1999.

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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 from the
state property on which the tax has not been paid, or
issuing fraudulent cruise arrival-departure cards.