

By Representatives Ritter and Attkisson

1 A bill to be entitled
2 An act relating to the taxation of
3 telecommunications services; providing a
4 transition rule for certain local
5 communications services tax rates; amending s.
6 202.125, F.S.; providing definitions of
7 religious institution and educational
8 institution; creating s. 202.151, F.S.;
9 imposing a use tax on certain purchasers of
10 communications services; providing an
11 exception; authorizing the Department of
12 Revenue to adopt rules relating to such use
13 tax; amending s. 202.16, F.S.; providing an
14 exception to a requirement that certain public
15 lodging establishments separately state certain
16 taxes on a bill or invoice; amending s. 202.22,
17 F.S.; deleting a requirement that
18 communications services dealers collect and
19 remit certain taxes under certain
20 circumstances; clarifying a database accuracy
21 measurement criterion; specifying
22 nonapplication of a 180-day time limit for
23 certain purposes; specifying limited
24 application of a certified database for certain
25 purposes under certain circumstances; amending
26 s. 337.401, F.S.; revising an allowable date
27 for changing a certain election; amending s.
28 365.172, F.S.; clarifying application of a
29 wireless E911 fee; specifying application of a
30 certain definition; specifying that certain
31 provisions are remedial in nature and intended

1 to clarify existing law; amending ss. 212.0501,
2 212.20, 509.032, and 51.1105, F.S., to conform
3 a cross reference; repealing s. 212.05(1)(g),
4 F.S., relating to taxation of the purchase,
5 installation, rental, or lease of certain
6 telephone systems or telecommunication systems
7 for certain purposes; providing effective
8 dates.

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

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12 Section 1. Transition rule for local communications
13 services tax rates under chapter 202, Florida Statutes,
14 effective October 1, 2002.--Notwithstanding s. 202.21, Florida
15 Statutes, the rate of the local communications services tax
16 for a county or municipality that had adopted a resolution or
17 ordinance reducing the rate of tax effective October 1, 2002,
18 and sent the ordinance or resolution to the Department of
19 Revenue postmarked no later than July 16, 2001, shall be the
20 adopted reduced rate beginning October 1, 2002. However, such
21 local governing body may change the local rate effective
22 January 1, 2003, in the manner provided in chapter 202,
23 Florida Statutes.

24 Section 2. Subsection (4) of section 202.125, Florida
25 Statutes, is amended to read:

26 202.125 Sales of communications services; specified
27 exemptions.--

28 (4) The sale of communications services to a religious
29 or educational institution ~~organization~~ that is exempt from
30 federal income tax under s. 501(c)(3) of the Internal Revenue
31

1 Code is exempt from the taxes imposed or administered pursuant
2 to ss. 202.12 and 202.19.

3 (a) For purposes of this subsection:

4 1. "Educational institutions" includes:

5 a. State tax-supported, parochial, church, and
6 nonprofit private schools, colleges, or universities that
7 conduct regular classes and courses of study required for
8 accreditation by or membership in the Southern Association of
9 Colleges and Schools, the Florida Council of Independent
10 Schools, or the Florida Association of Christian Colleges and
11 Schools, Inc.

12 b. Nonprofit private schools that conduct regular
13 classes and courses of study accepted for continuing education
14 credit by a board of the Division of Medical Quality Assurance
15 of the Department of Health.

16 c. Nonprofit libraries.

17 d. Nonprofit art galleries.

18 e. Nonprofit performing arts centers that provide
19 educational programs to school children, which programs
20 involve performances or other educational activities at the
21 performing arts center and serve a minimum of 50,000 school
22 children a year.

23 f. Nonprofit museums open to the public.

24 2. "Religious institutions" means churches,
25 synagogues, and established physical places for worship at
26 which nonprofit religious services and activities are
27 regularly conducted and carried on. The term "religious
28 institutions" also includes:

29 a. Nonprofit corporations the sole purpose of which is
30 to provide free transportation services to church members,
31 their families, and other church attendees.

1 b. Nonprofit state, nonprofit district, or other
2 nonprofit governing or administrative offices the function of
3 which is to assist or regulate the customary activities of
4 religious institutions.

5 c. Any nonprofit corporation that owns and operates a
6 Florida television station, at least 90 percent of the
7 programming of which station consists of programs of a
8 religious nature and the financial support for which,
9 exclusive of receipts for broadcasting from other nonprofit
10 organizations, is predominantly from contributions from the
11 general public.

12 d. Any nonprofit corporation the primary activity of
13 which is making and distributing audio recordings of religious
14 scriptures and teachings to blind or visually impaired persons
15 at no charge.

16 e. Any nonprofit corporation the sole or primary
17 function of which is to provide, upon invitation, nonprofit
18 religious services, evangelistic services, religious
19 education, administrative assistance, or missionary assistance
20 for a church, synagogue, or established physical place of
21 worship at which nonprofit religious services and activities
22 are regularly conducted.

23 Section 3. Section 202.151, Florida Statutes, is
24 created to read:

25 202.151 Use tax imposed on certain purchasers of
26 communications services.--Any person who purchases
27 communications services that are otherwise taxable under ss.
28 202.12 and 202.19 at retail from a seller in another state,
29 territory, the District of Columbia, or any foreign country
30 shall report and remit to the department the taxes imposed by
31 or administered under this chapter on the communications

1 services so purchased and used, the same as if such
2 communications services had been purchased at retail from a
3 dealer in this state. This provision shall not apply in any
4 case where the out-of-state seller registers as a dealer in
5 this state and collects the taxes imposed by or administered
6 under this chapter from the purchaser. The department is
7 authorized to adopt rules concerning the reporting and
8 remitting of taxes on communications services by purchasers
9 who purchase from out-of-state sellers who do not collect the
10 taxes imposed by or administered under this chapter.

11 Section 4. Paragraph (b) of subsection (1) of section
12 202.16, Florida Statutes, is amended to read:

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

21 (1)

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

1 rather than separately stating the taxes on the guest bill or
2 invoice.

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

6 202.22 Determination of local tax situs.--

7 (2)

8 (b)1. Each local taxing jurisdiction shall furnish to
9 the department all information needed to create and update the
10 electronic database, including changes in service addresses,
11 annexations, incorporations, reorganizations, and any other
12 changes in jurisdictional boundaries. The information
13 furnished to the department must specify an effective date,
14 which must be the next ensuing January 1 or July 1, and such
15 information must be furnished to the department at least 120
16 days prior to the effective date. However, the requirement
17 that counties submit information pursuant to this paragraph
18 shall be subject to appropriation.

19 2. The department shall update the electronic database
20 in accordance with the information furnished by local taxing
21 jurisdictions under subparagraph 1. Each update must specify
22 the effective date as the next ensuing January 1 or July 1 and
23 must be posted by the department on a website not less than 90
24 days prior to the effective date. A substantially affected
25 person may provide notice to the database administrator of an
26 objection to information contained in the electronic database.
27 If an objection is supported by competent evidence, the
28 department shall forward the evidence to the affected local
29 taxing jurisdictions and update the electronic database in
30 accordance with the determination furnished by local taxing
31 jurisdictions to the department. The department shall also

1 furnish the update on magnetic or electronic media to any
2 dealer of communications services or vendor who requests the
3 update on such media. However, the department may collect a
4 fee from the dealer of communications services which does not
5 exceed the actual cost of furnishing the update on magnetic or
6 electronic media. Information contained in the electronic
7 database is conclusive for purposes of this chapter. The
8 electronic database is not an order, a rule, or a policy of
9 general applicability.

10 3. Each update must identify the additions, deletions,
11 and other changes to the preceding version of the database.
12 ~~Each dealer of communications services shall be required to~~
13 ~~collect and remit local communications services taxes imposed~~
14 ~~under this chapter only for those service addresses that are~~
15 ~~contained in the database and for which all of the elements~~
16 ~~required by this subsection are included in the database.~~

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

20 (a) The database must assign street addresses, address
21 ranges, post office boxes, or post office box ranges to the
22 proper jurisdiction with an overall accuracy rate of 95
23 percent at a 95 percent level of confidence, as determined
24 through a statistically reliable sample. The accuracy must be
25 measured based on the entire geographic area within the state
26 covered by such database ~~or, if the service area of the dealer~~
27 ~~does not encompass the entire state, based on the dealer's~~
28 ~~entire service area.~~

29 (g) Notwithstanding any provision of law to the
30 contrary, if a dealer submits an application for certification
31 on or before the later of October 1, 2001, or the date which

1 is 30 days after the date on which the applicable department
2 rule becomes effective, the 180-day time limit set forth in
3 paragraph (d) shall not apply. During the time the application
4 is under consideration by the department or, if the
5 application is denied, until the denial is no longer subject
6 to administrative or judicial review or such later date as may
7 be fixed by order of the reviewing court and such application
8 ~~is neither approved nor denied within the time period set~~
9 ~~forth in paragraph (d):~~

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

15 2. In the event that such application is approved,
16 such approval shall be deemed to have been effective on the
17 date of the application or October 1, 2001, whichever is
18 later.

19 Section 6. Paragraph (j) of subsection (3) of section
20 337.401, Florida Statutes, is amended to read:

21 337.401 Use of right-of-way for utilities subject to
22 regulation; permit; fees.--

23 (3)

24 (j) Pursuant to this paragraph, any county or
25 municipality may by ordinance change either its election made
26 on or before July 16, 2001, under paragraph (c) or an election
27 made under this paragraph.

28 1.a. If a municipality or charter county changes its
29 election under this paragraph in order to exercise its
30 authority to require and collect permit fees in accordance
31 with this subsection, the rate of the local communications

1 services tax imposed by such jurisdiction pursuant to ss.
2 202.19 and 202.20 shall automatically be reduced by the sum of
3 0.12 percent plus the percentage, if any, by which such rate
4 was increased pursuant to sub-subparagraph (c)1.b.

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

12 2.a. If a noncharter county changes its election under
13 this paragraph in order to exercise its authority to require
14 and collect permit fees in accordance with this subsection,
15 the rate of the local communications services tax imposed by
16 such jurisdiction pursuant to ss. 202.19 and 202.20 shall
17 automatically be reduced by the percentage, if any, by which
18 such rate was increased pursuant to sub-subparagraph (c)2.b.

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

25 3.a. Any change of election pursuant to this paragraph
26 and any tax rate change resulting from such change of election
27 shall be subject to the notice requirements of s. 202.21;
28 however, no such change of election shall become effective
29 prior to January 1, 2003.

30 b. Any county or municipality changing its election
31 under this paragraph in order to exercise its authority to

1 require and collect permit fees shall, in addition to
2 complying with the notice requirements under s. 202.21,
3 provide to all dealers providing communications services in
4 such jurisdiction written notice of such change of election by
5 September ~~July~~ 1 immediately preceding the January 1 on which
6 such change of election becomes effective. For purposes of
7 this sub-subparagraph, dealers providing communications
8 services in such jurisdiction shall include every dealer
9 reporting tax to such jurisdiction pursuant to s. 202.37 on
10 the return required under s. 202.27 to be filed on or before
11 the 20th day of May immediately preceding the January 1 on
12 which such change of election becomes effective.

13 (k) Notwithstanding the provisions of s. 202.19, when
14 a local communications services tax rate is changed as a
15 result of an election made or changed under this subsection,
16 such rate shall not be rounded to tenths.

17 Section 7. Effective with respect to bills issued by
18 providers of mobile telecommunications services after August
19 1, 2002, paragraph (a) of subsection (8) and paragraph (d) of
20 subsection (9) of section 365.172, Florida Statutes, are
21 amended, and paragraph (f) is added to subsection (9) of said
22 section, to read:

23 365.172 Wireless emergency telephone number "E911."--

24 (8) WIRELESS E911 FEE.--

25 (a) Each home service provider shall collect a monthly
26 fee imposed on customers whose place of primary use is ~~each~~
27 ~~service subscriber who has a service number that has a billing~~
28 ~~address~~ within this state. The rate of the fee shall be 50
29 cents per month per each service number, beginning August 1,
30 1999. The fee shall apply uniformly and be imposed throughout
31 the state.

1 (9) MANAGEMENT OF FUNDS.--
2 (d) Each provider shall deliver revenues from the fee
3 to the board within 60 days after the end of the month in
4 which the fee was billed, together with a monthly report of
5 the number of ~~billing addresses of wireless~~ customers whose
6 place of primary use is subscribers in each county. A provider
7 may apply to the board for a refund of, or may take a credit
8 for, any fees remitted to the board which are not collected by
9 the provider within 6 months following the month in which the
10 fees are charged off for federal income tax purposes as bad
11 debt. The board may waive the requirement that the fees and
12 number of customers with a place of primary use in each county
13 ~~billing addresses~~ be submitted to the board each month and
14 authorize a provider to submit the fees and number of
15 customers ~~billing addresses~~ quarterly if the provider
16 demonstrates that such waiver is necessary and justified.

17 (f) For purposes of this section, the definitions
18 contained in s. 202.11 and the provisions of s. 202.155 apply
19 in the same manner and to the same extent as such definitions
20 and provisions apply to the taxes levied pursuant to chapter
21 202 on mobile communications services.

22 Section 8. The amendments to ss. 202.125 and 202.22,
23 Florida Statutes, and the repeal of s. 212.05(1)(g), Florida
24 Statutes, are remedial in nature and intended to clarify
25 existing law.

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

28 212.0501 Tax on diesel fuel for business purposes;
29 purchase, storage, and use.--

30 (4) Except as otherwise provided in s.
31 212.05(1)(k)(~~l~~), a licensed sales tax dealer may elect to

1 collect such tax pursuant to this chapter on all sales to each
2 person who purchases diesel fuel for consumption, use, or
3 storage by a trade or business. When the licensed sales tax
4 dealer has not elected to collect such tax on all such sales,
5 the purchaser or ultimate consumer shall be liable for the
6 payment of tax directly to the state.

7 Section 10. Paragraph (c) of subsection (6) of section
8 212.20, Florida Statutes, is amended to read:

9 212.20 Funds collected, disposition; additional powers
10 of department; operational expense; refund of taxes
11 adjudicated unconstitutionally collected.--

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

14 (c) Proceeds from the fees imposed under ss.
15 212.05(1)(~~h~~)(~~i~~)3. and 212.18(3) shall remain with the General
16 Revenue Fund.

17 Section 11. Paragraph (f) of subsection (2) of section
18 509.032, Florida Statutes, is amended to read:

19 509.032 Duties.--

20 (2) INSPECTION OF PREMISES.--

21 (f) In conducting inspections of establishments
22 licensed under this chapter, the division shall determine if
23 each coin-operated amusement machine that is operated on the
24 premises of a licensed establishment is properly registered
25 with the Department of Revenue. Each month the division shall
26 report to the Department of Revenue the sales tax registration
27 number of the operator of any licensed establishment that has
28 on location a coin-operated amusement machine and that does
29 not have an identifying certificate conspicuously displayed as
30 required by s. 212.05(1)(~~h~~)(~~i~~).

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1 Section 12. Section 561.1105, Florida Statutes, is
2 amended to read:
3 561.1105 Inspection of licensed premises;
4 coin-operated amusement machines.--In conducting inspections
5 of establishments licensed under the Beverage Law, the
6 division shall determine if each coin-operated amusement
7 machine that is operated on the licensed premises is properly
8 registered with the Department of Revenue. Each month, the
9 division shall report to the Department of Revenue the sales
10 tax registration number of the operator of any licensed
11 premises that has on location a coin-operated amusement
12 machine and that does not have an identifying certificate
13 conspicuously displayed as required by s. 212.05(1)(h)~~(i)~~.

14 Section 13. Paragraph (g) of subsection (1) of section
15 212.05, Florida Statutes, is repealed.

16 Section 14. Except as otherwise provided herein, this
17 act shall take effect upon becoming a law.

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HOUSE SUMMARY

Revises various provisions relating to communications services taxation. Provides a transition rule for reduced local communications services tax rates adopted effective October 1, 2002. Defines religious institution and educational institution for purposes of sales of communications services. Imposes a use tax on purchases of communications services that are otherwise taxable at retail. Provides an exception to a requirement that public lodging establishments state communications services taxes separately on a bill or invoice. Clarifies application of a wireless E911 fee.