

By the Committee on Finance and Taxation; and Senator Campbell

314-2349-03

1 A bill to be entitled
2 An act relating to tax administration; amending
3 ss. 202.11, 202.125, 202.22, 202.27, 202.28,
4 202.34, and 202.35, F.S., relating to the local
5 communications services tax; changing sourcing
6 requirements for third number and calling card
7 calls; excluding certain not-for-hire mobile
8 communications services from the definition of
9 the term "substitute communications system";
10 providing an exemption for homes for the aged;
11 providing limitations on credits for taxes
12 collected; providing legislative intent with
13 respect to provisions clarifying the law;
14 providing penalties for failure to report
15 revenue and taxes due; providing for repeal of
16 certain penalty provisions; authorizing the
17 Department of Revenue to allocate local taxes
18 to and between local governments under certain
19 circumstances; requiring that a taxpayer
20 provide customer records to the Department of
21 Revenue; providing penalties for noncompliance;
22 amending s. 206.02, F.S.; prohibiting a person
23 from engaging in business as a biodiesel
24 manufacturer unless the person is licensed by
25 the department; revising licensing
26 requirements; requiring biodiesel manufacturers
27 to meet the reporting, bonding, and licensing
28 requirements prescribed for wholesalers of
29 motor fuel; amending s. 206.026, F.S.;
30 requiring the department to obtain fingerprints
31 for criminal background checks for certain

1 license holders; amending s. 206.14, F.S.;
2 providing a penalty for failure to provide
3 records as required by the department; amending
4 s. 206.414, F.S., relating to local option fuel
5 taxes; providing for the tax to be collected
6 when fuel is removed through the loading rack;
7 amending s. 206.416, F.S.; deleting certain
8 provisions authorizing a change in the
9 destination of fuel; requiring that a
10 wholesaler or exporter register as an importer
11 under certain circumstances; providing
12 penalties; amending s. 206.485, F.S., relating
13 to tracking reports for petroleum products;
14 imposing a penalty for failure to provide such
15 reports; amending s. 206.86, F.S.; defining the
16 terms "biodiesel" and "biodiesel manufacturer"
17 for purposes of part II of ch. 206, F.S.;
18 amending s. 206.89, F.S., relating to the
19 regulating of alternative fuels; requiring the
20 licensure of retailers rather than wholesalers;
21 amending s. 212.0606, F.S., relating to the
22 rental car surcharge; requiring dealers to
23 report the surcharge collections by county
24 where collected; amending s. 212.08, F.S.;
25 authorizing certain carriers to prorate the
26 state tax on motor or diesel fuels used in
27 interstate commerce in the initial year of
28 operation; amending s. 212.12, F.S.; deleting a
29 prohibition on certain allowances if the tax is
30 delinquent; revising a limitation on certain
31 penalties; providing an additional penalty for

1 failure to timely disclose a tax or fee;
2 requiring that the department make certain tax
3 amounts and brackets available in an electronic
4 format; deleting a requirement that the amounts
5 and brackets be established pursuant to rule;
6 amending s. 213.21, F.S.; revising the period
7 during which a taxpayer may voluntarily
8 disclose a tax liability; providing for
9 applicability; amending s. 336.021, F.S.;
10 revising certain dates for purposes of
11 certifying distributions of local option fuel
12 taxes; amending s. 336.025, F.S.; expanding the
13 uses of proceeds from local option fuel taxes
14 on motor fuel and diesel fuel; amending ss.
15 443.036, 443.131, 443.1316, and 443.163, F.S.,
16 relating to the unemployment compensation tax;
17 requiring that a limited liability company be
18 treated at the same status as it is classified
19 for federal income tax purposes; providing that
20 an employee may not be considered a successor
21 under certain circumstances; increasing the
22 limit on recovery of overhead or indirect costs
23 from the Agency for Workforce Innovation;
24 revising requirements of electronic reporting
25 and remitting for certain persons who prepare
26 and report; revising penalties for failure to
27 report or remit taxes by electronic means;
28 providing for retroactive application of
29 provisions relating to electronic reporting and
30 remitting of taxes; amending s. 832.062, F.S.;
31 prohibiting certain electronic funds transfers

1 if the taxpayer knows at the time of such
2 transfer that funds are insufficient to cover
3 the transfer; amending s. 206.052, F.S.,
4 relating to the export of tax-free fuels;
5 conforming a cross-reference to changes made by
6 the act; repealing s. 199.052(13), F.S.,
7 relating to a requirement to permit a voluntary
8 contribution to the Election Campaign Financing
9 Trust Fund when filing an intangible tax
10 return; amending s. 213.053, F.S.; authorizing
11 the Department of Revenue to share information
12 with the Department of Transportation on rental
13 car surcharge revenues; amending s. 624.509,
14 F.S.; authorizing a certain affiliated group of
15 corporations that created a service company to
16 allocate the salary of each employee to the
17 companies for which the employees perform
18 services for the purpose of the salary credit
19 against the insurance premium tax; providing
20 definitions for "affiliated group of
21 corporations," and "service company"; providing
22 that changes shall take effect for tax years
23 beginning January 1, 2003; amending ss.
24 213.053, 213.21, and 213.285, F.S.; deleting
25 the repeal of the certified audit program;
26 amending s. 212.08, F.S.; expanding the
27 definition of "housing project" to include
28 construction in a designated brownfield area of
29 affordable housing; amending s. 212.055, F.S.;
30 providing additional uses for revenues raised
31 by the charter county transit system surtax;

1 repealing s. 212.055(2)(f), F.S.; relating to
2 the restriction on the use of Local Government
3 Infrastructure Surtax revenue to supplant or
4 replace user fees or reduce ad valorem taxes;
5 providing effective dates.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Paragraph (a) of subsection (15) and
10 subsection (16) of section 202.11, Florida Statutes, is
11 amended to read:

12 202.11 Definitions.--As used in this chapter:

13 (15) "Service address" means:

14 (a) Except as otherwise provided in this section, the
15 location of the communications equipment from which
16 communications services originate or at which communications
17 services are received by the customer. ~~If the location of such~~
18 ~~equipment cannot be determined as part of the billing process,~~
19 ~~as in the case of third-number and calling-card calls and~~
20 ~~similar services, the term means the location determined by~~
21 ~~the dealer based on the customer's telephone number, the~~
22 ~~customer's mailing address to which bills are sent by the~~
23 ~~dealer, or another street address provided by the customer.~~ In
24 the case of a communications service paid through a credit or
25 payment mechanism that does not relate to a service address,
26 such as a bank, travel, debit, or credit card, and in the case
27 of third-number and calling-card calls, the service address is
28 the address of the central office, as determined by the area
29 code and the first three digits of the seven-digit originating
30 telephone number.
31

1 (16) "Substitute communications system" means any
2 telephone system, or other system capable of providing
3 communications services, which a person purchases, installs,
4 rents, or leases for his or her own use to provide himself or
5 herself with services used as a substitute for any switched
6 service or dedicated facility by which a dealer of
7 communications services provides a communication path, but it
8 does not include a not-for-hire mobile communications service
9 that exclusively serves the internal communication needs of a
10 nonprofit utility provider.

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

13 202.125 Sales of communications services; specified
14 exemptions.--

15 (4) The sale of communications services to a home for
16 the aged, religious institution or educational institution
17 that is exempt from federal income tax under s. 501(c)(3) of
18 the Internal Revenue Code, or by a religious institution that
19 is exempt from federal income tax under s. 501(c)(3) of the
20 Internal Revenue Code having an established physical place for
21 worship at which nonprofit religious services and activities
22 are regularly conducted and carried on, is exempt from the
23 taxes imposed or administered pursuant to ss. 202.12 and
24 202.19. As used in this subsection, the term:

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

29 1. Any nonprofit corporation the sole purpose of which
30 is to provide free transportation services to religious
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1 institution members, their families, and other religious
2 institution attendees.

3 2. Any nonprofit state, district, or other governing
4 or administrative office the function of which is to assist or
5 regulate the customary activities of religious institutions.

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

12 4. 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 5. Any nonprofit corporation the sole or primary
17 purpose of which is to provide, upon invitation, nonprofit
18 religious services, evangelistic services, religious
19 education, administrative assistance, or missionary assistance
20 for a religious institution, or established physical place of
21 worship at which nonprofit religious services and activities
22 are regularly conducted.

23 (b) "Educational institution" includes:

24 1. Any state tax-supported, parochial, religious
25 institution, and nonprofit private school, college, or
26 university that conducts regular classes and courses of study
27 required for accreditation by or membership in the Southern
28 Association of Colleges and Schools, the Florida Council of
29 Independent Schools, or the Florida Association of Christian
30 Colleges and Schools, Inc.

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1 2. Any nonprofit private school that conducts regular
2 classes and courses of study which are accepted for continuing
3 education credit by a board of the Division of Medical Quality
4 Assurance of the Department of Health.

5 3. Any nonprofit library.

6 4. Any nonprofit art gallery.

7 5. Any nonprofit performing arts center that provides
8 educational programs to school children, which programs
9 involve performances or other educational activities at the
10 performing arts center and serve a minimum of 50,000 school
11 children a year.

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

13 (c) "Home for the aged" includes any nonprofit
14 corporation:

15 1. In which at least 75 percent of the occupants are
16 62 years of age or older or totally and permanently disabled;
17 which qualifies for an ad valorem property tax exemption under
18 s. 196.196, s. 196.197, or s. 196.1975; and which is exempt
19 from the sales tax imposed under chapter 212.

20 2. Licensed as a nursing home or an assisted living
21 facility under chapter 400 and which is exempt from the sales
22 tax imposed under chapter 212.

23 Section 3. Subsection (8) is added to section 202.22,
24 Florida Statutes, to read:

25 202.22 Determination of local tax situs.--

26 (8) All local communications services taxes collected
27 by a dealer are subject to the provisions of s. 213.756. The
28 hold harmless protection provided by subsection (1) does not
29 entitle a dealer to retain or take credits for taxes collected
30 from any customers that are assigned to an incorrect local
31 taxing jurisdiction in excess of the taxes due to the correct

1 local taxing jurisdiction for that customer. Dealers are
2 entitled to refunds of or credits for such excess collections
3 only upon making refunds or providing credits to the customer.

4 Section 4. Subsection (8) of section 202.22, Florida
5 Statutes, as created by this act is remedial and intended to
6 clarify existing law.

7 Section 5. Present subsection (6) of section 202.27,
8 Florida Statutes, is redesignated as subsection (8), and new
9 subsections (6) and (7) are added to that section to read:

10 202.27 Return filing; rules for self-accrual.--

11 (6) In addition to the contact person identified on
12 the return, each dealer of communications services obligated
13 to collect and remit local communications services tax imposed
14 under s. 202.19 may at any time, and shall within 10 days
15 after a request, designate a managerial representative to whom
16 the department shall direct any inquiry regarding the
17 completeness or accuracy of the dealer's return when the
18 response provided by the contact person identified on the
19 return has been inadequate. When the representative designated
20 under this subsection is contacted by the department, the
21 dealer shall respond to the department within 30 days.

22 (7)(a) If the department determines it is probable
23 that a return filed pursuant to this chapter contains a
24 material error in the reporting of local communications
25 service taxes by jurisdiction as required by s. 202.37(2), it
26 may, subject to the provisions of this subsection, issue a
27 notice as described herein to the dealer that filed the
28 return. The notice shall be in writing and shall be issued as
29 soon as possible following the date the department received
30 the return. Prior to issuing the notice, the department shall
31 attempt to resolve the issue in the manner provided in

1 subsection (6), shall consult with the affected local
2 jurisdictions, and shall consult other sources of information
3 available to it that would have a bearing on whether the
4 existence of a material error in the return is probable. Such
5 inquiry by the department shall include, without limitation,
6 whether local rate changes, changes in jurisdictional
7 boundaries, or fluctuations in the taxes reported by other
8 dealers are consistent with the reporting on the return that
9 is the subject of the notice. The notice shall specify the
10 schedule, specify line or lines of the return that are the
11 subject of the notice, describe the reporting error, and
12 describe the other sources of information consulted by the
13 department as required in this paragraph and the results of
14 such inquiry.

15 (b) The dealer shall respond in writing to the notice
16 within 90 days after receipt of the notice, except that an
17 extension of this 90-day period must be granted if requested
18 by the dealer for reasonable cause. The dealer's response
19 shall state either that the return contained a material error
20 conforming to the department's description and that the error
21 has been corrected by filing a corrected return, or that the
22 dealer has been unable to locate such an error. In the latter
23 event, the dealer's response shall also state whether any of
24 the following events have occurred which might reasonably
25 account for the condition described in the notice as a
26 probable reporting error:

27 1. The dealer has changed from one of the methods
28 specified in s. 202.22(1) of assigning customers to local
29 jurisdictions to another method specified therein.

30 2. There has been an acquisition or disposition of an
31 entity providing communications services, an acquisition or

1 disposition of such an entity's assets used to provide such
2 services, or a change in the dealer's licensed service area.

3 3. The dealer has implemented a new billing system.

4 4. There has been an update to the dealer's database
5 or corrections in assignments of service addresses pursuant to
6 s. 202.22(4)(b).

7 5. Substantial credits, refunds, or adjustments to
8 customer accounts are reflected in the return identified in
9 the notice.

10 (c) If the dealer responds as required in paragraph
11 (b), and provides information prescribed in subparagraphs
12 (b)1.-5. which is incorrect and, after audit, the return is
13 finally determined to contain the specific material error
14 identified in the notice, the dealer shall be subject to a
15 penalty not to exceed the lesser of 10 percent of any taxes
16 reported for an incorrect jurisdiction as a result of the
17 error or \$10,000, which penalty may be compromised pursuant to
18 s. 213.21. If the dealer fails to respond to the notice or
19 request an extension within the time prescribed, the dealer
20 shall be subject to a specific penalty of \$5,000, except that
21 the department shall waive the specific penalty if the dealer
22 responds as required within 30 days after notification that
23 the specific penalty has been imposed.

24 (d) For purposes of this subsection, a "material
25 error" is an error in the reporting of tax on a return for a
26 specific local jurisdiction that exceeds the greater of
27 \$50,000 or 50 percent of the tax reported for such local
28 jurisdiction. "Material error" also includes a return for
29 which Schedule I or Schedule II is not included, regardless of
30 the tax amount reported. "Material error" does not include,
31 and the penalties set forth in this subsection do not apply,

1 to any error resulting from the assignment of a service
2 address to an incorrect local taxing jurisdiction for which
3 the dealer is held harmless under s. 202.22(1).

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5 This subsection does not require the dealer to perform a
6 self-audit to ascertain whether the condition described in the
7 notice is attributable to any of the foregoing events, nor
8 does the issuance of the notice determine the dealer's
9 substantial interests or constitute an audit for purposes of
10 this chapter.

11 Section 6. Effective June 30, 2004, subsection (7) of
12 section 202.27, Florida Statutes, as created by this act, is
13 repealed.

14 Section 7. Paragraphs (d) and (e) are added to
15 subsection (2) of section 202.28, Florida Statutes, to read:

16 202.28 Credit for collecting tax; penalties.--

17 (2)

18 (d) If a dealer fails to separately report and
19 identify local communications services taxes on the
20 appropriate return schedule, the dealer shall be subject to a
21 penalty of \$5,000 per return.

22 (e) If a dealer of communications services does not
23 use one or more of the methods specified in s. 202.22(1) for
24 assigning service addresses to local jurisdictions and assigns
25 one or more service addressed to an incorrect local
26 jurisdiction in collecting and remitting local communications
27 services taxes imposed under s. 202.19, the dealer shall be
28 subject to a specific penalty of 10 percent of any tax
29 collected but reported to the incorrect jurisdiction as a
30 result of incorrect assignment, except that the penalty

31

1 imposed under this paragraph with respect to a single return
2 may not exceed \$10,000.

3 Section 8. Subsection (5) is added to section 202.34,
4 Florida Statutes, to read:

5 202.34 Records required to be kept; power to inspect;
6 audit procedure.--

7 (5) If a dealer retains records in both
8 machine-readable and hardcopy formats, upon a request by the
9 department, the dealer shall make the records available to the
10 department in the machine-readable format in which such
11 records are retained. Any dealer or other person who fails or
12 refuses to provide such records within 60 days after the
13 department's request or any extension thereof shall, in
14 addition to all other penalties provided by law, be subject to
15 a specific penalty of \$5,000 per audit.

16 Section 9. Subsection (3) of section 202.35, Florida
17 Statutes, is amended to read:

18 202.35 Powers of department in dealing with
19 delinquents; tax to be separately stated.--

20 (3) If a dealer or other person fails or refuses to
21 make his or her records available for inspection so that an
22 audit or examination of his or her books and records cannot be
23 made, fails or refuses to register as a dealer, fails to make
24 a report and pay the tax as provided by this chapter, makes a
25 grossly incorrect report, or makes a report that is false or
26 fraudulent, the department shall make an assessment from an
27 estimate based upon the best information then available to it
28 for the taxable period of retail sales of the dealer, together
29 with any accrued interest and penalties. The department shall
30 then proceed to collect the taxes, interest, and penalties on
31 the basis of such assessment, which shall be considered prima

1 facie correct; and the burden to show the contrary rests upon
2 the dealer or other person. If the dealer fails to respond to
3 a contact made pursuant to s. 202.27(6) or a notice issued
4 pursuant to s. 202.27(7), or if a dealer's records are
5 determined to be inadequate for purposes of determining
6 whether the dealer properly allocated tax to and between local
7 governments, the department may determine the proper
8 allocation or reallocation based upon the best information
9 available to the department and shall seek the agreement of
10 the affected local governments.

11 Section 10. Section 206.02, Florida Statutes, is
12 amended to read:

13 206.02 Application for license; temporary license;
14 terminal suppliers, importers, exporters, blenders, biodiesel
15 manufacturers, and wholesalers.--

16 (1) It is unlawful for any person to engage in
17 business as a terminal supplier, importer, exporter, blender,
18 biodiesel manufacturer, or wholesaler of motor fuel within
19 this state unless such person is the holder of an unrevoked
20 license issued by the department to engage in such business.

21 A person is engaging in such business if he or she:

22 (a) Imports or causes any motor fuel to be imported
23 and sells such fuel at wholesale, retail, or otherwise within
24 this state.

25 (b) Imports and withdraws for use within this state by
26 himself or herself or others any motor fuel from the tank car,
27 truck, or other original container or package in which such
28 motor fuel was imported into this state.

29 (c) Manufactures, refines, produces, or compounds any
30 motor fuel and sells such fuel at wholesale or retail, or
31

1 otherwise within this state for use or consumption within this
2 state.

3 (d) Imports into this state from any other state or
4 foreign country, or receives by any means into this state, any
5 motor fuel which is intended to be used for consumption in
6 this state and keeps such fuel in storage in this state for a
7 period of 24 hours or more after it loses its interstate or
8 foreign commerce character as a shipment in interstate or
9 foreign commerce.

10 (e) Is primarily liable under the fuel tax laws of
11 this state for the payment of motor fuel taxes.

12 (f) Purchases or receives in this state motor fuel
13 upon which the tax has not been paid.

14 (g) Exports taxable motor or diesel fuels either from
15 substorage at a bulk facility or directly from a terminal rack
16 to a destination outside the state.

17 (2) To procure a terminal supplier license, a person
18 shall file with the department an application under oath, and
19 in such form as the department may prescribe, setting forth:

20 (a) The name under which the person will transact
21 business within the state and that person's registration
22 number under s. 4101 of the Internal Revenue Code.

23 (b) The location, with street number address, of his
24 or her principal office or place of business and the location
25 where records will be made available for inspection.

26 (c) The name and complete residence address of the
27 owner or the names and addresses of the partners, if such
28 person is a partnership, or of the principal officers, if such
29 person is a corporation or association; and, if such person is
30 a corporation organized under the laws of another state,
31 territory, or country, he or she shall also indicate the

1 state, territory, or county where the corporation is organized
2 and the date the corporation was registered with ~~file with the~~
3 ~~application a certified copy of the certificate or license~~
4 ~~issued by the Department of State as a foreign corporation~~
5 ~~showing that such corporation is~~ authorized to transact
6 business in the state.

7
8 The application shall require a \$30 license tax. Each license
9 shall be renewed annually through application, including an
10 annual \$30 license tax.

11 (3) To procure an importer, exporter, or blender of
12 motor fuels license, a person shall file with the department
13 an application under oath, and in such form as the department
14 may prescribe, setting forth:

15 (a) The name under which the person will transact
16 business within the state.

17 (b) The location, with street number address, of his
18 or her principal office or place of business and the location
19 where records will be made available for inspection.

20 (c) The name and complete residence address of the
21 owner or the names and addresses of the partners, if such
22 person is a partnership, or of the principal officers, if such
23 person is a corporation or association; and, if such person is
24 a corporation organized under the laws of another state,
25 territory, or country, he or she shall also indicate the
26 state, territory, or country where the corporation is
27 organized and the date the corporation was registered with
28 ~~file with the application a certified copy of the certificate~~
29 ~~or license issued by the Department of State as a foreign~~
30 corporation ~~showing that such corporation is~~ authorized to
31 transact business in the state.

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2 The application shall require a \$30 license tax. Each license
3 shall be renewed annually through application, including an
4 annual \$30 license tax.

5 (4) To procure a wholesaler of motor fuel license, a
6 person shall file with the department an application under
7 oath and in such form as the department may prescribe, setting
8 forth:

9 (a) The name under which the person will transact
10 business within the state.

11 (b) The location, with street number address, of his
12 or her principal office or place of business within this state
13 and the location where records will be made available for
14 inspection.

15 (c) The name and complete residence address of the
16 owner or the names and addresses of the partners, if such
17 person is a partnership, or of the principal officers, if such
18 person is a corporation or association; and, if such person is
19 a corporation organized under the laws of another state,
20 territory, or country, he or she shall also indicate the
21 state, territory, or country where the corporation is
22 organized and the date the corporation was registered with
23 file with the application a certified copy of the certificate
24 or license issued by the Department of State as a foreign
25 corporation showing that such corporation is authorized to
26 transact business in the state.

27
28 The application shall require a \$30 license tax. Each license
29 shall be renewed annually through application, including an
30 annual \$30 license fee.

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1 (5) Each biodiesel manufacturer must meet the
2 reporting, bonding, and licensing requirements prescribed for
3 wholesalers by this chapter.~~Any importer who establishes a~~
4 ~~business location in this state must, prior to beginning~~
5 ~~business in the state, apply for and be issued a wholesaler's~~
6 ~~license. An importer's license becomes invalid on the date~~
7 ~~business operations begin from a location within this state.~~

8 (6) Upon the filing of an application for a license
9 and concurrently therewith, a bond of the character stipulated
10 and in the amount provided for shall be filed with the
11 department. No license shall issue upon any application
12 unless accompanied by such a bond, except as provided in s.
13 206.05(1).

14 (7)(a) If all applicants for a license hold a current
15 license in good standing of the same type and kind, the
16 department shall issue a temporary license upon the filing of
17 a completed application, payment of all fees, and the posting
18 of adequate bond. A temporary license shall automatically
19 expire 90 days after its effective date or, prior to the
20 expiration of 90 days or the period of any extension, upon
21 issuance of a permanent license or of a notice of intent to
22 deny a permanent license. A temporary license may be extended
23 once for a period not to exceed 60 days, upon written request
24 of the applicant, subject to the restrictions imposed by this
25 subsection.

26 (b) A publicly held corporation, the securities of
27 which are regularly traded on a national securities exchange
28 and not over the counter, which begins a new business and
29 which applies for a license as a terminal supplier, importer,
30 exporter, or wholesaler shall be issued a license without the
31 department's background investigation.

1 Section 11. Subsection (5) of section 206.026, Florida
2 Statutes, is amended to read:

3 206.026 Certain persons prohibited from holding a
4 terminal supplier, importer, exporter, blender, carrier,
5 terminal operator, or wholesaler license; suspension and
6 revocation.--

7 (5) The department shall obtain the fingerprints and
8 personal data from persons ~~make such rules for the~~
9 ~~photographing, fingerprinting, and obtaining of personal data~~
10 ~~of individuals~~ described in paragraph (1)(a) for purposes of
11 determining whether such persons have a criminal background
12 and shall obtain ~~the obtaining of such~~ data regarding the
13 business entities described in paragraph (1)(a) ~~as are~~
14 ~~necessary~~ to effectuate the provisions of this section. Such
15 fingerprints shall be used for statewide criminal and juvenile
16 records checks through the Department of Law Enforcement and
17 federal criminal records checks through the Federal Bureau of
18 Investigation.

19 Section 12. Subsection (2) of section 206.14, Florida
20 Statutes, is amended to read:

21 206.14 Inspection of records; audits; hearings; forms;
22 rules and regulations.--

23 (2)(a) The department or any authorized deputy,
24 employee, or agent is authorized to audit and examine the
25 records, books, papers, and equipment of terminal suppliers,
26 importers, exporters, or wholesalers, retail dealers, terminal
27 operators, or all private and common carriers to verify the
28 truth and accuracy of any statement or report and ascertain
29 whether or not the tax imposed by this law has been paid. No
30 prior written notification is necessary. In addition to making
31 all records available to the department to determine the

1 accuracy of tax payments to the state and suppliers, all
2 persons, including retail dealers, wholesalers, importers,
3 exporters, terminal suppliers, and end users with storage
4 other than the fuel tank of a highway vehicle, shall make
5 available to the department, during normal business hours,
6 records disclosing all receipts, sales, inventory records,
7 fuel payments, and tax payment information. These records
8 shall cover all transactions within the last 3 complete
9 calendar months and shall be made available within 3 business
10 days of the department's request. The department may correct
11 by credit or refund any overpayment of tax, penalty, or
12 interest revealed by an audit or examination and shall make
13 assessment of any deficiency in tax, penalty, or interest
14 determined to be due.

15 (b) Any person who fails to provide the records
16 required by this section shall, in addition to all other
17 penalties, be subject to a fine of \$5,000.

18 Section 13. Section 206.414, Florida Statutes, is
19 amended to read:

20 206.414 Collection of certain taxes; prohibited
21 credits and refunds.--

22 (1) Notwithstanding s. 206.41, which requires the
23 collection of taxes due when motor fuel is removed through the
24 terminal loading rack, the taxes imposed by s. 206.41(1)(d),
25 (e), and (f) shall be collected in the following manner:

26 (a) Prior to January 1 each year the department shall
27 determine the minimum amount of taxes to be imposed by s.
28 206.41(1)(d), (e), and (f) in any county.

29 (b) The minimum tax imposed by s. 206.41(1)(d), (e),
30 and (f) shall be collected in the same manner as the taxes
31 imposed under s. 206.41(a), (b), and (c); at the point of

1 removal through the terminal loading rack; or as provided in
2 paragraph (c). All taxes collected, refunded, or credited
3 shall be distributed based on the current applied period.

4 (c)~~(1)~~ The taxes imposed by s. 206.41(1)(d), (e), and
5 (f) above the annual minimum shall be collected and remitted
6 by licensed wholesalers and terminal suppliers upon each sale,
7 delivery, or consignment to retail dealers, resellers, and end
8 users.

9 (2) Terminal suppliers and wholesalers shall not
10 collect the taxes imposed by s. 206.41(1)(d), (e), and (f)
11 above the annual minimum established in this section on
12 authorized exchanges and sales to terminal suppliers,
13 wholesalers, and importers.

14 (3) Terminal suppliers, wholesalers, and importers
15 shall not pay the taxes imposed by s. 206.41(1)(d), (e), and
16 (f) above the annual minimum established in this section to
17 their suppliers. There shall be no credit or refund for any
18 of the taxes imposed by s. 206.41(1)(d), (e), and (f) above
19 the annual minimum established in this section paid by a
20 terminal supplier, wholesaler, or importer to any supplier.

21 Section 14. Subsection (1) of section 206.416, Florida
22 Statutes, is amended to read:

23 206.416 Change in state destination.--

24 ~~(1)(a) A terminal supplier or person who is receiving~~
25 ~~fuel pursuant to an exchange agreement who sells fuel destined~~
26 ~~for sale or use in this state may change the destination state~~
27 ~~designated on the original shipping paper upon notification by~~
28 ~~the purchaser of the fuel by the 10th day of the month~~
29 ~~following the date of the transaction. The terminal supplier~~
30 ~~or position holder shall document a timely change in~~
31 ~~destination state by issuing a new invoice bearing the~~

1 ~~corrected destination state. Each terminal supplier and~~
2 ~~position holder shall report monthly to the department all~~
3 ~~changes in the state of destination issued, including the name~~
4 ~~of purchaser, date, number of gallons of fuel, and the basis~~
5 ~~for the change.~~

6 ~~(b) A terminal supplier or position holder who issues~~
7 ~~a change in the state of destination on the invoice to this~~
8 ~~state from another state shall collect and remit to the~~
9 ~~department the tax levied pursuant to this part on such fuel.~~
10 ~~A terminal supplier or position holder who issues a change in~~
11 ~~the state of destination from this state to another state~~
12 ~~shall be entitled to a credit or refund of any tax levied~~
13 ~~pursuant to this part on such fuel which it has collected and~~
14 ~~remitted to the department.~~

15 ~~(a)(c)~~ (a) A terminal supplier or position holder may sell
16 motor or diesel fuel, other than by bulk transfer, a portion
17 of which fuel is destined for sale or use in this state and a
18 portion of which fuel is destined for sale or use in another
19 state or states. However, such sale shall be documented by
20 the terminal supplier or position holder by issuing shipping
21 papers designating the state of destination for each portion
22 of the fuel.

23 ~~(b)(d)~~ (b) A licensed terminal supplier, wholesaler,
24 importer, or exporter who intends to sell or use motor fuel in
25 this state which was purchased pursuant to shipping papers
26 bearing an out-of-state destination shall obtain a diversion
27 number issued by the department which shall be manually
28 recorded by the terminal supplier, wholesaler, importer, or
29 exporter on the shipping paper prior to importing the fuel
30 into this state. The terminal supplier, ~~if the licensed~~
31 ~~wholesaler, importer, or exporter fails to timely notify the~~

1 ~~terminal supplier or position holder pursuant to paragraph (a)~~
2 ~~to obtain a corrected invoice, the licensed wholesaler,~~
3 importer, or exporter is shall be liable for reporting and
4 remitting to report and remit all applicable taxes on ~~said~~
5 fuel with the return required pursuant to s. 206.43.

6 (c) If a wholesaler or exporter diverts to this state,
7 within 3 consecutive months, more than six loads of fuel which
8 were originally destined for allocation outside the state, the
9 wholesaler or exporter must register as an importer within 30
10 days after such diversion. A wholesaler or exporter who
11 violates this paragraph is subject to the penalties prescribed
12 under ss. 206.413 and 206.872.

13 Section 15. Section 206.485, Florida Statutes, is
14 amended to read:

15 206.485 Tracking system reporting requirements.--

16 (1) The information required for tracking movements of
17 petroleum products pursuant to ss. 206.08, 206.09, 206.095,
18 and 206.48 shall be submitted in the manner prescribed by the
19 executive director of the department by rule. The rule shall
20 include, but not be limited to, the data elements, the format
21 of the data elements, and the method and medium of
22 transmission to the department.

23 (2) Any person liable for reporting under this chapter
24 who fails to meet the requirements of this section within 3
25 months after notification of such failure by the department
26 shall, in addition to all other penalties prescribed by this
27 chapter, be subject to an additional penalty of \$5,000 for
28 each month such failure continues.

29 Section 16. Subsection (1) of section 206.86, Florida
30 Statutes, is amended, and subsections (14) and (15) are added
31 to that subsection to read:

1 206.86 Definitions.--As used in this part:

2 (1) "Diesel fuel" means all petroleum distillates
3 commonly known as diesel #2, biodiesel, or any other product
4 blended with diesel or any product placed into the storage
5 supply tank of a diesel-powered motor vehicle.

6 (14) "Biodiesel" means any product made from
7 nonpetroleum-base oils or fats which is suitable for use in
8 diesel-powered engines. Biodiesel is also referred to as alkyl
9 esters.

10 (15) "Biodiesel manufacturer" means those industrial
11 plants, regardless of capacity, where organic products are
12 used in the production of biodiesel. This includes businesses
13 that process or blend organic products that are marketed as
14 biodiesel.

15 Section 17. Section 206.89, Florida Statutes, is
16 amended to read:

17 206.89 Licenses; necessity; prerequisites; issuance;
18 nonassignability.--

19 (1)(a) A ~~No~~ person may not ~~shall~~ act as a retailer
20 ~~wholesaler~~ of alternative fuel unless he or she holds a valid
21 retailer ~~wholesaler~~ of alternative fuel license issued by the
22 department. A person who has no facilities for placing diesel
23 fuel into the supply system of a motor vehicle and who sells
24 into containers of 5 gallons or less is ~~shall~~ ~~not be~~ required
25 to be licensed as a retailer ~~wholesaler~~ of alternative fuel.

26 (b) Any person who acts as a retailer ~~wholesaler~~ of
27 alternative fuel and does not hold a valid retailer ~~wholesaler~~
28 of alternative fuel license shall pay a penalty of 25 percent
29 of the tax assessed on the total purchases.

30 (2) To procure a retailer ~~wholesaler~~ of alternative
31 fuel license, a person must ~~shall~~ file with the department an

1 application in such form as the department may prescribe, with
2 a bond. A ~~No~~ license may not ~~shall~~ be issued upon any
3 application unless accompanied by such bond, except as
4 provided in s. 206.90(1).

5 (3) When an application for a retailer ~~wholesaler~~ of
6 alternative fuel license is filed by a person whose license
7 has been canceled for cause by the department or when the
8 department is of the opinion that such application is not
9 filed in good faith or is filed by some person as a subterfuge
10 for the real person in interest whose license has theretofore
11 been canceled, the department may ~~shall have authority~~, if the
12 evidence warrants, ~~to~~ refuse to issue to that person a
13 license.

14 (4) At the time of filing an application for a
15 license, a filing fee of \$5 shall be paid to the department
16 for deposit into the General Revenue Fund.

17 (5) All requirements of this section having been
18 complied with, the department shall issue to the applicant a
19 license, and such license shall remain in effect until
20 canceled as provided in this part.

21 (6) Such license may ~~shall~~ not be assigned ~~assignable~~
22 and is ~~shall be~~ valid only for the retailer ~~wholesaler~~ of
23 alternative fuel in whose name it is issued. It shall be
24 displayed conspicuously by the retailer ~~wholesaler~~ of
25 alternative fuel in the principal place of business for which
26 it was issued.

27 (7) Every person as defined in this part, except those
28 licensed under this chapter, including, but not limited to, a
29 state agency, federal agency, municipality, county, or special
30 district, which operates as a retailer ~~wholesaler~~ of
31

1 alternative fuel must ~~and~~ report monthly to the department
2 and, ~~or~~ pay tax on all fuel purchases.

3 Section 18. Effective January 1, 2004, subsections (2)
4 and (3) of section 212.0606, Florida Statutes, are amended to
5 read:

6 212.0606 Rental car surcharge.--

7 (2)(a) Notwithstanding the provisions of section
8 212.20, and less costs of administration, 80 percent of the
9 proceeds of this surcharge shall be deposited in the State
10 Transportation Trust Fund, 15.75 percent of the proceeds of
11 this surcharge shall be deposited in the Tourism Promotional
12 Trust Fund created in s. 288.122, and 4.25 percent of the
13 proceeds of this surcharge shall be deposited in the Florida
14 International Trade and Promotion Trust Fund. For the purposes
15 of this subsection, "proceeds" of the surcharge means all
16 funds collected and received by the department under this
17 section, including interest and penalties on delinquent
18 surcharges. The department shall provide the Department of
19 Transportation rental car surcharge revenues for the previous
20 state fiscal year by September 1 of each year.

21 (b) Notwithstanding any other provision of law, in
22 fiscal year 2007-2008 and each year thereafter, the proceeds
23 deposited in the State Transportation Trust Fund shall be
24 allocated on an annual basis in the Department of
25 Transportation's work program to each department district,
26 except the Turnpike District. The amount allocated for each
27 district shall be based upon the amount of proceeds attributed
28 to ~~collected in~~ the counties within each respective district.

29 (3)(a) Except as provided in this section, the
30 department shall administer, collect, and enforce the
31 surcharge as provided in this chapter.

1 (b) The department shall require dealers to report
2 surcharge collections according to the county to which the
3 surcharge was attributed. For purposes of this section, the
4 surcharge shall be attributed to the county where the rental
5 agreement was entered into.

6 (c) Dealers who collect the rental car surcharge shall
7 report to the department all surcharge revenues attributed to
8 the county where the rental agreement was entered into on a
9 timely filed return for each required reporting period.The
10 provisions of this chapter which apply to interest and
11 penalties on delinquent taxes shall apply to the surcharge.
12 The surcharge shall not be included in the calculation of
13 estimated taxes pursuant to s. 212.11. The dealer's credit
14 provided in s. 212.12 shall not apply to any amount collected
15 under this section.

16 Section 19. Paragraph (a) of subsection (4) of section
17 212.08, Florida Statutes, is amended to read:

18 212.08 Sales, rental, use, consumption, distribution,
19 and storage tax; specified exemptions.--The sale at retail,
20 the rental, the use, the consumption, the distribution, and
21 the storage to be used or consumed in this state of the
22 following are hereby specifically exempt from the tax imposed
23 by this chapter.

24 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
25 ETC.--

26 (a) Also exempt are:

27 1. Water delivered to the purchaser through pipes or
28 conduits or delivered for irrigation purposes. The sale of
29 drinking water in bottles, cans, or other containers,
30 including water that contains minerals or carbonation in its
31 natural state or water to which minerals have been added at a

1 water treatment facility regulated by the Department of
2 Environmental Protection or the Department of Health, is
3 exempt. This exemption does not apply to the sale of drinking
4 water in bottles, cans, or other containers if carbonation or
5 flavorings, except those added at a water treatment facility,
6 have been added. Water that has been enhanced by the addition
7 of minerals and that does not contain any added carbonation or
8 flavorings is also exempt.

9 2. All fuels used by a public or private utility,
10 including any municipal corporation or rural electric
11 cooperative association, in the generation of electric power
12 or energy for sale. Fuel other than motor fuel and diesel
13 fuel is taxable as provided in this chapter with the exception
14 of fuel expressly exempt herein. Motor fuels and diesel fuels
15 are taxable as provided in chapter 206, with the exception of
16 those motor fuels and diesel fuels used by railroad
17 locomotives or vessels to transport persons or property in
18 interstate or foreign commerce, which are taxable under this
19 chapter only to the extent provided herein. The basis of the
20 tax shall be the ratio of intrastate mileage to interstate or
21 foreign mileage traveled by the carrier's railroad locomotives
22 or vessels that were used in interstate or foreign commerce
23 and that had at least some Florida mileage during the previous
24 fiscal year of the carrier, such ratio to be determined at the
25 close of the fiscal year of the carrier. However, during the
26 fiscal year in which the carrier begins its initial operations
27 in this state, the carrier's mileage apportionment factor may
28 be determined on the basis of an estimated ratio of
29 anticipated miles in this state to anticipated total miles for
30 that year, and subsequently, additional tax shall be paid on
31 the motor fuel and diesel fuels, or a refund may be applied

1 for, on the basis of the actual ratio of the carrier's
2 railroad locomotives' or vessels' miles in this state to its
3 total miles for that year.This ratio shall be applied each
4 month to the total Florida purchases made in this state of
5 motor and diesel fuels to establish that portion of the total
6 used and consumed in intrastate movement and subject to tax
7 under this chapter. The basis for imposition of any
8 discretionary surtax shall be set forth in s. 212.054. Fuels
9 used exclusively in intrastate commerce do not qualify for the
10 proration of tax.

11 3. The transmission or wheeling of electricity.

12 Section 20. Subsections (1), (2), (9), (10), and (11)
13 of section 212.12, Florida Statutes, are amended to read:

14 212.12 Dealer's credit for collecting tax; penalties
15 for noncompliance; powers of Department of Revenue in dealing
16 with delinquents; brackets applicable to taxable transactions;
17 records required.--

18 (1) Notwithstanding any other provision of law and for
19 the purpose of compensating persons granting licenses for and
20 the lessors of real and personal property taxed hereunder, for
21 the purpose of compensating dealers in tangible personal
22 property, for the purpose of compensating dealers providing
23 communication services and taxable services, for the purpose
24 of compensating owners of places where admissions are
25 collected, and for the purpose of compensating remitters of
26 any taxes or fees reported on the same documents utilized for
27 the sales and use tax, as compensation for the keeping of
28 prescribed records, filing timely tax returns, and the proper
29 accounting and remitting of taxes by them, such seller,
30 person, lessor, dealer, owner, and remitter (except dealers
31 who make mail order sales) shall be allowed 2.5 percent of the

1 amount of the tax due and accounted for and remitted to the
2 department, in the form of a deduction in submitting his or
3 her report and paying the amount due by him or her; the
4 department shall allow such deduction of 2.5 percent of the
5 amount of the tax to the person paying the same for remitting
6 the tax and making of tax returns in the manner herein
7 provided, for paying the amount due to be paid by him or her,
8 and as further compensation to dealers in tangible personal
9 property for the keeping of prescribed records and for
10 collection of taxes and remitting the same. However, if the
11 amount of the tax due and remitted to the department for the
12 reporting period exceeds \$1,200, no allowance shall be allowed
13 for all amounts in excess of \$1,200. The executive director of
14 the department is authorized to negotiate a collection
15 allowance, pursuant to rules promulgated by the department,
16 with a dealer who makes mail order sales. The rules of the
17 department shall provide guidelines for establishing the
18 collection allowance based upon the dealer's estimated costs
19 of collecting the tax, the volume and value of the dealer's
20 mail order sales to purchasers in this state, and the
21 administrative and legal costs and likelihood of achieving
22 collection of the tax absent the cooperation of the dealer.
23 However, in no event shall the collection allowance negotiated
24 by the executive director exceed 10 percent of the tax
25 remitted for a reporting period.

26 ~~(a) The collection allowance may not be granted, nor~~
27 ~~may any deduction be permitted, if the required tax return or~~
28 ~~tax is delinquent at the time of payment.~~

29 (a)~~(b)~~ The Department of Revenue may deny the
30 collection allowance if a taxpayer files an incomplete return

31

1 or if the required tax return or tax is delinquent at the time
2 of payment.

3 1. An "incomplete return" is, for purposes of this
4 chapter, a return which is lacking such uniformity,
5 completeness, and arrangement that the physical handling,
6 verification, review of the return, or determination of other
7 taxes and fees reported on the return may not be readily
8 accomplished.

9 2. The department shall adopt rules requiring such
10 information as it may deem necessary to ensure that the tax
11 levied hereunder is properly collected, reviewed, compiled,
12 reported, and enforced, including, but not limited to: the
13 amount of gross sales; the amount of taxable sales; the amount
14 of tax collected or due; the amount of lawful refunds,
15 deductions, or credits claimed; the amount claimed as the
16 dealer's collection allowance; the amount of penalty and
17 interest; the amount due with the return; and such other
18 information as the Department of Revenue may specify. The
19 department shall require that transient rentals and
20 agricultural equipment transactions be separately shown. Sales
21 made through vending machines as defined in s. 212.0515 must
22 be separately shown on the return. Sales made through
23 coin-operated amusement machines as defined by s. 212.02 and
24 the number of machines operated must be separately shown on
25 the return or on a form prescribed by the department. If a
26 separate form is required, the same penalties for late filing,
27 incomplete filing, or failure to file as provided for the
28 sales tax return shall apply to said form.

29 (b)~~(c)~~ The collection allowance and other credits or
30 deductions provided in this chapter shall be applied

31

1 proportionally to any taxes or fees reported on the same
2 documents used for the sales and use tax.

3 (2)(a) When any person, ~~firm, or corporation~~ required
4 hereunder to make any return or to pay any tax or fee imposed
5 by this chapter either fails to timely file such return or
6 fails to pay the tax or fee shown due on the return within the
7 time required hereunder, in addition to all other penalties
8 provided herein and by the laws of this state in respect to
9 such taxes or fees, a specific penalty shall be added to the
10 tax or fee in the amount of 10 percent of either the tax or
11 fee shown on the return that is not timely filed or any unpaid
12 tax or fee not paid timely if the failure is for not more than
13 30 days, with an additional 10 percent of any unpaid tax or
14 fee for each additional 30 days, or fraction thereof, during
15 the time which the failure continues, not to exceed a total
16 penalty of 50 percent, in the aggregate, of any unpaid tax or
17 fee. In no event may The penalty may not be less than ~~\$50~~ \$10
18 for failure to timely file a tax return required by s.
19 212.11(1)(b) or timely pay the tax or fee shown due on the
20 return except as provided in s. 213.21(10). If a person fails
21 to timely file a return required by s. 212.11(1) and to timely
22 pay the tax or fee shown due on the return, only one penalty
23 of 10 percent, which may not exceed \$50, shall be imposed ~~\$5~~
24 ~~for failure to timely file a tax return authorized by s.~~
25 ~~212.11(1)(c) or (d).~~

26 (b) When any person required under this section to
27 make a return or to pay a tax or fee imposed by this chapter
28 fails to disclose the tax or fee on the return within the time
29 required, excluding a noncompliant filing event generated by
30 situations covered in paragraph (a), in addition to all other
31 penalties provided in this section and by the laws of this

1 state in respect to such taxes or fees, a specific penalty
2 shall be added to the additional tax or fee owed in the amount
3 of 10 percent of any such unpaid tax or fee not paid timely if
4 the failure is for not more than 30 days, with an additional
5 10 percent of any such unpaid tax or fee for each additional
6 30 days, or fraction thereof, while the failure continues, not
7 to exceed a total penalty of 50 percent, in the aggregate, of
8 any unpaid tax or fee.

9 (c)~~(b)~~ Any person who knowingly and with a willful
10 intent to evade any tax imposed under this chapter fails to
11 file six consecutive returns as required by law commits a
12 felony of the third degree, punishable as provided in s.
13 775.082 or s. 775.083.

14 (d)~~(c)~~ Any person who makes a false or fraudulent
15 return with a willful intent to evade payment of any tax or
16 fee imposed under this chapter shall, in addition to the other
17 penalties provided by law, be liable for a specific penalty of
18 100 percent of the tax bill or fee and, upon conviction, for
19 fine and punishment as provided in s. 775.082, s. 775.083, or
20 s. 775.084.

21 1. If the total amount of unreported taxes or fees is
22 less than \$300, the first offense resulting in conviction is a
23 misdemeanor of the second degree, the second offense resulting
24 in conviction is a misdemeanor of the first degree, and the
25 third and all subsequent offenses resulting in conviction is a
26 misdemeanor of the first degree, and the third and all
27 subsequent offenses resulting in conviction are felonies of
28 the third degree.

29 2. If the total amount of unreported taxes or fees is
30 \$300 or more but less than \$20,000, the offense is a felony of
31 the third degree.

1 3. If the total amount of unreported taxes or fees is
2 \$20,000 or more but less than \$100,000, the offense is a
3 felony of the second degree.

4 4. If the total amount of unreported taxes or fees is
5 \$100,000 or more, the offense is a felony of the first degree.

6 (e)~~(d)~~ When any person, firm, or corporation fails to
7 timely remit the proper estimated payment required under s.
8 212.11, a specific penalty shall be added in an amount equal
9 to 10 percent of any unpaid estimated tax. Beginning with
10 January 1, 1985, returns, the department, upon a showing of
11 reasonable cause, is authorized to waive or compromise
12 penalties imposed by this paragraph. However, other penalties
13 and interest shall be due and payable if the return on which
14 the estimated payment was due was not timely or properly
15 filed.

16 (f)~~(e)~~ Dealers filing a consolidated return pursuant
17 to s. 212.11(1)(e) shall be subject to the penalty established
18 in paragraph(e)~~(d)~~ unless the dealer has paid the required
19 estimated tax for his or her consolidated return as a whole
20 without regard to each location. If the dealer fails to pay
21 the required estimated tax for his or her consolidated return
22 as a whole, each filing location shall stand on its own with
23 respect to calculating penalties pursuant to paragraph(e)
24 ~~(d)~~.

25 (9) Taxes imposed by this chapter upon the privilege
26 of the use, consumption, storage for consumption, or sale of
27 tangible personal property, admissions, license fees, rentals,
28 communication services, and upon the sale or use of services
29 as herein taxed shall be collected upon the basis of an
30 addition of the tax imposed by this chapter to the total price
31 of such admissions, license fees, rentals, communication or

1 other services, or sale price of such article or articles that
2 are purchased, sold, or leased at any one time by or to a
3 customer or buyer; the dealer, or person charged herein, is
4 required to pay a privilege tax in the amount of the tax
5 imposed by this chapter on the total of his or her gross sales
6 of tangible personal property, admissions, license fees,
7 rentals, and communication services or to collect a tax upon
8 the sale or use of services, and such person or dealer shall
9 add the tax imposed by this chapter to the price, license fee,
10 rental, or admissions, and communication or other services and
11 collect the total sum from the purchaser, admittee, licensee,
12 lessee, or consumer. The department shall make available in
13 an electronic format or otherwise the tax amounts and
14 ~~Notwithstanding the rate of taxes imposed upon the privilege~~
15 ~~of sales, admissions, license fees, rentals, and communication~~
16 ~~services, or upon the sale or use of services,~~the following
17 brackets ~~shall be~~ applicable to all transactions taxable at
18 the rate of 6 percent:
19 (a) On single sales of less than 10 cents, no tax
20 shall be added.
21 (b) On single sales in amounts from 10 cents to 16
22 cents, both inclusive, 1 cent shall be added for taxes.
23 (c) On sales in amounts from 17 cents to 33 cents,
24 both inclusive, 2 cents shall be added for taxes.
25 (d) On sales in amounts from 34 cents to 50 cents,
26 both inclusive, 3 cents shall be added for taxes.
27 (e) On sales in amounts from 51 cents to 66 cents,
28 both inclusive, 4 cents shall be added for taxes.
29 (f) On sales in amounts from 67 cents to 83 cents,
30 both inclusive, 5 cents shall be added for taxes.
31

1 (g) On sales in amounts from 84 cents to \$1, both
2 inclusive, 6 cents shall be added for taxes.

3 (h) On sales in amounts of more than \$1, 6 percent
4 shall be charged upon each dollar of price, plus the
5 appropriate bracket charge upon any fractional part of a
6 dollar.

7 (10) In counties which have adopted a discretionary
8 sales surtax at the rate of 1 percent, the department shall
9 make available in an electronic format or otherwise the tax
10 amounts and the following brackets shall be applicable to all
11 taxable transactions that ~~which~~ would otherwise have been
12 transactions taxable at the rate of 6 percent:

13 (a) On single sales of less than 10 cents, no tax
14 shall be added.

15 (b) On single sales in amounts from 10 cents to 14
16 cents, both inclusive, 1 cent shall be added for taxes.

17 (c) On sales in amounts from 15 cents to 28 cents,
18 both inclusive, 2 cents shall be added for taxes.

19 (d) On sales in amounts from 29 cents to 42 cents,
20 both inclusive, 3 cents shall be added for taxes.

21 (e) On sales in amounts from 43 cents to 57 cents,
22 both inclusive, 4 cents shall be added for taxes.

23 (f) On sales in amounts from 58 cents to 71 cents,
24 both inclusive, 5 cents shall be added for taxes.

25 (g) On sales in amounts from 72 cents to 85 cents,
26 both inclusive, 6 cents shall be added for taxes.

27 (h) On sales in amounts from 86 cents to \$1, both
28 inclusive, 7 cents shall be added for taxes.

29 (i) On sales in amounts from \$1 up to, and including,
30 the first \$5,000 in price, 7 percent shall be charged upon
31

1 each dollar of price, plus the appropriate bracket charge upon
2 any fractional part of a dollar.

3 (j) On sales in amounts of more than \$5,000 in price,
4 7 percent shall be added upon the first \$5,000 in price, and 6
5 percent shall be added upon each dollar of price in excess of
6 the first \$5,000 in price, plus the bracket charges upon any
7 fractional part of a dollar as provided for in subsection (9).

8 (11) The department shall make available in an
9 electronic format or otherwise ~~is authorized to provide by~~
10 ~~rule~~ the tax amounts and brackets applicable to all taxable
11 transactions that occur in counties that have a surtax at a
12 rate other than 1 percent which transactions would otherwise
13 have been transactions taxable at the rate of 6 percent.
14 Likewise, the department shall make available in an electronic
15 format or otherwise ~~is authorized to promulgate by rule~~ the
16 tax amounts and brackets applicable to transactions taxable at
17 2.5 or 3 percent pursuant to s. 212.08(3), transactions
18 taxable at 7 percent pursuant to s. 212.05(1)(e), and on
19 transactions which would otherwise have been so taxable in
20 counties which have adopted a discretionary sales surtax.

21 Section 21. Effective upon this act becoming a law,
22 paragraph (a) of subsection (7) of section 213.21, Florida
23 Statutes, is amended to read:

24 213.21 Informal conferences; compromises.--

25 (7)(a) When a taxpayer voluntarily self-discloses a
26 liability for tax to the department, the department may settle
27 and compromise the tax and interest due under the voluntary
28 self-disclosure to those amounts due for the 3 5 years
29 immediately preceding the date that the taxpayer initially
30 contacted the department concerning the voluntary
31 self-disclosure. For purposes of this paragraph, the term

1 "years" means tax years or calendar years, whichever is
2 applicable to the tax that is voluntarily self-disclosed. A
3 voluntary self-disclosure does not occur if the department has
4 contacted or informed the taxpayer that the department is
5 inquiring into the taxpayer's liability for tax or whether the
6 taxpayer is subject to tax in this state.

7 Section 22. The amendment to section 213.21, Florida
8 Statutes, made by this act shall take effect upon becoming a
9 law and applies to any voluntary self-disclosure made to the
10 Department of Revenue on or after that date.

11 Section 23. Paragraphs (c) and (d) of subsection (1)
12 of section 336.021, Florida Statutes, are amended to read:

13 336.021 County transportation system; levy of
14 ninth-cent fuel tax on motor fuel and diesel fuel.--

15 (1)

16 (c) Local option taxes collected on sales or use of
17 diesel fuel in this state shall be distributed in the
18 following manner:

19 1. The fiscal year of July 1, 1995, through June 30,
20 1996, shall be the base year for all distributions.

21 2. Each year the tax collected, less the service and
22 administrative charges enumerated in s. 215.20 and the
23 allowances allowed under s. 206.91, on the number of gallons
24 reported, up to the total number of gallons reported in the
25 base year, shall be distributed to each county using the
26 distribution percentage calculated for the base year.

27 3. After the distribution of taxes pursuant to
28 subparagraph 2., additional taxes available for distribution
29 shall first be distributed pursuant to this subparagraph. A
30 distribution shall be made to each county in which a qualified
31 new retail station is located. A qualified new retail station

1 is a retail station that began operation after June 30, 1996,
2 and that has sales of diesel fuel exceeding 50 percent of the
3 sales of diesel fuel reported in the county in which it is
4 located during the 1995-1996 state fiscal year. The
5 determination of whether a new retail station is qualified
6 shall be based on the total gallons of diesel fuel sold at the
7 station during each full month of operation during the
8 12-month period ending January 31 ~~March 31~~, divided by the
9 number of full months of operation during those 12 months, and
10 the result multiplied by 12. The amount distributed pursuant
11 to this subparagraph to each county in which a qualified new
12 retail station is located shall equal the local option taxes
13 due on the gallons of diesel fuel sold by the new retail
14 station during the year ending January 31 ~~March 31~~, less the
15 service charges enumerated in s. 215.20 and the dealer
16 allowance provided for by s. 206.91. Gallons of diesel fuel
17 sold at the qualified new retail station shall be certified to
18 the department by the county requesting the additional
19 distribution by June 15, 1997, and by March 1 ~~May 1~~ in each
20 subsequent year. The certification shall include the beginning
21 inventory, fuel purchases and sales, and the ending inventory
22 for the new retail station for each month of operation during
23 the year, the original purchase invoices for the period, and
24 any other information the department deems reasonable and
25 necessary to establish the certified gallons. The department
26 may review and audit the retail dealer's records provided to a
27 county to establish the gallons sold by the new retail
28 station. Notwithstanding the provisions of this subparagraph,
29 when more than one county qualifies for a distribution
30 pursuant to this subparagraph and the requested distributions
31 exceed the total taxes available for distribution, each county

1 shall receive a prorated share of the moneys available for
2 distribution.

3 4. After the distribution of taxes pursuant to
4 subparagraph 3., all additional taxes available for
5 distribution shall be distributed based on vehicular diesel
6 fuel storage capacities in each county pursuant to this
7 subparagraph. The total vehicular diesel fuel storage capacity
8 shall be established for each fiscal year based on the
9 registration of facilities with the Department of
10 Environmental Protection as required by s. 376.303 for the
11 following facility types: retail stations, fuel
12 user/nonretail, state government, local government, and county
13 government. Each county shall receive a share of the total
14 taxes available for distribution pursuant to this subparagraph
15 equal to a fraction, the numerator of which is the storage
16 capacity located within the county for vehicular diesel fuel
17 in the facility types listed in this subparagraph and the
18 denominator of which is the total statewide storage capacity
19 for vehicular diesel fuel in those facility types. The
20 vehicular diesel fuel storage capacity for each county and
21 facility type shall be that established by the Department of
22 Environmental Protection by June 1, 1997, for the 1996-1997
23 fiscal year, and by January 31 for each succeeding fiscal
24 year. The storage capacities so established shall be final.
25 The storage capacity for any new retail station for which a
26 county receives a distribution pursuant to subparagraph 3.
27 shall not be included in the calculations pursuant to this
28 subparagraph.

29 (d) The tax received by the department on motor fuel
30 pursuant to this paragraph shall be distributed monthly by the
31 department to the county reported by the terminal suppliers,

1 wholesalers, and importers as the destination of the gallons
2 distributed for retail sale or use. The tax on diesel fuel
3 shall be distributed monthly by the department to each county
4 as provided in paragraph (c).

5 Section 24. Paragraph (b) of subsection (1) and
6 subsection (7) of section 336.025, Florida Statutes, are
7 amended to read:

8 336.025 County transportation system; levy of local
9 option fuel tax on motor fuel and diesel fuel.--

10 (1)

11 (b) In addition to other taxes allowed by law, there
12 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
13 3-cent, 4-cent, or 5-cent local option fuel tax upon every
14 gallon of motor fuel sold in a county and taxed under the
15 provisions of part I of chapter 206. The tax shall be levied
16 by an ordinance adopted by a majority plus one vote of the
17 membership of the governing body of the county or by
18 referendum.

19 1. All impositions and rate changes of the tax shall
20 be levied before July 1, to be effective January 1 of the
21 following year. However, levies of the tax which were in
22 effect on July 1, 2002, and which expire on August 31 of any
23 year may be reimposed at the current authorized rate effective
24 September 1 of the year of expiration.

25 2. The county may, prior to levy of the tax, establish
26 by interlocal agreement with one or more municipalities
27 located therein, representing a majority of the population of
28 the incorporated area within the county, a distribution
29 formula for dividing the entire proceeds of the tax among
30 county government and all eligible municipalities within the
31 county. If no interlocal agreement is adopted before the

1 effective date of the tax, tax revenues shall be distributed
2 pursuant to the provisions of subsection (4). If no
3 interlocal agreement exists, a new interlocal agreement may be
4 established prior to June 1 of any year pursuant to this
5 subparagraph. However, any interlocal agreement agreed to
6 under this subparagraph after the initial levy of the tax or
7 change in the tax rate authorized in this section shall under
8 no circumstances materially or adversely affect the rights of
9 holders of outstanding bonds which are backed by taxes
10 authorized by this paragraph, and the amounts distributed to
11 the county government and each municipality shall not be
12 reduced below the amount necessary for the payment of
13 principal and interest and reserves for principal and interest
14 as required under the covenants of any bond resolution
15 outstanding on the date of establishment of the new interlocal
16 agreement.

17 3. County and municipal governments shall use ~~utilize~~
18 moneys received pursuant to this paragraph ~~only~~ for
19 transportation expenditures needed to meet the requirements of
20 the capital improvements element of an adopted comprehensive
21 plan or for expenditures needed to meet immediate local
22 transportation problems and for other transportation-related
23 expenditures that are critical for building comprehensive
24 roadway networks by local governments. For purposes of this
25 paragraph, expenditures for the construction of new roads, the
26 reconstruction or resurfacing of existing paved roads, or the
27 paving of existing graded roads shall be deemed to increase
28 capacity and such projects shall be included in the capital
29 improvements element of an adopted comprehensive plan.
30 Expenditures for purposes of this paragraph shall not include
31 routine maintenance of roads.

1 (7) For the purposes of this section, "transportation
2 expenditures" means expenditures by the local government from
3 local or state shared revenue sources, excluding expenditures
4 of bond proceeds, for the following programs:

5 (a) Public transportation operations and maintenance.

6 (b) Roadway and right-of-way maintenance and equipment
7 and structures used primarily for the storage and maintenance
8 of such equipment.

9 (c) Roadway and right-of-way drainage.

10 (d) Street lighting.

11 (e) Traffic signs, traffic engineering, signalization,
12 and pavement markings.

13 (f) Bridge maintenance and operation.

14 (g) Debt service and current expenditures for
15 transportation capital projects in the foregoing program
16 areas, including construction or reconstruction of roads and
17 sidewalks.

18 Section 25. Effective January 1, 2004, subsection (20)
19 of section 443.036, Florida Statutes, is amended to read:

20 443.036 Definitions.--As used in this chapter, unless
21 the context clearly requires otherwise:

22 (20) EMPLOYING UNIT.--"Employing unit" means any
23 individual or type of organization, including any partnership,
24 limited liability company, association, trust, estate,
25 joint-stock company, insurance company, or corporation,
26 whether domestic or foreign; the receiver, trustee in
27 bankruptcy, trustee, or successor of any of the foregoing; or
28 the legal representative of a deceased person, which has or
29 had in its employ one or more individuals performing services
30 for it within this state.

31

1 (a) Each individual employed to perform or to assist
2 in performing the work of any agent or employee of an
3 employing unit shall be deemed to be employed by such
4 employing unit for all the purposes of this chapter, whether
5 such individual was hired or paid directly by such employing
6 unit or by such agent or employee, provided the employing unit
7 had actual or constructive knowledge of the work.

8 (b) All individuals performing services within this
9 state for any employing unit which maintains two or more
10 separate establishments within this state shall be deemed to
11 be performing services for a single employing unit for all the
12 purposes of this chapter.

13 (c) Any person who is an officer of a corporation or a
14 member of a limited liability company classified as a
15 corporation for federal income tax purposes and who performs
16 services for such corporation or limited liability company
17 within this state, whether or not such services are
18 continuous, shall be deemed an employee of the corporation or
19 the limited liability company during all of each week of his
20 or her tenure of office, regardless of whether or not he or
21 she is compensated for such services. Services shall be
22 presumed to have been rendered the corporation in cases where
23 such officer is compensated by means other than dividends upon
24 shares of stock of such corporation owned by him or her.

25 (d) A limited liability company shall be treated as
26 having the same status as it is classified for federal income
27 tax purposes.

28 Section 26. Effective January 1, 2004, paragraph (g)
29 of subsection (3) of section 443.131, Florida Statutes, is
30 amended to read:

31 443.131 Contributions.--

1 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--
2 (g)1. For the purposes of this subsection, two or more
3 employers who are parties to a transfer of business or the
4 subject of a merger, consolidation, or other form of
5 reorganization, effecting a change in legal identity or form,
6 shall be deemed to be a single employer and shall be
7 considered as one employer with a continuous employment record
8 if the Agency for Workforce Innovation or its designee
9 ~~division~~ finds that the successor employer continues to carry
10 on the employing enterprises of the predecessor employer or
11 employers and that the successor employer has paid all
12 contributions required of and due from the predecessor
13 employer or employers and has assumed liability for all
14 contributions that may become due from the predecessor
15 employer or employers. In addition, an employer may not be
16 considered a successor under this subparagraph if the employer
17 purchases a company with a lower rate into which employees
18 with job functions unrelated to the business endeavors of the
19 predecessor are transferred for the purpose of acquiring the
20 low rate and avoiding payment of contributions.As used in
21 this paragraph, the term "contributions" means all
22 indebtedness to the Agency for Workforce Innovation or its
23 designee ~~division~~, including, but not limited to, interest,
24 penalty, collection fee, and service fee. A successor has 30
25 days from the date of the official notification of liability
26 by succession to accept the transfer of the predecessor's or
27 predecessors' employment record or records. If the predecessor
28 or predecessors have unpaid contributions or outstanding
29 quarterly reports, the successor has 30 days from the date of
30 the notice listing the total amount due to pay the total
31 amount with certified funds. After the total indebtedness has

1 | been paid, the employment record or records of the predecessor
2 | or predecessors will be transferred to the successor.

3 | ~~Employment records may be transferred by the division.~~The tax
4 | rate of total successor and predecessor upon the transfer of
5 | employment records shall be determined by the Agency for
6 | Workforce Innovation or its designee ~~division~~ as prescribed by
7 | rule in order to calculate any tax rate change resulting from
8 | the transfer of employment records.

9 | 2. Whether or not there is a transfer of employment
10 | record as contemplated in this paragraph, the predecessor
11 | shall in the event he or she again employs persons be treated
12 | as an employer without previous employment record or, if his
13 | or her coverage has been terminated as provided in s. 443.121,
14 | as a new employing unit.

15 | 3. The division may provide by rule for partial
16 | transfer of experience rating when an employer has transferred
17 | at any time an identifiable and segregable portion of his or
18 | her payrolls and business to a successor employing unit. As a
19 | condition of such partial transfer of experience, the rules
20 | shall require an application by the successor, agreement by
21 | the predecessor, and such evidence as the division may
22 | prescribe of the experience and payrolls attributable to the
23 | transferred portion up to the date of transfer. The rules
24 | shall provide that the successor employing unit, if not
25 | already an employer, shall become an employer as of the date
26 | of the transfer and that the experience of the transferred
27 | portion of the predecessor's account shall be removed from the
28 | experience-rating record of the predecessor, and for each
29 | calendar year following the date of the transfer of the
30 | employment record on the books of the division, the division
31 | shall compute the rate of contribution payable by the

1 successor on the basis of his or her experience, if any,
2 combined with the experience of the portion of the record
3 transferred. The rules may also provide what rates shall be
4 payable by the predecessor and successor employers for the
5 period between the date of the transfer of the employment
6 record of the transferred unit on the books of the division
7 and the first day of the next calendar year.

8 4. This paragraph shall not apply to the employee
9 leasing company and client contractual agreement as defined in
10 s. 443.036. The client shall, in the event of termination of
11 the contractual agreement or failure by the employee leasing
12 company to submit reports or pay contributions as required by
13 the division, be treated as a new employer without previous
14 employment record unless otherwise eligible for a rate
15 computation.

16 Section 27. Section 443.1316, Florida Statutes, is
17 amended to read:

18 443.1316 Contract with Department of Revenue for
19 unemployment tax collection services.--

20 (1) ~~By January 1, 2001,~~The Agency for Workforce
21 Innovation shall enter into a contract with the Department of
22 Revenue which shall provide for the Department of Revenue to
23 provide unemployment tax collection services. ~~The Department~~
24 ~~of Revenue, in consultation with the Department of Labor and~~
25 ~~Employment Security, shall determine the number of positions~~
26 ~~needed to provide unemployment tax collection services within~~
27 ~~the Department of Revenue. The number of unemployment tax~~
28 ~~collection service positions the Department of Revenue~~
29 ~~determines are needed shall not exceed the number of positions~~
30 ~~that, prior to the contract, were authorized to the Department~~
31 ~~of Labor and Employment Security for this purpose. Upon~~

1 ~~entering into the contract with the Agency for Workforce~~
2 ~~Innovation to provide unemployment tax collection services,~~
3 ~~the number of required positions, as determined by the~~
4 ~~Department of Revenue, shall be authorized within the~~
5 ~~Department of Revenue. Beginning January 1, 2002, the Office~~
6 ~~of Program Policy Analysis and Government Accountability shall~~
7 ~~conduct a feasibility study regarding privatization of~~
8 ~~unemployment tax collection services. A report on the~~
9 ~~conclusions of this study shall be submitted to the Governor,~~
10 ~~the President of the Senate, and the Speaker of the House of~~
11 ~~Representatives.~~

12 (2)(a) The Department of Revenue is considered to be
13 administering a revenue law of this state when the department
14 provides unemployment compensation tax collection services
15 pursuant to a contract of the department with the Agency for
16 Workforce Innovation.

17 (b) Sections 213.018, 213.025, 213.051, 213.053,
18 213.055, 213.071, 213.10, 213.2201, 213.23, 213.24(2), 213.27,
19 213.28, 213.285, 213.37, 213.50, 213.67, 213.69, 213.73,
20 213.733, 213.74, and 213.757 apply to the collection of
21 unemployment contributions by the Department of Revenue unless
22 prohibited by federal law.

23 (c) Notwithstanding s. 216.346, the Department of
24 Revenue may charge no more than 10 percent of the total cost
25 of the interagency agreement for the overhead or indirect
26 costs, or for any other costs not required for the payment of
27 the direct costs, of providing unemployment tax collection
28 services.

29 Section 28. Subsections (1) and (2) of section
30 443.163, Florida Statutes, are amended to read:

31 443.163 Electronic reporting and remitting of taxes.--

1 (1) An employer may choose to file any report and
2 remit any taxes required by this chapter by electronic means.
3 The Agency for Workforce Innovation or its designee shall
4 prescribe by rule the format and instructions necessary for
5 such filing of reports and remitting of taxes to ensure a full
6 collection of contributions due. The acceptable method of
7 transfer, the method, form, and content of the electronic
8 means, and the method, if any, by which the employer will be
9 provided with an acknowledgment shall be prescribed by the
10 agency or its designee. However, any employer who employed 10
11 or more employees in any quarter during the preceding state
12 ~~fiscal year, or any person that prepared and reported for 5 or~~
13 ~~more employers in the preceding state fiscal year,~~ must submit
14 the Employers Quarterly Reports (UCT-6) for the current
15 calendar year and remit the taxes due by electronic means
16 approved by the agency or its designee. A person who prepared
17 and reported for 100 or more employers in any quarter during
18 the preceding state fiscal year must file the Employers
19 Quarterly Reports (UCT-6) for each calendar quarter in the
20 current calendar year, beginning with reports due for the
21 second calendar quarter of 2003, by electronic means approved
22 by the Agency for Workforce Innovation or its designee.

23 (2) Any employer or person who fails to file an
24 Employers Quarterly Report (UCT-6) by electronic means, but
25 who files the report by means other than electronic means,
26 ~~required by law~~ is liable for a penalty of ~~10 percent of the~~
27 ~~tax due, but not less than~~ \$10 for that each report, which is
28 in addition to any other penalty provided by this chapter
29 which may be applicable, unless the employer or person has
30 first obtained a waiver for such requirement from the agency
31 or its designee. Any employer ~~or person~~ who fails to remit tax

1 by electronic means as required by law is liable for a penalty
2 of \$10 for each remittance submitted, which is in addition to
3 any other penalty provided by this chapter which may be
4 applicable.

5 Section 29. The amendments made by this act to section
6 443.163, Florida Statutes, shall apply retroactively for
7 Employers Quarterly Reports (UCT-6) due on or after April 1,
8 2003.

9 Section 30. Section 832.062, Florida Statutes, is
10 amended to read:

11 832.062 Prosecution for worthless checks, drafts, ~~or~~
12 debit card orders, or electronic funds transfers made ~~given~~ to
13 pay any tax or associated amount administered by the
14 Department of Revenue.--

15 (1) It is unlawful for any person, firm, or
16 corporation to draw, make, utter, issue, or deliver to the
17 Department of Revenue any check, draft, or other written order
18 on any bank or depository, ~~or~~ to use a debit card, to make,
19 send, instruct, order, or initiate any electronic funds
20 transfer, or to cause or direct the making, sending,
21 instructing, ordering, or initiating of any electronic funds
22 transfer, for the payment of any taxes, penalties, interest,
23 fees, or associated amounts administered by the Department of
24 Revenue, knowing at the time of the drawing, making, uttering,
25 issuing, or delivering such check, draft, or other written
26 order, ~~or~~ at the time of using such debit card, at the time of
27 making, sending, instructing, ordering, or initiating any
28 electronic funds transfer, or at the time of causing or
29 directing the making, sending, instructing, ordering,
30 initiating, or executing of any electronic funds transfer,
31 that the maker, ~~or~~ drawer, sender, or receiver thereof has not

1 sufficient funds on deposit in or credit with such bank or
2 depository with which to pay the same on presentation, ~~except~~
3 ~~that~~ This section does not apply to any check or electronic
4 funds transfer when the Department of Revenue knows or has
5 been expressly notified prior to the drawing or uttering of
6 the check or the sending or initiating of the electronic funds
7 transfer, or has reason to believe, that the drawer, sender,
8 or receiver did not have on deposit or to the drawer's,
9 sender's, or receiver's credit with the drawee or receiving
10 bank or depository sufficient funds to ensure payment as
11 aforesaid, and ~~nor does~~ this section does not apply to any
12 postdated check.

13 (2) A violation of ~~the provisions of~~ this section
14 constitutes a misdemeanor of the second degree, punishable as
15 provided in s. 775.082 or s. 775.083, unless the check, draft,
16 debit card order, or other written order drawn, made, uttered,
17 issued, or delivered, or electronic funds transfer made, sent,
18 instructed, ordered, or initiated, or caused or directed to be
19 made, sent, instructed, ordered, or initiated is in the amount
20 of \$150 or more. In that event, the violation constitutes a
21 felony of the third degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084.

23 (3) For purposes of prosecution, a violation under
24 this section occurs in the county in which the check is issued
25 or the electronic funds transfer is sent and in the county in
26 which it is received. A check will be deemed issued at the
27 residence address of an individual taxpayer and at the
28 business address of a business taxpayer.

29 Section 31. Subsection (2) of section 206.052, Florida
30 Statutes, is amended to read:

31 206.052 Export of tax-free fuels.--

1 (2) A licensed exporter shall not divert for sale or
2 use in this state any fuel designated to a destination outside
3 this state without first obtaining a diversion number from the
4 department as specified in s. 206.416(1)(b)~~s. 206.416(1)(d)~~
5 and manually recording that number on the shipping paper prior
6 to diversion of fuel for sale or use in this state.

7 Section 32. Subsection (13) of section 199.052,
8 Florida Statutes, is repealed.

9 Section 33. Paragraph (f) of subsection (2) of section
10 212.055, Florida Statutes, is repealed.

11 Section 34. Effective January 1, 2004, paragraph (x)
12 is added to subsection (7) of section 213.053, Florida
13 Statutes, to read:

14 213.053 Confidentiality and information sharing.--

15 (7) Notwithstanding any other provision of this
16 section, the department may provide:

17 (x) Rental car surcharge revenues authorized by s.
18 212.0606, reported according to the county to which the
19 surcharge was attributed to the Department of Transportation.

20
21 Disclosure of information under this subsection shall be
22 pursuant to a written agreement between the executive director
23 and the agency. Such agencies, governmental or
24 nongovernmental, shall be bound by the same requirements of
25 confidentiality as the Department of Revenue. Breach of
26 confidentiality is a misdemeanor of the first degree,
27 punishable as provided by s. 775.082 or s. 775.083.

28 Section 35. Subsection (5) of section 624.509, Florida
29 Statutes, is amended to read:

30 624.509 Premium tax; rate and computation.--

31

1 (5) There shall be allowed a credit against the net
2 tax imposed by this section equal to 15 percent of the amount
3 paid by the insurer in salaries to employees located or based
4 within this state and who are covered by the provisions of
5 chapter 443. For purposes of this subsection:

6 (a) The term "salaries" does not include amounts paid
7 as commissions.

8 (b) The term "employees" does not include independent
9 contractors or any person whose duties require that the person
10 hold a valid license under the Florida Insurance Code, except
11 persons defined in s. 626.015(1), (16), and (18).

12 (c) The term "net tax" means the tax imposed by this
13 section after applying the calculations and credits set forth
14 in subsection (4).

15 (d) An affiliated group of corporations that created a
16 service company within its affiliated group on July 30, 2002
17 shall allocate the salary of each service company employee
18 covered by contracts with affiliated group members to the
19 companies for which the employees perform services. The salary
20 allocation is based on the amount of time during the tax year
21 that the individual employee spends performing services or
22 otherwise working for each company over the total amount of
23 time the employee spends performing services or otherwise
24 working for all companies. The total amount of salary
25 allocated to an insurance company within the affiliated group
26 shall be included as that insurer's employee salaries for
27 purposes of this section.

28 1. The term "affiliated group of corporations" means
29 two or more corporations that are entirely owned by a single
30 corporation and that constitute an affiliated group of
31

1 corporations as defined in s. 1504(a) of the Internal Revenue
2 Code.

3 2. The term "service company" means a separate
4 corporation within the affiliated group of corporations whose
5 employees provide services to affiliated group members and
6 which are treated as service company employees for
7 unemployment compensation and common law purposes. The holding
8 company of an affiliated group may not qualify as a service
9 company. An insurance company may not qualify as a service
10 company.

11 3. If an insurance company fails to substantiate,
12 whether by means of adequate records or otherwise, its
13 eligibility to claim the service company exception under this
14 section, or its salary allocation under this section, no
15 credit shall be allowed.

16 Section 36. The amendment to section 624.509(5),
17 Florida Statutes, made by this act shall take effect for tax
18 years beginning January 1, 2003.

19 Section 37. Paragraph (n) of subsection (7) of section
20 213.053, Florida Statutes, is amended to read:

21 213.053 Confidentiality and information sharing.--

22 (7) Notwithstanding any other provision of this
23 section, the department may provide:

24 (n) Information contained in returns, reports,
25 accounts, or declarations to the Board of Accountancy in
26 connection with a disciplinary proceeding conducted pursuant
27 to chapter 473 when related to a certified public accountant
28 participating in the certified audits project, or to the court
29 in connection with a civil proceeding brought by the
30 department relating to a claim for recovery of taxes due to
31 negligence on the part of a certified public accountant

1 participating in the certified audits project. In any
2 judicial proceeding brought by the department, upon motion for
3 protective order, the court shall limit disclosure of tax
4 information when necessary to effectuate the purposes of this
5 section. ~~This paragraph is repealed on July 1, 2006.~~

6 Section 38. Subsection (8) of section 213.21, Florida
7 Statutes, is amended to read:

8 213.21 Informal conferences; compromises.--

9 (8) In order to determine whether certified audits are
10 an effective tool in the overall state tax collection effort,
11 the executive director of the department or the executive
12 director's designee shall settle or compromise penalty
13 liabilities of taxpayers who participate in the certified
14 audits project. As further incentive for participating in the
15 program, the department shall abate the first \$25,000 of any
16 interest liability and 25 percent of any interest due in
17 excess of the first \$25,000. A settlement or compromise of
18 penalties or interest pursuant to this subsection shall not be
19 subject to the provisions of paragraph (3)(a), except for the
20 requirement relating to confidentiality of records. The
21 department may consider an additional compromise of tax or
22 interest pursuant to the provisions of paragraph (3)(a). This
23 subsection does not apply to any liability related to taxes
24 collected but not remitted to the department. ~~This subsection
25 is repealed on July 1, 2006.~~

26 Section 39. Subsection (2) of section 213.285, Florida
27 Statutes, is amended to read:

28 213.285 Certified audits.--

29 (2)(a) The department is authorized to initiate a
30 certified audits project to further enhance tax compliance
31 reviews performed by qualified practitioners and to encourage

1 taxpayers to hire qualified practitioners at their own expense
2 to review and report on their tax compliance. The nature of
3 certified audit work performed by qualified practitioners
4 shall be agreed-upon procedures in which the department is the
5 specified user of the resulting report.

6 (b) As an incentive for taxpayers to incur the costs
7 of a certified audit, the department shall compromise
8 penalties and abate interest due on any tax liabilities
9 revealed by a certified audit as provided in s. 213.21. This
10 authority to compromise penalties or abate interest shall not
11 apply to any liability for taxes that were collected by the
12 participating taxpayer but that were not remitted to the
13 department.

14 ~~(c) The certified audits project is repealed on July~~
15 ~~1, 2006, or upon completion of the project as determined by~~
16 ~~the department, whichever occurs first.~~

17 Section 40. Paragraph (o) of subsection (5) of section
18 212.08, Florida Statutes, is amended to read:

19 212.08 Sales, rental, use, consumption, distribution,
20 and storage tax; specified exemptions.--The sale at retail,
21 the rental, the use, the consumption, the distribution, and
22 the storage to be used or consumed in this state of the
23 following are hereby specifically exempt from the tax imposed
24 by this chapter.

25 (5) EXEMPTIONS; ACCOUNT OF USE.--

26 (o) Building materials in redevelopment projects.--

27 1. As used in this paragraph, the term:

28 a. "Building materials" means tangible personal
29 property that becomes a component part of a housing project or
30 a mixed-use project.

31

1 b. "Housing project" means the conversion of an
2 existing manufacturing or industrial building to housing units
3 in an urban high-crime area, enterprise zone, empowerment
4 zone, Front Porch Community, designated brownfield area, or
5 urban infill area and in which the developer agrees to set
6 aside at least 20 percent of the housing units in the project
7 for low-income and moderate-income persons or the construction
8 in a designated brownfield area of affordable housing for
9 persons described in s. 420.0004(9), (10), or (14), or in s.
10 159.603(7).

11 c. "Mixed-use project" means the conversion of an
12 existing manufacturing or industrial building to mixed-use
13 units that include artists' studios, art and entertainment
14 services, or other compatible uses. A mixed-use project must
15 be located in an urban high-crime area, enterprise zone,
16 empowerment zone, Front Porch Community, designated brownfield
17 area, or urban infill area, and the developer must agree to
18 set aside at least 20 percent of the square footage of the
19 project for low-income and moderate-income housing.

20 d. "Substantially completed" has the same meaning as
21 provided in s. 192.042(1).

22 2. Building materials used in the construction of a
23 housing project or mixed-use project are exempt from the tax
24 imposed by this chapter upon an affirmative showing to the
25 satisfaction of the department that the requirements of this
26 paragraph have been met. This exemption inures to the owner
27 through a refund of previously paid taxes. To receive this
28 refund, the owner must file an application under oath with the
29 department which includes:

30 a. The name and address of the owner.

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1 b. The address and assessment roll parcel number of
2 the project for which a refund is sought.

3 c. A copy of the building permit issued for the
4 project.

5 d. A certification by the local building code
6 inspector that the project is substantially completed.

7 e. A sworn statement, under penalty of perjury, from
8 the general contractor licensed in this state with whom the
9 owner contracted to construct the project, which statement
10 lists the building materials used in the construction of the
11 project and the actual cost thereof, and the amount of sales
12 tax paid on these materials. If a general contractor was not
13 used, the owner shall provide this information in a sworn
14 statement, under penalty of perjury. Copies of invoices
15 evidencing payment of sales tax must be attached to the sworn
16 statement.

17 3. An application for a refund under this paragraph
18 must be submitted to the department within 6 months after the
19 date the project is deemed to be substantially completed by
20 the local building code inspector. Within 30 working days
21 after receipt of the application, the department shall
22 determine if it meets the requirements of this paragraph. A
23 refund approved pursuant to this paragraph shall be made
24 within 30 days after formal approval of the application by the
25 department. The provisions of s. 212.095 do not apply to any
26 refund application made under this paragraph.

27 4. The department shall establish by rule an
28 application form and criteria for establishing eligibility for
29 exemption under this paragraph.

30 5. The exemption shall apply to purchases of materials
31 on or after July 1, 2000.

1 Section 41. Subsection (1) of section 212.055, Florida
2 Statutes, is amended to read:

3 212.055 Discretionary sales surtaxes; legislative
4 intent; authorization and use of proceeds.--It is the
5 legislative intent that any authorization for imposition of a
6 discretionary sales surtax shall be published in the Florida
7 Statutes as a subsection of this section, irrespective of the
8 duration of the levy. Each enactment shall specify the types
9 of counties authorized to levy; the rate or rates which may be
10 imposed; the maximum length of time the surtax may be imposed,
11 if any; the procedure which must be followed to secure voter
12 approval, if required; the purpose for which the proceeds may
13 be expended; and such other requirements as the Legislature
14 may provide. Taxable transactions and administrative
15 procedures shall be as provided in s. 212.054.

16 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

17 (a) Each charter county which adopted a charter prior
18 to January 1, 1984, and each county the government of which is
19 consolidated with that of one or more municipalities, may levy
20 a discretionary sales surtax, subject to approval by a
21 majority vote of the electorate of the county or by a charter
22 amendment approved by a majority vote of the electorate of the
23 county.

24 (b) The rate shall be up to 1 percent.

25 (c) The proposal to adopt a discretionary sales surtax
26 as provided in this subsection and to create a trust fund
27 within the county accounts shall be placed on the ballot in
28 accordance with law at a time to be set at the discretion of
29 the governing body.

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1 (d) Proceeds from the surtax shall be applied to as
2 many or as few of the uses enumerated below in whatever
3 combination the county commission deems appropriate:

4 1. Deposited by the county in the trust fund and shall
5 be used for the purposes of development, construction,
6 equipment, maintenance, operation, supportive services,
7 including a countywide bus system, and related costs of a
8 fixed guideway rapid transit system;

9 2. Remitted by the governing body of the county to an
10 expressway or transportation authority created by law to be
11 used, at the discretion of such authority, for the
12 development, construction, operation, or maintenance of roads
13 or bridges in the county, for the operation and maintenance of
14 a bus system, for the payment of principal and interest on
15 existing bonds issued for the construction of such roads or
16 bridges, and, upon approval by the county commission, such
17 proceeds may be pledged for bonds issued to refinance existing
18 bonds or new bonds issued for the construction of such roads
19 or bridges; ~~and~~

20 3. For each county, as defined in s. 125.011(1), used
21 for the development, construction, operation, and maintenance
22 of roads and bridges in the county; for the expansion,
23 operation, and maintenance of bus and fixed guideway systems;
24 and for the payment of principal and interest on bonds issued
25 for the construction of fixed guideway rapid transit systems,
26 bus systems, roads, or bridges; and such proceeds may be
27 pledged by the governing body of the county for bonds issued
28 to refinance existing bonds or new bonds issued for the
29 construction of such fixed guideway rapid transit systems, bus
30 systems, roads, or bridges and no more than 25 percent used
31 for nontransit uses; and.

1 4. Used by the charter county for the planning,
2 development, construction, operation, and maintenance of roads
3 and bridges in the county; for the planning, development,
4 expansion, operation, and maintenance of bus and fixed
5 guideway systems; and for the payment of principal and
6 interest on bonds issued for the construction of fixed
7 guideway rapid transit systems, bus systems, roads, or
8 bridges; and such proceeds may be pledged by the governing
9 body of the county for bonds issued to refinance existing
10 bonds or new bonds issued for the construction of such fixed
11 guideway rapid transit systems, bus systems, roads, or
12 bridges. Pursuant to an interlocal agreement entered into
13 pursuant to chapter 163, the governing body of the charter
14 county may distribute proceeds from the tax to a municipality,
15 or an expressway or transportation authority created by law to
16 be expended for the purpose authorized by this paragraph.

17 Section 42. Except as otherwise expressly provided in
18 this act, this act shall take effect July 1, 2003.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1176

4 The committee substitute authorizes that the penalty for a
5 communications services dealer failing to respond to a notice
6 from the Department of Revenue or to request an extension may
7 be compromised pursuant to s. 213.21.

8 The committee substitute excludes from the definition of
9 "substitute communications system" for communications services
10 tax purposes, a not-for-hire mobile communications service
11 that exclusively serves the internal communication needs of a
12 nonprofit utility provider.

13 The committee substitute provides a mechanism for correcting
14 possible errors in situsing of local communications services
15 tax revenues. These provisions are repealed effective June
16 30, 2004.

17 The committee substitute provides a penalty for failure to
18 separately report and identify local communications services
19 taxes on the appropriate return schedule. It also provides a
20 penalty for failure to use an approved method for assigning
21 service addresses to local jurisdictions.

22 The committee substitute allows the Department of Revenue to
23 allocate the local communications services tax among local
24 governments based on the best information available, if a
25 dealer fails to respond to a contact made by the department
26 under s. 202.27 (6) or (7), F.S., or if the dealer's records
27 are inadequate to determine whether the dealer properly
28 allocated the taxes

29 The committee substitute clarifies language authorizing the
30 Department of Revenue to require dealers to report rental car
31 surcharge collections on a county-by-county basis in order to
facilitate the allocation of surcharge revenues to each
Department of Transportation district.

The committee substitute expands the use of local option fuel
taxes to include expenditures needed to meet immediate local
transportation problems and for other transportation-related
expenditures critical for building comprehensive roadway
networks by locals.

The committee substitute provides that an employer may not be
considered a successor for unemployment compensation purposes,
if the employer purchases a company with a lower rate into
which employees with job functions unrelated to the business
endeavors of the predecessor are transferred for the purpose
of acquiring the low rate and avoiding payment of
contributions.

The committee substitute provides that notwithstanding s.
216.346, the Department of Revenue may charge no more than 10
percent of the total cost of the interagency agreement for the
overhead or indirect costs, or for any other costs not
required for the payment of the direct costs, of providing
unemployment tax collections.

1 The committee substitute requires certain employers to file
2 the Employers Quarterly Reports (UCT-6) by electronic means
3 approved by the Agency for Workforce Innovation. Any employer
4 who fails to file an UCT-6 report by electronic means, but who
5 files the report by means other than electronic means, is
6 liable for a penalty of \$10 for that report, in addition to
7 any other penalties provided by chapter 443.

8 The committee substitute provides for sharing of rental car
9 surcharge revenue information between the Department of
10 Revenue and the Department of Transportation.

11 The committee substitute authorizes an affiliate group of
12 corporations that created a service company with an
13 affiliated group on July 30, 2002, to receive the salary
14 credits for Insurance Premium tax purposes.

15 The committee substitute repeals the restriction on the use of
16 Local Government Infrastructure Surtax revenue to supplant or
17 replace user fees or reduce ad valorem taxes.

18 The committee substitute repeals the repeal of the certified
19 audits pilot project, making it permanent.

20 The committee substitute expands the sales and use tax
21 exemption for building materials to such materials used in a
22 designated brownfield area of affordable housing.

23 The committee substitute expands the use, by a charter county,
24 of the Charter County Transit System Surtax to include
25 planning, development, construction, operation and maintenance
26 of, as well as, the payment of principal and interest on bonds
27 issued for, roads and bridges in the county and bus and fixed
28 guideway systems.

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