

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Utilities & Telecommunications offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Subsection (4) of section 202.125, Florida Statutes, is amended to read:

202.125 Sales of communications services; specified exemptions.--

(4) The sale of communications services to a religious institution or educational institution ~~organization~~ that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, or by a religious institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code having an established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on, is exempt from the taxes imposed or administered pursuant to ss. 202.12 and 202.19. As used in this subsection, the term:

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1 (a) "Religious institution" means an organization
2 owning and operating an established physical place for worship
3 at which nonprofit religious services and activities are
4 regularly conducted. The term also includes:

5 1. Any nonprofit corporation the sole purpose of which
6 is to provide free transportation services to religious
7 institution members, their families, and other religious
8 institution attendees;

9 2. Any nonprofit state, district, or other governing
10 or administrative office the function of which is to assist or
11 regulate the customary activities of religious institutions;

12 3. Any nonprofit corporation that owns and operates a
13 television station in this state of which at least 90 percent
14 of the programming consists of programs of a religious nature
15 and the financial support for which, exclusive of receipts for
16 broadcasting from other nonprofit organizations, is
17 predominantly from contributions from the public;

18 4. Any nonprofit corporation the primary activity of
19 which is making and distributing audio recordings of religious
20 scriptures and teachings to blind or visually impaired persons
21 at no charge; and

22 5. Any nonprofit corporation the sole or primary
23 purpose of which is to provide, upon invitation, nonprofit
24 religious services, evangelistic services, religious
25 education, administrative assistance, or missionary assistance
26 for a religious institution, or established physical place of
27 worship at which nonprofit religious services and activities
28 are regularly conducted.

29 (b) "Educational institution" includes:

30 1. Any state tax-supported, parochial, religious
31 institution, and nonprofit private school, college, or

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1 university that conducts regular classes and courses of study
2 required for accreditation by or membership in the Southern
3 Association of Colleges and Schools, the Florida Council of
4 Independent Schools, or the Florida Association of Christian
5 Colleges and Schools, Inc.;

6 2. Any nonprofit private school that conducts regular
7 classes and courses of study which are accepted for continuing
8 education credit by a board of the Division of Medical Quality
9 Assurance of the Department of Health;

10 3. Any nonprofit library;

11 4. Any nonprofit art gallery;

12 5. Any nonprofit performing arts center that provides
13 educational programs to school children, which programs
14 involve performances or other educational activities at the
15 performing arts center and serve a minimum of 50,000 school
16 children a year; and

17 6. Any nonprofit museum that is open to the public.

18 Section 2. Section 202.151, Florida Statutes, is
19 created to read:

20 202.151 Use tax imposed on certain purchasers of
21 communications services.--Any person who purchases
22 communications services that are otherwise taxable under ss.
23 202.12 and 202.19 at retail from a seller in another state,
24 territory, the District of Columbia, or any foreign country
25 shall report and remit to the department the taxes imposed by
26 or administered under this chapter on the communications
27 services purchased and used, the same as if such
28 communications services had been purchased at retail from a
29 dealer in this state. This section does not apply if the
30 out-of-state seller registers as a dealer in this state and
31 collects from the purchaser the taxes imposed by or

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1 administered under this chapter. The department may adopt
2 rules governing the reporting and remitting of communications
3 services taxes by purchasers who purchase from out-of-state
4 sellers who do not collect the taxes imposed by or
5 administered under this chapter.

6 Section 3. Subsection (1) of section 202.16, Florida
7 Statutes, is amended to read:

8 202.16 Payment.--The taxes imposed or administered
9 under this chapter and chapter 203 shall be collected from all
10 dealers of taxable communications services on the sale at
11 retail in this state of communications services taxable under
12 this chapter and chapter 203. The full amount of the taxes on
13 a credit sale, installment sale, or sale made on any kind of
14 deferred payment plan is due at the moment of the transaction
15 in the same manner as a cash sale.

16 (1)(a) Except as otherwise provided in ss.
17 202.12(1)(b) and 202.15, the taxes collected under this
18 chapter and chapter 203 shall be paid by the purchaser of the
19 communications service and shall be collected from such person
20 by the dealer of communications services.

21 (b) Each dealer of communications services selling
22 communications services in this state shall collect the taxes
23 imposed under this chapter and chapter 203 from the purchaser
24 of such services, and such taxes must be stated separately
25 from all other charges on the bill or invoice. Notwithstanding
26 the requirement in this paragraph and in s. 202.35 to
27 separately state such taxes, a public lodging establishment
28 licensed under chapter 509 may notify purchasers of the taxes
29 imposed under this chapter on a notice in a guest room posted
30 in a manner consistent with the requirements of s. 509.2015,
31 rather than separately stating the taxes on the guest bill or

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1 invoice.

2 Section 4. Section 202.205, Florida Statutes, is
3 created to read:

4 202.205 Transition rule for local
5 rates.--Notwithstanding s. 202.21, the rate of the local
6 communications services tax for a county or municipality that
7 adopted a resolution or ordinance reducing the rate of tax
8 effective October 1, 2002, and that notified the Department of
9 Revenue of the reduced rate by mail postmarked by July 16,
10 2001, shall be the adopted reduced rate beginning October 1,
11 2002. However, the local governing body of the county or
12 municipality may change the local rate effective January 1,
13 2003, in the manner provided in this chapter.

14 Section 5. Paragraph (b) of subsection (2) and
15 paragraphs (a) and (g) of subsection (3) of section 202.22,
16 Florida Statutes, are amended to read:

17 202.22 Determination of local tax situs.--

18 (2)

19 (b)1. Each local taxing jurisdiction shall furnish to
20 the department all information needed to create and update the
21 electronic database, including changes in service addresses,
22 annexations, incorporations, reorganizations, and any other
23 changes in jurisdictional boundaries. The information
24 furnished to the department must specify an effective date,
25 which must be the next ensuing January 1 or July 1, and such
26 information must be furnished to the department at least 120
27 days prior to the effective date. However, the requirement
28 that counties submit information pursuant to this paragraph
29 shall be subject to appropriation.

30 2. The department shall update the electronic database
31 in accordance with the information furnished by local taxing

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1 jurisdictions under subparagraph 1. Each update must specify
2 the effective date as the next ensuing January 1 or July 1 and
3 must be posted by the department on a website not less than 90
4 days prior to the effective date. A substantially affected
5 person may provide notice to the database administrator of an
6 objection to information contained in the electronic database.
7 If an objection is supported by competent evidence, the
8 department shall forward the evidence to the affected local
9 taxing jurisdictions and update the electronic database in
10 accordance with the determination furnished by local taxing
11 jurisdictions to the department. The department shall also
12 furnish the update on magnetic or electronic media to any
13 dealer of communications services or vendor who requests the
14 update on such media. However, the department may collect a
15 fee from the dealer of communications services which does not
16 exceed the actual cost of furnishing the update on magnetic or
17 electronic media. Information contained in the electronic
18 database is conclusive for purposes of this chapter. The
19 electronic database is not an order, a rule, or a policy of
20 general applicability.

21 3. Each update must identify the additions, deletions,
22 and other changes to the preceding version of the database.
23 ~~Each dealer of communications services shall be required to~~
24 ~~collect and remit local communications services taxes imposed~~
25 ~~under this chapter only for those service addresses that are~~
26 ~~contained in the database and for which all of the elements~~
27 ~~required by this subsection are included in the database.~~

28 (3) For purposes of this section, a database must be
29 certified by the department pursuant to rules that implement
30 the following criteria and procedures:

31 (a) The database must assign street addresses, address

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1 ranges, post office boxes, or post office box ranges to the
2 proper jurisdiction with an overall accuracy rate of 95
3 percent at a 95 percent level of confidence, as determined
4 through a statistically reliable sample. The accuracy must be
5 measured based on the entire geographic area within the state
6 covered by such database ~~state or, if the service area of the~~
7 ~~dealer does not encompass the entire state, based on the~~
8 ~~dealer's entire service area.~~

9 (g) Notwithstanding any provision of law to the
10 contrary, if a dealer submits an application for certification
11 on or before the later of October 1, 2001, or the date that
12 ~~which~~ is 30 days after the date on which the applicable
13 department rule becomes effective, the 180-day time limit set
14 forth in paragraph (d) does not apply. During the time the
15 application is under consideration by the department or, if
16 the application is denied, until the denial is no longer
17 subject to administrative or judicial review or until a later
18 date fixed by order of the reviewing court ~~and such~~
19 ~~application is neither approved nor denied within the time~~
20 ~~period set forth in paragraph (d):~~

21 1. For purposes of computing the amount of the
22 deduction to which such dealer is entitled under s. 202.28,
23 the dealer shall be deemed to have used a certified database
24 pursuant to paragraph (1)(b), ~~until such time as the~~
25 ~~application for certification is denied.~~

26 2. In the event that such application is approved,
27 such approval shall be deemed to have been effective on the
28 date of the application or October 1, 2001, whichever is
29 later.

30 Section 6. Paragraph (g) of subsection (1) of section
31 212.05, Florida Statutes, as amended by section 38 of chapter

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1 2001-140, Laws of Florida, is repealed.

2 Section 7. Paragraph (j) of subsection (3) of section
3 337.401, Florida Statutes, is amended to read:

4 337.401 Use of right-of-way for utilities subject to
5 regulation; permit; fees.--

6 (3)

7 (j) Pursuant to this paragraph, any county or
8 municipality may by ordinance change either its election made
9 on or before July 16, 2001, under paragraph (c) or an election
10 made under this paragraph.

11 1.a. If a municipality or charter county changes its
12 election under this paragraph in order to exercise its
13 authority to require and collect permit fees in accordance
14 with this subsection, the rate of the local communications
15 services tax imposed by such jurisdiction pursuant to ss.
16 202.19 and 202.20 shall automatically be reduced by the sum of
17 0.12 percent plus the percentage, if any, by which such rate
18 was increased pursuant to sub-subparagraph (c)1.b.

19 b. If a municipality or charter county changes its
20 election under this paragraph in order to discontinue
21 requiring and collecting permit fees, the rate of the local
22 communications services tax imposed by such jurisdiction
23 pursuant to ss. 202.19 and 202.20 may be increased by
24 ordinance or resolution by an amount not to exceed 0.24
25 percent.

26 2.a. If a noncharter county changes its election under
27 this paragraph in order to exercise its authority to require
28 and collect permit fees in accordance with this subsection,
29 the rate of the local communications services tax imposed by
30 such jurisdiction pursuant to ss. 202.19 and 202.20 shall
31 automatically be reduced by the percentage, if any, by which

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1 such rate was increased pursuant to sub-subparagraph (c)2.b.

2 b. If a noncharter county changes its election under
3 this paragraph in order to discontinue requiring and
4 collecting permit fees, the rate of the local communications
5 services tax imposed by such jurisdiction pursuant to ss.
6 202.19 and 202.20 may be increased by ordinance or resolution
7 by an amount not to exceed 0.24 percent.

8 3.a. Any change of election pursuant to this paragraph
9 and any tax rate change resulting from such change of election
10 shall be subject to the notice requirements of s. 202.21;
11 however, no such change of election shall become effective
12 prior to January 1, 2003.

13 b. Any county or municipality changing its election
14 under this paragraph in order to exercise its authority to
15 require and collect permit fees shall, in addition to
16 complying with the notice requirements under s. 202.21,
17 provide to all dealers providing communications services in
18 such jurisdiction written notice of such change of election by
19 September ~~July~~ 1 immediately preceding the January 1 on which
20 such change of election becomes effective. For purposes of
21 this sub-subparagraph, dealers providing communications
22 services in such jurisdiction shall include every dealer
23 reporting tax to such jurisdiction pursuant to s. 202.37 on
24 the return required under s. 202.27 to be filed on or before
25 the 20th day of May immediately preceding the January 1 on
26 which such change of election becomes effective.

27 Section 8. Effective with respect to bills issued by
28 providers of mobile telecommunications services after August
29 1, 2002, subsections (8) and (9) of section 365.172, Florida
30 Statutes, are amended to read:

31 365.172 Wireless emergency telephone number "E911."--

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1 (8) WIRELESS E911 FEE.--

2 (a) Each home service provider shall collect a monthly
3 fee imposed on each customer whose place of primary use is
4 ~~service subscriber who has a service number that has a billing~~
5 ~~address~~ within this state. The rate of the fee shall be 50
6 cents per month per each service number, beginning August 1,
7 1999. The fee shall apply uniformly and be imposed throughout
8 the state.

9 (b) The fee is established to ensure full recovery for
10 providers and for counties, over a reasonable period, of the
11 costs associated with developing and maintaining an E911
12 system on a technologically and competitively neutral basis.

13 (c) After July 1, 2001, the board may adjust the
14 allocation percentages provided in s. 365.173 or reduce the
15 amount of the fee, or both, if necessary to ensure full cost
16 recovery or prevent overrecovery of costs incurred in the
17 provision of E911 service, including costs incurred or
18 projected to be incurred to comply with the order. Any new
19 allocation percentages or reduced fee may not be adjusted for
20 2 years. The fee may not exceed 50 cents per month per each
21 service number.

22 (d) State and local taxes do not apply to the fee.

23 (e) A local government may not levy any additional fee
24 on wireless providers or subscribers for the provision of E911
25 service.

26 (9) MANAGEMENT OF FUNDS.--

27 (a) Each provider, as a part of its monthly billing
28 process, shall collect the fee imposed under subsection (8).
29 The provider may list the fee as a separate entry on each
30 bill, in which case the fee must be identified as a fee for
31 E911 services. A provider shall remit the fee only if the fee

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1 is paid by the subscriber. If a provider receives a partial
2 payment for a monthly bill from a subscriber, the amount
3 received shall first be applied to the payment due the
4 provider for the provision of telecommunications service.

5 (b) A provider is not obligated to take any legal
6 action to enforce collection of the fees for which any
7 subscriber is billed. The provider shall provide to the board
8 each quarter a list of the names, addresses, and service
9 numbers of all subscribers who have indicated to the provider
10 their refusal to pay the fee.

11 (c) Each provider may retain 1 percent of the amount
12 of the fees collected as reimbursement for the administrative
13 costs incurred by the provider to bill, collect, and remit the
14 fee. The remainder shall be delivered to the board and
15 deposited in the fund. The board shall distribute the
16 remainder pursuant to s. 365.173.

17 (d) Each provider shall deliver revenues from the fee
18 to the board within 60 days after the end of the month in
19 which the fee was billed, together with a monthly report of
20 the number of ~~billing addresses~~ of wireless customers whose
21 place of primary use is subscribers in each county. A provider
22 may apply to the board for a refund of, or may take a credit
23 for, any fees remitted to the board which are not collected by
24 the provider within 6 months following the month in which the
25 fees are charged off for federal income tax purposes as bad
26 debt. The board may waive the requirement that the fees and
27 number of customers whose place of primary use is in each
28 county ~~billing addresses~~ be submitted to the board each month,
29 and authorize a provider to submit the fees and number of
30 customers ~~billing addresses~~ quarterly if the provider
31 demonstrates that such waiver is necessary and justified.

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1 (e) For purposes of this section, the definitions
2 contained in s. 202.11 and the provisions of s. 202.155 apply
3 in the same manner and to the same extent as such definitions
4 and provisions apply to the taxes levied pursuant to chapter
5 202 on mobile communications services.

6 (f)~~(e)~~ As used in this subsection, the term "provider"
7 includes any person or entity that resells wireless service
8 and was not assessed the fee by its resale supplier.

9 Section 9. Subsection (4) of section 212.0501, Florida
10 Statutes, is amended to read:

11 212.0501 Tax on diesel fuel for business purposes;
12 purchase, storage, and use.--

13 (4) Except as otherwise provided in s. 212.05(1)(k)~~s.~~
14 ~~212.05(1)(l)~~, a licensed sales tax dealer may elect to collect
15 such tax pursuant to this chapter on all sales to each person
16 who purchases diesel fuel for consumption, use, or storage by
17 a trade or business. When the licensed sales tax dealer has
18 not elected to collect such tax on all such sales, the
19 purchaser or ultimate consumer shall be liable for the payment
20 of tax directly to the state.

21 Section 10. Paragraph (v) of subsection (7) of section
22 212.08, Florida Statutes, is amended to read:

23 212.08 Sales, rental, use, consumption, distribution,
24 and storage tax; specified exemptions.--The sale at retail,
25 the rental, the use, the consumption, the distribution, and
26 the storage to be used or consumed in this state of the
27 following are hereby specifically exempt from the tax imposed
28 by this chapter.

29 (7) MISCELLANEOUS EXEMPTIONS.--

30 (v) Professional services.--

31 1. Also exempted are professional, insurance, or

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1 personal service transactions that involve sales as
2 inconsequential elements for which no separate charges are
3 made.

4 2. The personal service transactions exempted pursuant
5 to subparagraph 1. do not exempt the sale of information
6 services involving the furnishing of printed, mimeographed, or
7 multigraphed matter, or matter duplicating written or printed
8 matter in any other manner, other than professional services
9 and services of employees, agents, or other persons acting in
10 a representative or fiduciary capacity or information services
11 furnished to newspapers and radio and television stations. As
12 used in this subparagraph, the term "information services"
13 includes the services of collecting, compiling, or analyzing
14 information of any kind or nature and furnishing reports
15 thereof to other persons.

16 3. This exemption does not apply to any service
17 warranty transaction taxable under s. 212.0506.

18 4. This exemption does not apply to any service
19 transaction taxable under s. 212.05(1)(i)~~s. 212.05(1)(j)~~.

20
21 Exemptions provided to any entity by this subsection shall not
22 inure to any transaction otherwise taxable under this chapter
23 when payment is made by a representative or employee of such
24 entity by any means, including, but not limited to, cash,
25 check, or credit card even when that representative or
26 employee is subsequently reimbursed by such entity.

27 Section 11. Paragraph (c) of subsection (6) of section
28 212.20, Florida Statutes, is amended to read:

29 212.20 Funds collected, disposition; additional powers
30 of department; operational expense; refund of taxes
31 adjudicated unconstitutionally collected.--

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1 (6) Distribution of all proceeds under this chapter
2 and s. 202.18(1)(b) and (2)(b) shall be as follows:

3 (c) Proceeds from the fees imposed under ss.
4 ~~212.05(1)(h)3.212.05(1)(i)3~~ and 212.18(3) shall remain with
5 the General Revenue Fund.

6 Section 12. Paragraph (f) of subsection (2) of section
7 509.032, Florida Statutes, is amended to read:

8 509.032 Duties.--

9 (2) INSPECTION OF PREMISES.--

10 (f) In conducting inspections of establishments
11 licensed under this chapter, the division shall determine if
12 each coin-operated amusement machine that is operated on the
13 premises of a licensed establishment is properly registered
14 with the Department of Revenue. Each month the division shall
15 report to the Department of Revenue the sales tax registration
16 number of the operator of any licensed establishment that has
17 on location a coin-operated amusement machine and that does
18 not have an identifying certificate conspicuously displayed as
19 required by s. 212.05(1)(h)~~s. 212.05(1)(i)~~.

20 Section 13. Section 561.1105, Florida Statutes, is
21 amended to read:

22 561.1105 Inspection of licensed premises;
23 coin-operated amusement machines.--In conducting inspections
24 of establishments licensed under the Beverage Law, the
25 division shall determine if each coin-operated amusement
26 machine that is operated on the licensed premises is properly
27 registered with the Department of Revenue. Each month, the
28 division shall report to the Department of Revenue the sales
29 tax registration number of the operator of any licensed
30 premises that has on location a coin-operated amusement
31 machine and that does not have an identifying certificate

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1 conspicuously displayed as required by s. 212.05(1)(h)~~s.~~
2 ~~212.05(1)(i)~~.

3 Section 14. The amendments to sections 202.125(4),
4 202.22(2)(b) and (3)(a) and (g), and 212.05(1)(g), Florida
5 Statutes, contained in this act are remedial in nature and
6 intended to clarify the law in effect on the effective date of
7 this act.

8 Section 15. Except as otherwise expressly provided in
9 this act, this act shall take effect upon becoming a law.

10
11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 1, lines 2-31 and on page 2, lines 1-8,
15 remove: all said lines

16
17

and insert:

18 An act relating to the communications services
19 tax; amending s. 202.125, F.S., relating to the
20 tax exemption on the sale of communications
21 services to religious or educational
22 institutions; providing definitions to conform
23 such exemption to the sales tax exemption
24 provided for these institutions; creating s.
25 202.151, F.S.; clarifying the imposition of a
26 use tax on certain purchases of communications
27 services; amending s. 202.16, F.S.; providing
28 an exception to the requirement that dealers
29 separately state the communications services
30 tax on bills and invoices; creating s. 202.205,
31 F.S.; providing a transition rule for counties

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1 and municipalities that reduced the local
2 communications services tax on a specified
3 date; amending s. 202.22, F.S.; clarifying
4 provisions governing the electronic databases
5 used to determine local tax situs for the
6 communications services tax; repealing s.
7 212.05(1)(g), F.S., relating to a sales tax on
8 certain substitute telecommunications
9 equipment; amending s. 337.401, F.S.; changing
10 the date on which local governments must notify
11 dealers that provide communications services of
12 changes in permit fees; amending s. 365.172,
13 F.S.; clarifying that the E911 fee applies to
14 certain customers whose place of primary use is
15 within the state; specifying that certain
16 definitions applicable to the Communications
17 Services Tax Simplification Law apply to the
18 E911 fee; amending ss. 212.0501, 212.08,
19 212.20, 509.032, 561.1105, F.S., relating to
20 the tax on diesel fuel, a tax exemption for
21 professional services, distribution of taxes,
22 and tax certificates; conforming
23 cross-references to changes made by the act;
24 specifying that certain provisions of the act
25 are remedial in nature and intended to clarify
26 the law in effect on the effective date of the
27 act; providing effective dates.

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