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A bill to be entitled
 An act relating to the Streamlined Sales and Use Tax Agreement; amending s. 212.02, F.S.; redefining the terms "lease," "let," "rental," "sales price," and "tangible personal property" and defining the terms "agent," "seller," "certified service provider," "direct mail," "prewritten computer software," and "delivery charges" for purposes of sales and use taxes; providing applicability; amending s. 212.05, F.S.; deleting provisions relating to the rental or lease of motor vehicles; providing for determination of the location of the sale or recharge of prepaid calling arrangements; amending s. 212.054, F.S.; providing the time for applying changes in local option tax rates; providing guidelines for determining the situs of certain transactions; providing for notice of a change in a local option sales tax rate; providing for applicability of s. 202.22(2), F.S., relating to determination of local tax situs, for the purpose of providing and maintaining a database of sales and use tax rates for local jurisdictions; amending s. 212.06, F.S.; defining terms; providing general rules for determining the location of transactions involving the retail sale of tangible personal property, digital goods, or services and for the lease or rental of tangible personal property; requiring certain business purchasers to obtain multiple points of use exemption forms; providing for use of such forms; requiring certain purchasers of direct mail to obtain a direct mail form; providing for the use of such form; amending s. 212.08, F.S., relating to exemptions

30 from the sales and use tax; defining and redefining terms
 31 used with respect to the exemption for general groceries;
 32 defining and redefining terms used with respect to the
 33 exemption for medical products and supplies; revising that
 34 exemption; amending s. 212.095, F.S.; revising provisions
 35 relating to refunds; creating s. 212.094, F.S.; providing
 36 that a purchaser seeking a refund or credit under ch. 212,
 37 F.S., must submit a written request for the refund or
 38 credit; providing a time period within which the dealer
 39 must respond to the written request; amending s. 212.17,
 40 F.S.; prescribing additional guidelines and procedures
 41 with respect to dealer credits for taxes paid on worthless
 42 accounts; creating s. 213.052, F.S.; providing for notice
 43 of state sales or use tax rate changes; creating s.
 44 213.0521, F.S.; providing the effective date for state
 45 sales and use tax rate changes; amending s. 213.21, F.S.;
 46 providing for amnesty to certain sellers for uncollected
 47 or unpaid sales and use taxes; amending s. 213.256, F.S.,
 48 relating to simplified sales and use tax administration;
 49 defining terms; providing that authority to administer the
 50 Streamlined Sales and Use Tax Agreement rests with a
 51 governing board comprised of representatives of member
 52 states; providing for continuing effect of the agreement;
 53 providing for annual recertification by member states;
 54 creating s. 213.2567, F.S.; providing for the registration
 55 of sellers, the certification of a person as a certified
 56 service provider, and the certification of a software
 57 program as a certified automated system by the governing
 58 board under the Streamlined Sales and Use Tax Agreement;

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59 amending ss. 212.055, 212.07, 212.15, and 212.183, F.S.;
 60 conforming cross references; repealing s. 212.0596(6),
 61 F.S., relating to the exemption from collecting and
 62 remitting any local option surtax for certain dealers who
 63 make mail order sales; declaring legislative intent;
 64 providing for the adoption of emergency rules; providing
 65 an effective date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Paragraph (g) of subsection (10) and
 70 subsections (16) and (19) of section 212.02, Florida Statutes,
 71 are amended, and subsections (35), (36), (37), (38), (39), and
 72 (40) are added to said section, to read:

73 212.02 Definitions.--The following terms and phrases when
 74 used in this chapter have the meanings ascribed to them in this
 75 section, except where the context clearly indicates a different
 76 meaning:

77 (10) "Lease," "let," or "rental" means leasing or renting
 78 of living quarters or sleeping or housekeeping accommodations in
 79 hotels, apartment houses, roominghouses, tourist or trailer
 80 camps and real property, the same being defined as follows:

81 (g)1. "Lease," "let," or "rental" also means any transfer
 82 of possession or control of tangible personal property for a
 83 fixed or indeterminate term for consideration. A clause for a
 84 future option to purchase or to extend the agreement does not
 85 preclude an agreement from being a lease or rental. This
 86 definition shall be used for purposes of the sales and use tax
 87 regardless of whether a transaction is characterized as a lease

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88 or rental under generally accepted accounting principles, the
 89 Internal Revenue Code, the Uniform Commercial Code, or other
 90 provisions of federal, state, or local law. This definition
 91 includes agreements covering motor vehicles and trailers if the
 92 amount of consideration may be increased or decreased by
 93 reference to the amount realized upon sale or disposition of the
 94 property as defined in 26 U.S.C. s. 7701(h)(1). This definition
 95 does not include:

96 a. A transfer of possession or control of property under a
 97 security agreement or deferred payment plan that requires the
 98 transfer of title upon completion of the required payments;

99 b. A transfer of possession or control of property under
 100 an agreement that requires the transfer of title upon completion
 101 of required payments and payment of an option price that does
 102 not exceed the greater of \$100 or 1 percent of the total
 103 required payments; or

104 c. A provision of tangible personal property along with an
 105 operator for a fixed or indeterminate period of time. A
 106 condition of this exclusion is that the operator is necessary
 107 for the equipment to perform as designed. For the purpose of
 108 this sub-subparagraph, an operator must do more than maintain,
 109 inspect, or set up the tangible personal property. ~~the leasing~~
 110 ~~or rental of tangible personal property and the possession or~~
 111 ~~use thereof by the lessee or rentee for a consideration, without~~
 112 ~~transfer of the title of such property, except as expressly~~
 113 ~~provided to the contrary herein.~~

114 2. The term "lease," "let," or "rental" does not mean
 115 hourly, daily, or mileage charges, to the extent that such
 116 charges are subject to the jurisdiction of the United States

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117 Interstate Commerce Commission, when such charges are paid by
 118 reason of the presence of railroad cars owned by another on the
 119 tracks of the taxpayer, or charges made pursuant to car service
 120 agreements. The term "lease," "let," "rental," or "license" does
 121 not include payments made to an owner of high-voltage bulk
 122 transmission facilities in connection with the possession or
 123 control of such facilities by a regional transmission
 124 organization, independent system operator, or similar entity
 125 under the jurisdiction of the Federal Energy Regulatory
 126 Commission. However, where two taxpayers, in connection with the
 127 interchange of facilities, rent or lease property, each to the
 128 other, for use in providing or furnishing any of the services
 129 mentioned in s. 166.231, the term "lease or rental" means only
 130 the net amount of rental involved.

131 (16)(a) "Sales price" applies to the measure subject to
 132 sales tax and means the total amount of consideration, including
 133 cash, credit, property, and services, for which personal
 134 property or services are sold, leased, or rented, valued in
 135 money, whether received in money or otherwise, without any
 136 deduction for the following:

- 137 1. The seller's cost of the property sold;
- 138 2. The cost of materials used, labor or service cost,
 139 interest, losses, all costs of transportation to the seller, all
 140 taxes imposed on the seller, and any other expense of the
 141 seller;
- 142 3. Charges by the seller for any services necessary to
 143 complete the sale, other than delivery and installation charges;
- 144 4. Delivery charges; or
- 145 5. Installation charges.

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(b) The term "sales price" does not include:

1. Trade-ins allowed and taken at the time of sale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
2. Discounts, including cash, term, or coupons, which are not reimbursed by a third party, which are allowed by a seller, and which are taken by a purchaser at the time of sale;
3. Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
4. Any taxes legally imposed directly on the consumer which are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

~~(16) "Sales price" means the total amount paid for tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. "Sales price" also includes the full face value of any coupon used by a purchaser to reduce the price paid to a retailer for an item of tangible personal property; where the~~

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175 ~~retailer will be reimbursed for such coupon, in whole or in~~
 176 ~~part, by the manufacturer of the item of tangible personal~~
 177 ~~property; or whenever it is not practicable for the retailer to~~
 178 ~~determine, at the time of sale, the extent to which~~
 179 ~~reimbursement for the coupon will be made. The term "sales~~
 180 ~~price" does not include federal excise taxes imposed upon the~~
 181 ~~retailer on the sale of tangible personal property. The term~~
 182 ~~"sales price" does include federal manufacturers' excise taxes,~~
 183 ~~even if the federal tax is listed as a separate item on the~~
 184 ~~invoice.~~

185 (19) "Tangible personal property" means and includes
 186 personal property which may be seen, weighed, measured, or
 187 touched or is in any manner perceptible to the senses, including
 188 electric power or energy, water, gas, steam, prewritten computer
 189 software, boats, motor vehicles and mobile homes as defined in
 190 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
 191 other types of vehicles. The term "tangible personal property"
 192 does not include stocks, bonds, notes, insurance, or other
 193 obligations or securities; intangibles as defined by the
 194 intangible tax law of the state; or pari-mutuel tickets sold or
 195 issued under the racing laws of the state.

196 (35) "Agent" means a person appointed by a principal or
 197 authorized to act for the principal in a transaction involving
 198 the sale of an item of tangible personal property. The term also
 199 means a person appointed by a seller to represent the seller
 200 before the states that are signatories to the Streamlined Sales
 201 and Use Tax Agreement.

202 (36) "Seller" means any person making sales, leases, or
 203 rentals of personal property or services.

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204 (37) "Certified service provider" means an agent certified
 205 under the Streamlined Sales and Use Tax Agreement to perform all
 206 of the seller's sales tax functions, other than the seller's
 207 obligation to remit tax on its own purchases.

208 (38) "Direct mail" means printed material delivered or
 209 distributed by United States mail or other delivery service to a
 210 mass audience or to addressees on a mailing list provided by the
 211 purchaser or at the direction of the purchaser when the cost of
 212 the items is not billed directly to the recipients. The term
 213 includes tangible personal property supplied directly or
 214 indirectly by the purchaser to the direct mail seller for
 215 inclusion in the package containing the printed material. The
 216 term does not include multiple items of printed material
 217 delivered to a single address.

218 (39) "Prewritten computer software" means computer
 219 software, including prewritten upgrades, which is not designed
 220 and developed by the author or other creator to the
 221 specifications of a specific purchaser. The combining of two or
 222 more "prewritten computer software" programs or prewritten
 223 portions thereof does not cause the combination to be other than
 224 "prewritten computer software." The term includes software
 225 designed and developed by the author or other creator to the
 226 specifications of a specific purchaser when it is sold to a
 227 person other than that purchaser. When a person modifies or
 228 enhances computer software of which the person is not the author
 229 or creator, the person shall be deemed to be the author or
 230 creator only of such person's modifications or enhancements.
 231 Prewritten computer software, or a prewritten portion thereof,
 232 which is modified or enhanced to any degree, when such

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233 modification or enhancement is designed and developed to the
 234 specifications of a specific purchaser, remains "prewritten
 235 computer software"; however, when there is a reasonable,
 236 separately stated charge or an invoice or other statement of the
 237 price given to the purchaser for such modification or
 238 enhancement, such modification or enhancement does not
 239 constitute "prewritten computer software."

240 (40) "Delivery charges" means charges by the seller of
 241 personal property or services for preparation and delivery to a
 242 location designated by the purchaser of personal property or
 243 services, including, but not limited to, transportation,
 244 shipping, postage, handling, crating, and packing. The term does
 245 not include the charges for delivery of "direct mail" as defined
 246 by this section if the charges are separately stated on an
 247 invoice or similar billing document given to the purchaser.

248 Section 2. The amendment of the terms "lease," "let," and
 249 "rental" in s. 212.02, Florida Statutes, made by this act
 250 applies prospectively only, from January 1, 2005, and does not
 251 apply retroactively to leases or rentals existing before that
 252 date.

253 Section 3. Paragraphs (c) and (e) of subsection (1) of
 254 section 212.05, Florida Statutes, are amended to read:

255 212.05 Sales, storage, use tax.--It is hereby declared to
 256 be the legislative intent that every person is exercising a
 257 taxable privilege who engages in the business of selling
 258 tangible personal property at retail in this state, including
 259 the business of making mail order sales, or who rents or
 260 furnishes any of the things or services taxable under this
 261 chapter, or who stores for use or consumption in this state any

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262 item or article of tangible personal property as defined herein
 263 and who leases or rents such property within the state.

264 (1) For the exercise of such privilege, a tax is levied on
 265 each taxable transaction or incident, which tax is due and
 266 payable as follows:

267 (c) At the rate of 6 percent of the gross proceeds derived
 268 from the lease or rental of tangible personal property, as
 269 defined herein. ~~however, the following special provisions apply~~
 270 ~~to the lease or rental of motor vehicles:~~

271 ~~1. When a motor vehicle is leased or rented for a period~~
 272 ~~of less than 12 months:~~

273 ~~a. If the motor vehicle is rented in Florida, the entire~~
 274 ~~amount of such rental is taxable, even if the vehicle is dropped~~
 275 ~~off in another state.~~

276 ~~b. If the motor vehicle is rented in another state and~~
 277 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

278 ~~2. Except as provided in subparagraph 3., for the lease or~~
 279 ~~rental of a motor vehicle for a period of not less than 12~~
 280 ~~months, sales tax is due on the lease or rental payments if the~~
 281 ~~vehicle is registered in this state; provided, however, that no~~
 282 ~~tax shall be due if the taxpayer documents use of the motor~~
 283 ~~vehicle outside this state and tax is being paid on the lease or~~
 284 ~~rental payments in another state.~~

285 ~~3. The tax imposed by this chapter does not apply to the~~
 286 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 287 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~
 288 ~~than 12 months when tax was paid on the purchase price of such~~
 289 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 290 ~~to the purchase of such vehicle in another state, territory of~~

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291 ~~the United States, or the District of Columbia, the Florida tax~~
 292 ~~payable shall be reduced in accordance with the provisions of s.~~
 293 ~~212.06(7). This subparagraph shall only be available when the~~
 294 ~~lease or rental of such property is an established business or~~
 295 ~~part of an established business or the same is incidental or~~
 296 ~~germane to such business.~~

297 (e)1. At the rate of 6 percent on charges for:

298 a. Prepaid calling arrangements. The tax on charges for
 299 prepaid calling arrangements shall be collected at the time of
 300 sale and remitted by the selling dealer.

301 (I) "Prepaid calling arrangement" means the separately
 302 stated retail sale by advance payment of communications services
 303 that consist exclusively of telephone calls originated by using
 304 an access number, authorization code, or other means that may be
 305 manually, electronically, or otherwise entered and that are sold
 306 in predetermined units or dollars whose number declines with use
 307 in a known amount.

308 (II) The sale or recharge of the prepaid calling
 309 arrangement is deemed to take place in accordance with paragraph
 310 212.06(3)(d). In the case of a sale of a mobile communications
 311 service that is a prepaid calling arrangement, the retail sale
 312 is sourced at ~~If the sale or recharge of the prepaid calling~~
 313 ~~arrangement does not take place at the dealer's place of~~
 314 ~~business, it shall be deemed to take place at the customer's~~
 315 ~~shipping address or, if no item is shipped, at the customer's~~
 316 ~~address or~~ the location associated with the customer's mobile
 317 telephone number.

318 (III) The sale or recharge of a prepaid calling
 319 arrangement shall be treated as a sale of tangible personal

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320 property for purposes of this chapter, whether or not a tangible
 321 item evidencing such arrangement is furnished to the purchaser,
 322 and such sale within this state subjects the selling dealer to
 323 the jurisdiction of this state for purposes of this subsection.

324 b. The installation of telecommunication and telegraphic
 325 equipment.

326 c. Electrical power or energy, except that the tax rate
 327 for charges for electrical power or energy is 7 percent.

328 2. The provisions of s. 212.17(3), regarding credit for
 329 tax paid on charges subsequently found to be worthless, shall be
 330 equally applicable to any tax paid under the provisions of this
 331 section on charges for prepaid calling arrangements,
 332 telecommunication or telegraph services, or electric power
 333 subsequently found to be uncollectible. The word "charges" in
 334 this paragraph does not include any excise or similar tax levied
 335 by the Federal Government, any political subdivision of the
 336 state, or any municipality upon the purchase, sale, or recharge
 337 of prepaid calling arrangements or upon the purchase or sale of
 338 telecommunication, television system program, or telegraph
 339 service or electric power, which tax is collected by the seller
 340 from the purchaser.

341 Section 4. Section 212.054, Florida Statutes, is amended
 342 to read:

343 212.054 Discretionary sales surtax; limitations,
 344 administration, and collection.--

345 (1) No general excise tax on sales shall be levied by the
 346 governing body of any county unless specifically authorized in
 347 s. 212.055. Any general excise tax on sales authorized pursuant

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348 to said section shall be administered and collected exclusively
 349 as provided in this section.

350 (2)(a) The tax imposed by the governing body of any county
 351 authorized to so levy pursuant to s. 212.055 shall be a
 352 discretionary surtax on all transactions occurring in the county
 353 which transactions are subject to the state tax imposed on
 354 sales, use, services, rentals, admissions, and other
 355 transactions by this chapter and communications services as
 356 defined for purposes of chapter 202. The surtax, if levied,
 357 shall be computed as the applicable rate or rates authorized
 358 pursuant to s. 212.055 times the amount of taxable sales and
 359 taxable purchases representing such transactions. If the surtax
 360 is levied on the sale of an item of tangible personal property
 361 or on the sale of a service, the surtax shall be computed by
 362 multiplying the rate imposed by the county within which the sale
 363 occurs by the amount of the taxable sale. The sale of an item of
 364 tangible personal property or the sale of a service is not
 365 subject to the surtax if the property, the service, or the
 366 tangible personal property representing the service is delivered
 367 within a county that does not impose a discretionary sales
 368 surtax.

369 (b) However:

370 1. The sales amount above \$5,000 on any item of tangible
 371 personal property shall not be subject to the surtax. However,
 372 charges for prepaid calling arrangements, as defined in s.
 373 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
 374 of administering the \$5,000 limitation on an item of tangible
 375 personal property, if two or more taxable items of tangible
 376 personal property are sold to the same purchaser at the same

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377 time and, under generally accepted business practice or industry
 378 standards or usage, are normally sold in bulk or are items that,
 379 when assembled, comprise a working unit or part of a working
 380 unit, such items must be considered a single item for purposes
 381 of the \$5,000 limitation when supported by a charge ticket,
 382 sales slip, invoice, or other tangible evidence of a single sale
 383 or rental.

384 2. In the case of utility services covering a period
 385 starting before and ending after the effective date of the
 386 surtax, the rate shall apply as follows:

387 a. In the case of a rate adoption or increase, the new
 388 rate shall apply to the first billing period starting on or
 389 after the effective date of the surtax or increase.

390 b. In the case of a rate decrease or termination, the new
 391 rate shall apply to bills rendered on or after the effective
 392 date of the rate change. ~~billed on or after the effective date~~
 393 ~~of any such surtax, the entire amount of the charge for utility~~
 394 ~~services shall be subject to the surtax. In the case of utility~~
 395 ~~services billed after the last day the surtax is in effect, the~~
 396 ~~entire amount of the charge on said items shall not be subject~~
 397 ~~to the surtax.~~

398
 399 "Utility service," as used in this section, does not include any
 400 communications services as defined in chapter 202.

401 3. In the case of written contracts which are signed prior
 402 to the effective date of any such surtax for the construction of
 403 improvements to real property or for remodeling of existing
 404 structures, the surtax shall be paid by the contractor
 405 responsible for the performance of the contract. However, the

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406 contractor may apply for one refund of any such surtax paid on
 407 materials necessary for the completion of the contract. Any
 408 application for refund shall be made no later than 15 months
 409 following initial imposition of the surtax in that county. The
 410 application for refund shall be in the manner prescribed by the
 411 department by rule. A complete application shall include proof
 412 of the written contract and of payment of the surtax. The
 413 application shall contain a sworn statement, signed by the
 414 applicant or its representative, attesting to the validity of
 415 the application. The department shall, within 30 days after
 416 approval of a complete application, certify to the county
 417 information necessary for issuance of a refund to the applicant.
 418 Counties are hereby authorized to issue refunds for this purpose
 419 and shall set aside from the proceeds of the surtax a sum
 420 sufficient to pay any refund lawfully due. Any person who
 421 fraudulently obtains or attempts to obtain a refund pursuant to
 422 this subparagraph, in addition to being liable for repayment of
 423 any refund fraudulently obtained plus a mandatory penalty of 100
 424 percent of the refund, is guilty of a felony of the third
 425 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 426 775.084.

427 4. In the case of any vessel, railroad, or motor vehicle
 428 common carrier entitled to partial exemption from tax imposed
 429 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 430 basis for imposition of surtax shall be the same as provided in
 431 s. 212.08 and the ratio shall be applied each month to total
 432 purchases in this state of property qualified for proration
 433 which is delivered or sold in the taxing county to establish the

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434 portion used and consumed in intracounty movement and subject to
 435 surtax.

436 (3) For purposes of this section, a retail sale, lease, or
 437 rental of tangible personal property, a digital good, or a
 438 service shall be deemed to have occurred in a county imposing
 439 the surtax when the location where the sale is deemed to take
 440 place in accordance with s. 212.06(3) is located in a county
 441 that imposes a surtax.

442 ~~(4)(3)~~ For the purpose of this section, a transaction
 443 shall be deemed to have occurred in a county imposing the surtax
 444 when:

445 ~~(a)1. Notwithstanding subsection (3), the retail sale that~~
 446 ~~is a modular home or manufactured home that is not a mobile home~~
 447 ~~includes an item of tangible personal property, a service, or~~
 448 ~~tangible personal property representing a service, and the item~~
 449 ~~of tangible personal property, the service, or the tangible~~
 450 ~~personal property representing the service is delivered within~~
 451 ~~the county. If there is no reasonable evidence of delivery of a~~
 452 ~~service, the sale of a service is deemed to occur in the county~~
 453 ~~in which the purchaser accepts the bill of sale.~~

454 (b)2. Notwithstanding subsection (3), the retail sale,
 455 excluding a lease or rental, of any motor vehicle that does not
 456 qualify as "transportation equipment," as defined in s.
 457 212.06(3)(g), or the retail sale of a mobile home of a class or
 458 type which is required to be registered in this state or in any
 459 other state shall be deemed to have occurred only in the county
 460 identified as the residence address of the purchaser on the
 461 registration or title document for such property.

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462 (c) The real property that is leased or rented is located
 463 in the county.

464 (d) The transient rental transaction occurs in the county.

465 ~~(e)-(b)~~ The event for which an admission is charged is
 466 located in the county.

467 (f) The coin-operated amusement or vending machine is
 468 located in the county.

469 (g) The florist taking the original order to sell tangible
 470 personal property is located in the county, notwithstanding any
 471 other provision of this section.

472 ~~(e) The consumer of utility services is located in the~~
 473 ~~county.~~

474 (h)-(d)1. Notwithstanding subsection (3), the delivery
 475 derived from the retail sale, excluding lease or rental, of any
 476 aircraft that does not qualify as "transportation equipment" as
 477 defined in s. 212.06(3)(g) or of any boat of a class or type
 478 that is required to be registered, licensed, titled, or
 479 documented in this state or by the United States Government to a
 480 location in the county.

481 2. The user of any aircraft or boat of a class or type
 482 which is required to be registered, licensed, titled, or
 483 documented in this state or by the United States Government
 484 imported into the county for use, consumption, distribution, or
 485 storage to be used or consumed in the county is located in the
 486 county.

487 ~~3.2-~~ However, it shall be presumed that such items used
 488 outside the county for 6 months or longer before being imported
 489 into the county were not purchased for use in the county, except
 490 as provided in s. 212.06(7)~~(8)~~(b).

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491 ~~4.3-~~ This paragraph does not apply to the use or
 492 consumption of items upon which a like tax of equal or greater
 493 amount has been lawfully imposed and paid outside the county.

494 (i)~~(e)~~ The purchaser of any motor vehicle or mobile home
 495 of a class or type which is required to be registered in this
 496 state is a resident of the taxing county as determined by the
 497 address appearing on or to be reflected on the registration
 498 document for such property.

499 (j)~~(f)~~1. Any motor vehicle or mobile home of a class or
 500 type which is required to be registered in this state is
 501 imported from another state into the taxing county by a user
 502 residing therein for the purpose of use, consumption,
 503 distribution, or storage in the taxing county.

504 2. However, it shall be presumed that such items used
 505 outside the taxing county for 6 months or longer before being
 506 imported into the county were not purchased for use in the
 507 county.

508 ~~(g) The real property which is leased or rented is located
 509 in the county.~~

510 ~~(h) The transient rental transaction occurs in the county.~~

511 ~~(i) The delivery of any aircraft or boat of a class or
 512 type which is required to be registered, licensed, titled, or
 513 documented in this state or by the United States Government is
 514 to a location in the county. However, this paragraph does not
 515 apply to the use or consumption of items upon which a like tax
 516 of equal or greater amount has been lawfully imposed and paid
 517 outside the county.~~

518 (k)~~(j)~~ The dealer owing a use tax on purchases or leases
 519 is located in the county.

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520 ~~(k) The delivery of tangible personal property other than~~
 521 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
 522 ~~is made to a location outside the county, but the property is~~
 523 ~~brought into the county within 6 months after delivery, in which~~
 524 ~~event, the owner must pay the surtax as a use tax.~~

525 ~~(l) The coin-operated amusement or vending machine is~~
 526 ~~located in the county.~~

527 ~~(m) The florist taking the original order to sell tangible~~
 528 ~~personal property is located in the county, notwithstanding any~~
 529 ~~other provision of this section.~~

530 (5)~~(4)~~(a) The department shall administer, collect, and
 531 enforce the tax authorized under s. 212.055 pursuant to the same
 532 procedures used in the administration, collection, and
 533 enforcement of the general state sales tax imposed under the
 534 provisions of this chapter, except as provided in this section.

535 The provisions of this chapter regarding interest and penalties
 536 on delinquent taxes shall apply to the surtax. Discretionary
 537 sales surtaxes shall not be included in the computation of
 538 estimated taxes pursuant to s. 212.11. Notwithstanding any other
 539 provision of law, a dealer need not separately state the amount
 540 of the surtax on the charge ticket, sales slip, invoice, or
 541 other tangible evidence of sale. For the purposes of this
 542 section and s. 212.055, the "proceeds" of any surtax means all
 543 funds collected and received by the department pursuant to a
 544 specific authorization and levy under s. 212.055, including any
 545 interest and penalties on delinquent surtaxes.

546 (b) The proceeds of a discretionary sales surtax collected
 547 by the selling dealer located in a county which imposes the
 548 surtax shall be returned, less the cost of administration, to

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549 the county where the selling dealer is located. The proceeds
 550 shall be transferred to the Discretionary Sales Surtax Clearing
 551 Trust Fund. A separate account shall be established in such
 552 trust fund for each county imposing a discretionary surtax. The
 553 amount deducted for the costs of administration shall not exceed
 554 3 percent of the total revenue generated for all counties
 555 levying a surtax authorized in s. 212.055. The amount deducted
 556 for the costs of administration shall be used only for those
 557 costs which are solely and directly attributable to the surtax.

558 The total cost of administration shall be prorated among those
 559 counties levying the surtax on the basis of the amount collected
 560 for a particular county to the total amount collected for all
 561 counties. No later than March 1 of each year, the department
 562 shall submit a written report which details the expenses and
 563 amounts deducted for the costs of administration to the
 564 President of the Senate, the Speaker of the House of
 565 Representatives, and the governing authority of each county
 566 levying a surtax. The department shall distribute the moneys in
 567 the trust fund each month to the appropriate counties, unless
 568 otherwise provided in s. 212.055.

569 (c)1. Any dealer located in a county that does not impose
 570 a discretionary sales surtax but who collects the surtax due to
 571 sales of tangible personal property or services delivered
 572 outside the county shall remit monthly the proceeds of the
 573 surtax to the department to be deposited into an account in the
 574 Discretionary Sales Surtax Clearing Trust Fund which is separate
 575 from the county surtax collection accounts. The department
 576 shall distribute funds in this account using a distribution
 577 factor determined for each county that levies a surtax and

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578 multiplied by the amount of funds in the account and available
 579 for distribution. The distribution factor for each county
 580 equals the product of:

581 a. The county's latest official population determined
 582 pursuant to s. 186.901;

583 b. The county's rate of surtax; and

584 c. The number of months the county has levied a surtax
 585 during the most recent distribution period;

586

587 divided by the sum of all such products of the counties levying
 588 the surtax during the most recent distribution period.

589 2. The department shall compute distribution factors for
 590 eligible counties once each quarter and make appropriate
 591 quarterly distributions.

592 3. A county that fails to timely provide the information
 593 required by this section to the department authorizes the
 594 department, by such action, to use the best information
 595 available to it in distributing surtax revenues to the county.
 596 If this information is unavailable to the department, the
 597 department may partially or entirely disqualify the county from
 598 receiving surtax revenues under this paragraph. A county that
 599 fails to provide timely information waives its right to
 600 challenge the department's determination of the county's share,
 601 if any, of revenues provided under this paragraph.

602 ~~(5) No discretionary sales surtax or increase or decrease~~
 603 ~~in the rate of any discretionary sales surtax shall take effect~~
 604 ~~on a date other than January 1. No discretionary sales surtax~~
 605 ~~shall terminate on a day other than December 31.~~

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606 (6) The governing body of any county levying a
 607 discretionary sales surtax shall enact an ordinance levying the
 608 surtax in accordance with the procedures described in s.
 609 125.66(2).

610 (7)(a) Any adoption, repeal, or rate change of the surtax
 611 by the governing body of any county levying a discretionary
 612 sales surtax or the school board of any county levying the
 613 school capital outlay surtax authorized by s. 212.055(6) is
 614 effective on April 1. A county or school board adopting,
 615 repealing, or changing the rate of such tax shall notify the
 616 department within 10 days after final adoption by ordinance or
 617 referendum of an adoption, repeal imposition, termination, or
 618 rate change of the surtax, but no later than November 16
 619 immediately preceding such April 1 November 16 prior to the
 620 effective date. The notice must specify the time period during
 621 which the surtax will be in effect and the rate and must include
 622 a copy of the ordinance and such other information as the
 623 department requires by rule. Failure to timely provide such
 624 notification to the department shall result in the delay of the
 625 effective date for a period of 1 year.

626 (b) In addition to the notification required by paragraph
 627 (a), the governing body of any county proposing to levy a
 628 discretionary sales surtax or the school board of any county
 629 proposing to levy the school capital outlay surtax authorized by
 630 s. 212.055(6) shall notify the department by October 1 if the
 631 referendum or consideration of the ordinance that would result
 632 in imposition, termination, or rate change of the surtax is
 633 scheduled to occur on or after October 1 of that year. Failure
 634 to timely provide such notification to the department shall

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635 result in the delay of the effective date for a period of 1
 636 year.

637 (8) The department shall provide notice of such adoption,
 638 repeal, or change to all affected sellers by the December 1
 639 immediately preceding the April 1 effective date.

640 (9)(8) With respect to any motor vehicle or mobile home of
 641 a class or type which is required to be registered in this
 642 state, the tax due on a transaction occurring in the taxing
 643 county as herein provided shall be collected from the purchaser
 644 or user incident to the titling and registration of such
 645 property, irrespective of whether such titling or registration
 646 occurs in the taxing county.

647 (10) For the purpose of the state providing and
 648 maintaining a database of all sales and use tax rates for all
 649 local taxing jurisdictions in accordance with the Streamlined
 650 Sales and Use Tax Agreement under s. 213.256, the provisions of
 651 s. 202.22(2) shall apply.

652 (a) A seller or certified service provider who collects
 653 and remits the state and local sales and use tax imposed by this
 654 chapter shall use the database provided under s. 202.22(2).

655 (b) A seller or certified service provider who collects
 656 and remits the state and local sales and use tax imposed under
 657 this chapter shall be held harmless from tax, interest, and
 658 penalties that would otherwise be due solely as a result of the
 659 seller or certified service provider relying on an incorrect
 660 taxing jurisdiction assignment made in the database provided
 661 under s. 202.22(2).

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662 (c) The provisions of this subsection shall not apply when
 663 the purchased product is received by the purchaser at the
 664 business location of the seller.

665 Section 5. Present subsections (3) through (16) of section
 666 212.06, Florida Statutes, are renumbered as subsections (4)
 667 through (17), respectively, a new subsection (3) is added to
 668 said section, and present subsection (3) of said section is
 669 amended, to read:

670 212.06 Sales, storage, use tax; collectible from dealers;
 671 "dealer" defined; dealers to collect from purchasers;
 672 legislative intent as to scope of tax.--

673 (3) It is the intent of this chapter to apply this
 674 subsection to determine the source of a transaction for purposes
 675 of applying the tax imposed by this chapter. When the source of
 676 the transaction is determined to be a Florida location, the tax
 677 imposed by this chapter applies in accordance with this chapter.

678 (a) For purposes of this subsection, the terms "receive"
 679 and "receipt" mean:

- 680 1. Taking possession of tangible personal property;
- 681 2. Making first use of services; or
- 682 3. Taking possession or making first use of digital goods,
 683 whichever occurs first.

684
 685 The terms do not include possession by a shipping company on
 686 behalf of the purchaser.

687 (b) For purposes of this subsection, the term "product"
 688 means tangible personal property, a digital good, or a service.

689 (c) This section does not apply to the sales or use taxes
 690 levied on the following:

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691 1. The retail sale or transfer of boats, modular homes,
 692 manufactured homes, or mobile homes.

693 2. The retail sale, excluding a lease or rental, of motor
 694 vehicles or aircraft that do not qualify as transportation
 695 equipment, as defined in paragraph (g). The lease or rental of
 696 these items shall be deemed to have occurred in accordance with
 697 paragraph (f).

698 3. The retail sale of tangible personal property by a
 699 florist.

700
 701 Such retail sales are deemed to take place in accordance with s.
 702 212.054(4).

703 (d) The retail sale of a product, excluding a lease or
 704 rental, shall be deemed to take place:

705 1. When the product is received by the purchaser at a
 706 business location of the seller, at that business location.

707 2. When the product is not received by the purchaser at a
 708 business location of the seller, at the location where receipt
 709 by the purchaser, or the purchaser's donee, designated as such
 710 by the purchaser, occurs, including the location indicated by
 711 instructions for delivery to the purchaser or donee, known to
 712 the seller.

713 3. When subparagraphs 1. and 2. do not apply, at the
 714 location indicated by an address for the purchaser which is
 715 available from the business records of the seller which are
 716 maintained in the ordinary course of the seller's business, when
 717 use of this address does not constitute bad faith.

718 4. When subparagraphs 1., 2., and 3. do not apply, at the
 719 location indicated by an address for the purchaser obtained

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720 during the consummation of the sale, including the address of a
721 purchaser's payment instrument, if no other address is
722 available, when use of this address does not constitute bad
723 faith.

724 5. When subparagraphs 1., 2., 3., and 4. do not apply,
725 including when the seller is without sufficient information to
726 apply the previous paragraphs, the address from which tangible
727 personal property was shipped, from which the digital good or
728 the computer software delivered electronically was first
729 available for transmission by the seller, or from which the
730 service was provided, disregarding any location that merely
731 provided the digital transfer of the product sold.

732 (e) The lease or rental of tangible personal property,
733 other than property identified in paragraphs (f) and (g), shall
734 be deemed to have occurred as follows:

735 1. For a lease or rental that requires recurring periodic
736 payments, the first periodic payment is deemed to take place in
737 accordance with paragraph (d), notwithstanding the exclusion of
738 lease or rental in paragraph (d). Subsequent periodic payments
739 are deemed to have occurred at the primary property location for
740 each period covered by the payment. The primary property
741 location is determined by an address for the property provided
742 by the lessee which is available to the lessor from its records
743 maintained in the ordinary course of business, when use of this
744 address does not constitute bad faith. The property location
745 shall not be altered by intermittent use of the property at
746 different locations, such as use of business property that
747 accompanies employees on business trips and service calls.

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748 2. For a lease or rental that does not require recurring
749 periodic payments, the payment is deemed to take place in
750 accordance with the provisions of paragraph (d), notwithstanding
751 the exclusion of a lease or rental in paragraph (d).

752 3. This paragraph does not affect the imposition or
753 computation of sales or use tax on leases or rentals based on a
754 lump sum or accelerated basis or on the acquisition of property
755 for lease.

756 (f) The lease or rental of motor vehicles or aircraft that
757 do not qualify as transportation equipment, as defined in
758 paragraph (g), shall be sourced as follows:

759 1. For a lease or rental that requires recurring periodic
760 payments, each periodic payment is deemed to take place at the
761 primary property location. The primary property location shall
762 be determined by an address for the property provided by the
763 lessee which is available to the lessor from its records
764 maintained in the ordinary course of business, when use of this
765 address does not constitute bad faith. This location shall not
766 be altered by intermittent use at different locations.

767 2. For a lease or rental that does not require recurring
768 periodic payments, the payment is deemed to take place in
769 accordance with paragraph (d), notwithstanding the exclusion of
770 a lease or rental in paragraph (d).

771 3. This paragraph does not affect the imposition or
772 computation of sales or use tax on leases or rentals based on a
773 lump sum or accelerated basis or on the acquisition of property
774 for lease.

775 (g) The retail sale, including lease or rental, of
776 transportation equipment shall be deemed to take place in

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777 accordance with paragraph (d), notwithstanding the exclusion of
 778 a lease or rental in paragraph (d). The term "transportation
 779 equipment" means:

780 1. Locomotives and rail cars that are used for the
 781 carriage of persons or property in interstate commerce;

782 2. Trucks and truck tractors with a Gross Vehicle Weight
 783 Rating (GVWR) of 10,001 pounds or greater, trailers,
 784 semitrailers, or passenger buses that are registered through the
 785 International Registration Plan and operated under the authority
 786 of a carrier authorized and certificated by the United States
 787 Department of Transportation or another federal authority to
 788 engage in the carriage of persons or property in interstate
 789 commerce;

790 3. Aircraft that are operated by air carriers authorized
 791 and certificated by the United States Department of
 792 Transportation or another federal or a foreign authority to
 793 engage in the carriage of persons or property in interstate or
 794 foreign commerce; or

795 4. Containers designed for use on and component parts
 796 attached or secured on the items set forth in subparagraphs 1.
 797 through 3.

798 ~~(4)(3)(a)~~ Except as provided in paragraphs (a) and
 799 ~~paragraph~~ (b), every dealer making retail sales, whether within
 800 or outside the state, of tangible personal property for
 801 distribution, storage, or use or other consumption, in this
 802 state, shall, at the time of making sales, collect the tax
 803 imposed by this chapter from the purchaser.

804 (a) Notwithstanding subsection (3), a business purchaser
 805 that is not a holder of a direct-pay permit and that knows at

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806 the time of purchase of a digital good, computer software
807 delivered electronically, or a service that the digital good,
808 computer software delivered electronically, or service will be
809 concurrently available for use in more than one jurisdiction
810 shall deliver to the dealer a multiple points of use exemption
811 form (MPU exemption form) at the time of purchase.

812 1. Upon receipt of the MPU exemption form, the seller is
813 relieved of all obligation to collect, pay, or remit the
814 applicable tax, and the purchaser shall be obligated to collect,
815 pay, or remit the applicable tax on a direct-pay basis.

816 2. A purchaser delivering the MPU exemption form may use
817 any reasonable, but consistent and uniform, method of
818 apportionment that is supported by the purchaser's business
819 records as they exist at the time of the consummation of the
820 sale.

821 3. The MPU exemption form remains in effect for all future
822 sales by the seller to the purchaser, except as to the
823 subsequent sale's specific apportionment that is governed by the
824 principle of subparagraph 2. and the facts existing at the time
825 of the sale, until the MPU exemption form is revoked in writing.

826 4. A holder of a direct-pay permit is not required to
827 deliver an MPU exemption form to the seller. A direct-pay
828 permitholder shall follow the provisions of subparagraph 2. in
829 apportioning the tax due on a digital good or a service that
830 will be concurrently available for use in more than one
831 jurisdiction.

832 (b)1. Notwithstanding subsection (3), a purchaser of
833 direct mail which is not a holder of a direct-pay permit shall
834 provide to the seller in conjunction with the purchase a direct

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835 mail form or information to show the jurisdictions to which the
836 direct mail is delivered to recipients. Upon receipt of the
837 direct mail form, the seller is relieved of all obligations to
838 collect, pay, or remit the applicable tax, and the purchaser is
839 obligated to pay or remit the applicable tax on a direct-pay
840 basis. A direct mail form remains in effect for all future sales
841 of direct mail by the seller to the purchaser until it is
842 revoked in writing.

843 2. Upon receipt of information from the purchaser showing
844 the jurisdictions to which the direct mail is delivered to
845 recipients, the seller shall collect the tax according to the
846 delivery information provided by the purchaser. In the absence
847 of bad faith, the seller is relieved of any further obligation
848 to collect tax on any transaction for which the seller has
849 collected tax pursuant to the delivery information provided by
850 the purchaser.

851 3. If the purchaser of direct mail does not have a direct-
852 pay permit and does not provide the seller with a direct mail
853 form or delivery information as required by subparagraph 1., the
854 seller shall collect the tax according to subparagraph 5. This
855 paragraph does not limit a purchaser's obligation for sales or
856 use tax to any state to which the direct mail is delivered.

857 4. If a purchaser of direct mail provides the seller with
858 documentation of direct-pay authority, the purchaser is not
859 required to provide a direct mail form or delivery information
860 to the seller. ~~A purchaser of printed materials shall have sole~~
861 ~~responsibility for the taxes imposed by this chapter on those~~
862 ~~materials when the printer of the materials delivers them to the~~
863 ~~United States Postal Service for mailing to persons other than~~

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864 ~~the purchaser located within and outside this state. Printers of~~
 865 ~~materials delivered by mail to persons other than the purchaser~~
 866 ~~located within and outside this state shall have no obligation~~
 867 ~~or responsibility for the payment or collection of any taxes~~
 868 ~~imposed under this chapter on those materials. However, printers~~
 869 ~~are obligated to collect the taxes imposed by this chapter on~~
 870 ~~printed materials when all, or substantially all, of the~~
 871 ~~materials will be mailed to persons located within this state.~~
 872 ~~For purposes of the printer's tax collection obligation, there~~
 873 ~~is a rebuttable presumption that all materials printed at a~~
 874 ~~facility are mailed to persons located within the same state as~~
 875 ~~that in which the facility is located. A certificate provided~~
 876 ~~by the purchaser to the printer concerning the delivery of the~~
 877 ~~printed materials for that purchase or all purchases shall be~~
 878 ~~sufficient for purposes of rebutting the presumption created~~
 879 ~~herein.~~

880 5.2. The Department of Revenue is authorized to adopt
 881 rules and forms to implement the provisions of this paragraph.

882 Section 6. Subsections (1) and (2) and paragraph (t) of
 883 subsection (7) of section 212.08, Florida Statutes, are amended
 884 to read:

885 212.08 Sales, rental, use, consumption, distribution, and
 886 storage tax; specified exemptions.--The sale at retail, the
 887 rental, the use, the consumption, the distribution, and the
 888 storage to be used or consumed in this state of the following
 889 are hereby specifically exempt from the tax imposed by this
 890 chapter.

891 (1) EXEMPTIONS; GENERAL GROCERIES.--

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892 (a) Food and food ingredients ~~products~~ for human
 893 consumption are exempt from the tax imposed by this chapter.

894 (b) For the purpose of this chapter, as used in this
 895 subsection, the term "food and food ingredients ~~products~~" means
 896 substances, whether in liquid, concentrated, solid, frozen,
 897 dried, or dehydrated form, which are sold for ingestion or
 898 chewing by humans and are consumed for their taste or
 899 nutritional value ~~edible commodities, whether processed, cooked,~~
 900 ~~raw, canned, or in any other form, which are generally regarded~~
 901 ~~as food~~. This includes, but is not limited to, all of the
 902 following:

903 1. ~~Cereals and cereal products, baked goods,~~
 904 ~~oleomargarine, meat and meat products, fish and seafood~~
 905 ~~products, frozen foods and dinners, poultry, eggs and egg~~
 906 ~~products, vegetables and vegetable products, fruit and fruit~~
 907 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
 908 ~~products, and products intended to be mixed with milk.~~

909 2. ~~Natural fruit or vegetable juices or their concentrates~~
 910 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
 911 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
 912 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
 913 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
 914 ~~unless it is sold in a liquid form.~~

915 1.3. Bakery products sold by bakeries, pastry shops, or
 916 like establishments, if sold without eating utensils. Bakery
 917 products for purposes of this subsection include bread, rolls,
 918 buns, biscuits, bagels, croissants, pastries, doughnuts, danish,
 919 cakes, tortes, pies, tarts, muffins, bars, cookies, and
 920 tortillas ~~that do not have eating facilities.~~

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921 2. Dietary supplements. The term "dietary supplements"
922 means any product, other than tobacco, intended to supplement
923 the diet which contains one or more of the following dietary
924 ingredients: a vitamin; a mineral; an herb or other botanical;
925 an amino acid; a dietary substance for use by humans to
926 supplement the diet by increasing the total dietary intake; or a
927 concentrate, metabolite, constituent, extract, or combination of
928 any ingredient described in this subparagraph which is intended
929 for ingestion in tablet, capsule, powder, softgel, gelcap, or
930 liquid form or, if not intended for ingestion in such a form, is
931 not represented as conventional food and is not represented for
932 use as a sole item of a meal or of the diet; and which is
933 required to be labeled as a dietary supplement, identifiable by
934 the "supplemental facts" box found on the label and as required
935 pursuant to 21 C.F.R. s. 101.36.

936 (c) The exemption provided by this subsection does not
937 apply:

938 ~~1. When the food products are sold as meals for~~
939 ~~consumption on or off the premises of the dealer.~~

940 ~~2. When the food products are furnished, prepared, or~~
941 ~~served for consumption at tables, chairs, or counters or from~~
942 ~~trays, glasses, dishes, or other tableware, whether provided by~~
943 ~~the dealer or by a person with whom the dealer contracts to~~
944 ~~furnish, prepare, or serve food products to others.~~

945 ~~3. When the food products are ordinarily sold for~~
946 ~~immediate consumption on the seller's premises or near a~~
947 ~~location at which parking facilities are provided primarily for~~
948 ~~the use of patrons in consuming the products purchased at the~~
949 ~~location, even though such products are sold on a "take out" or~~

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950 ~~"to go" order and are actually packaged or wrapped and taken~~
 951 ~~from the premises of the dealer.~~

952 ~~4. To sandwiches sold ready for immediate consumption on~~
 953 ~~or off the seller's premises.~~

954 ~~5. When the food products are sold ready for immediate~~
 955 ~~consumption within a place, the entrance to which is subject to~~
 956 ~~an admission charge.~~

957 1.6. When the food and food ingredients products are sold
 958 as hot prepared food products. As used in this subparagraph, the
 959 term "prepared food" means food sold in a heated state or heated
 960 by the seller; two or more food ingredients mixed or combined by
 961 the seller for sale as a single item; or food sold with eating
 962 utensils provided by the seller, including plates, knives,
 963 forks, spoons, glasses, cups, napkins, or straws. A plate does
 964 not include a container or packaging used to transport the food.
 965 Prepared food does not include food that is only cut,
 966 repackaged, or pasteurized by the seller and eggs, fish, meat,
 967 poultry, and foods containing these raw animal foods requiring
 968 cooking by the consumer as recommended by the Food and Drug
 969 Administration in chapter 3, part 401.11 of its food code so as
 970 to prevent food-borne illnesses. "Prepared food," for purposes
 971 of this subparagraph, includes sandwiches sold for immediate
 972 consumption, and a combination of hot and cold food items or
 973 components when a single price has been established for the
 974 combination and the food products are sold in such combination,
 975 such as a meal; a specialty dish or serving; a sandwich or
 976 pizza; an ice cream cone, sundae, or banana split; or food sold
 977 in an unheated state by weight or volume as a single item,
 978 including cold components or side items.

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979 ~~2.7.~~ To soft drinks, ~~which include, but are not limited~~
 980 ~~to, any nonalcoholic beverage, any preparation or beverage~~
 981 ~~commonly referred to as a "soft drink," or any noncarbonated~~
 982 ~~drink made from milk derivatives or tea, when sold in cans or~~
 983 ~~similar containers. The term "soft drinks" means nonalcoholic~~
 984 ~~beverages that contain natural or artificial sweeteners. Soft~~
 985 ~~drinks do not include beverages that contain milk or milk~~
 986 ~~products, soy, rice, or similar milk substitutes, or greater~~
 987 ~~than 50 percent of vegetable or fruit juice by volume.~~

988 ~~8.~~ To ice cream, frozen yogurt, and similar frozen dairy
 989 ~~or nondairy products in cones, small cups, or pints, popsicles,~~
 990 ~~frozen fruit bars, or other novelty items, whether or not sold~~
 991 ~~separately.~~

992 ~~9.~~ To food prepared, whether on or off the premises, and
 993 ~~sold for immediate consumption. This does not apply to food~~
 994 ~~prepared off the premises and sold in the original sealed~~
 995 ~~container, or the slicing of products into smaller portions.~~

996 ~~3.10.~~ When the food and food ingredients ~~products~~ are sold
 997 through a vending machine, ~~pushcart, motor vehicle, or any other~~
 998 ~~form of vehicle.~~

999 ~~4.11.~~ To candy and any similar product regarded as candy
 1000 or confection, ~~based on its normal use, as indicated on the~~
 1001 ~~label or advertising thereof. The term "candy" means a~~
 1002 ~~preparation of sugar, honey, or other natural or artificial~~
 1003 ~~sweeteners in combination with chocolate, fruits, nuts, or other~~
 1004 ~~ingredients or flavorings in the form of bars, drops, or pieces.~~
 1005 ~~Candy does not include any preparation that contains flour and~~
 1006 ~~requires no refrigeration.~~

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1007 ~~12. To bakery products sold by bakeries, pastry shops, or~~
 1008 ~~like establishments that have eating facilities, except when~~
 1009 ~~sold for consumption off the seller's premises.~~

1010 ~~13. When food products are served, prepared, or sold in or~~
 1011 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~
 1012 ~~other like places of business.~~

1013 5. To tobacco.

1014 ~~(d) As used in this subsection, the term:~~

1015 ~~1. "For consumption off the seller's premises" means that~~
 1016 ~~the food or drink is intended by the customer to be consumed at~~
 1017 ~~a place away from the dealer's premises.~~

1018 ~~2. "For consumption on the seller's premises" means that~~
 1019 ~~the food or drink sold may be immediately consumed on the~~
 1020 ~~premises where the dealer conducts his or her business. In~~
 1021 ~~determining whether an item of food is sold for immediate~~
 1022 ~~consumption, there shall be considered the customary consumption~~
 1023 ~~practices prevailing at the selling facility.~~

1024 ~~3. "Premises" shall be construed broadly, and means, but~~
 1025 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
 1026 ~~the seating, aisle, or parking area of an arena, rink, or~~
 1027 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
 1028 ~~The premises of a caterer with respect to catered meals or~~
 1029 ~~beverages shall be the place where such meals or beverages are~~
 1030 ~~served.~~

1031 ~~4. "Hot Prepared food products" means those products,~~
 1032 ~~items, or components which have been prepared for sale in a~~
 1033 ~~heated condition and which are sold at any temperature that is~~
 1034 ~~higher than the air temperature of the room or place where they~~
 1035 ~~are sold. "Hot prepared food products," for the purposes of this~~

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1036 ~~subsection, includes a combination of hot and cold food items or~~
 1037 ~~components where a single price has been established for the~~
 1038 ~~combination and the food products are sold in such combination,~~
 1039 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
 1040 ~~sandwich or hot pizza, including cold components or side items.~~

1041 (d)(e)1. Food or drinks not exempt under paragraphs (a),
 1042 (b), and (c), and this paragraph ~~(d)~~ shall be exempt,
 1043 notwithstanding those paragraphs, when purchased with food
 1044 coupons or Special Supplemental Food Program for Women, Infants,
 1045 and Children vouchers issued under authority of federal law.

1046 2. This paragraph is effective only while federal law
 1047 prohibits a state's participation in the federal food coupon
 1048 program or Special Supplemental Food Program for Women, Infants,
 1049 and Children if there is an official determination that state or
 1050 local sales taxes are collected within that state on purchases
 1051 of food or drinks with such coupons.

1052 3. This paragraph shall not apply to any food or drinks on
 1053 which federal law shall permit sales taxes without penalty, such
 1054 as termination of the state's participation.

1055 (e) "Dietary supplements" that are sold as prepared food
 1056 are not exempt.

1057 (2) EXEMPTIONS; MEDICAL.--

1058 (a) There shall be exempt from the tax imposed by this
 1059 chapter:

1060 1. Any drug;

1061 2. Durable medical equipment, mobility enhancing
 1062 equipment, or prosthetic device ~~any medical products and~~
 1063 ~~supplies or medicine~~ dispensed according to an individual

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1064 prescription or prescriptions ~~written by a prescriber authorized~~
 1065 ~~by law to prescribe medicinal drugs;~~

1066 3. Hypodermic needles; hypodermic syringes;

1067 4. Chemical compounds and test kits used for the diagnosis
 1068 or treatment of human disease, illness, or injury intended for
 1069 one-time use;

1070 5. Over-the-counter drugs and common household remedies
 1071 recommended and generally sold for internal or external use in
 1072 the cure, mitigation, treatment, or prevention of illness or
 1073 disease in human beings, but not including grooming and hygiene
 1074 products;

1075 6. Antiseptic adhesive strips, gauze, bandages, adhesive
 1076 tape;

1077 7. Hearing aids;

1078 8. Dental prostheses; or

1079 9. Funerals.

1080
 1081 Funeral directors shall pay tax on all tangible personal
 1082 property used by them in their business. cosmetics or toilet
 1083 articles, notwithstanding the presence of medicinal ingredients
 1084 therein, according to a list prescribed and approved by the
 1085 Department of Health, which list shall be certified to the
 1086 Department of Revenue from time to time and included in the
 1087 rules promulgated by the Department of Revenue. There shall also
 1088 be exempt from the tax imposed by this chapter artificial eyes
 1089 and limbs; orthopedic shoes; prescription eyeglasses and items
 1090 incidental thereto or which become a part thereof; dentures;
 1091 hearing aids; crutches; prosthetic and orthopedic appliances;
 1092 and funerals. In addition, any items intended for one-time use

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1093 which transfer essential optical characteristics to contact
 1094 lenses shall be exempt from the tax imposed by this chapter;
 1095 however, this exemption shall apply only after \$100,000 of the
 1096 tax imposed by this chapter on such items has been paid in any
 1097 calendar year by a taxpayer who claims the exemption in such
 1098 year. ~~Funeral directors shall pay tax on all tangible personal~~
 1099 ~~property used by them in their business.~~

1100 (b) For the purposes of this subsection, the term:

1101 1. "Drug" means a compound, substance, or preparation, and
 1102 any component of a compound, substance, or preparation, other
 1103 than food and food ingredients, dietary supplements, and
 1104 alcoholic beverages, which is:

1105 a. Recognized in the official United States Pharmacopoeia,
 1106 official Homeopathic Pharmacopoeia of the United States, or
 1107 official National Formulary, or the supplement to any of them;

1108 b. Intended for use in the diagnosis, cure, mitigation,
 1109 treatment, or prevention of disease; or

1110 c. Intended to affect the structure or any function of the
 1111 body.

1112 2. "Durable medical equipment" means equipment, including
 1113 repair and replacement parts to such equipment, but excluding
 1114 mobility-enhancing equipment, which can withstand repeated use,
 1115 is primarily and customarily used to serve a medical purpose,
 1116 generally is not useful to a person in the absence of illness or
 1117 injury, and is not worn on or in the body.

1118 3. "Mobility-enhancing equipment" means equipment,
 1119 including repair and replacement parts to such equipment, but
 1120 excluding durable medical equipment, which:

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1121 a. Is primarily and customarily used to provide or
 1122 increase the ability to move from one place to another and which
 1123 is appropriate for use either in a home or a motor vehicle;

1124 b. Is not generally used by persons with normal mobility;
 1125 and

1126 c. Does not include any motor vehicle or any equipment on
 1127 a motor vehicle normally provided by a motor vehicle
 1128 manufacturer.

1129 4. "Prosthetic device" means a replacement, corrective, or
 1130 supportive device, including repair or replacement parts to such
 1131 equipment, other than a hearing aid or a dental prosthesis,
 1132 which is worn on or in the body to:

1133 a. Artificially replace a missing portion of the body;

1134 b. Prevent or correct physical deformity or malfunction;

1135 or

1136 c. Support a weak or deformed portion of the body.

1137 5. "Grooming and hygiene products" are soaps and cleaning
 1138 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
 1139 suntan lotions and screens, regardless of whether the items meet
 1140 the definition of over-the-counter drugs.

1141 6. "Over-the-counter drug" means a drug the packaging for
 1142 which contains a label that identifies the product as a drug as
 1143 required by 21 C.F.R. s. 201.66. The over-the-counter drug label
 1144 includes a "drug facts" panel or a statement of the active
 1145 ingredients with a list of those ingredients contained in the
 1146 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~
 1147 appliances" means any apparatus, instrument, device, or
 1148 equipment used to replace or substitute for any missing part of
 1149 the body, to alleviate the malfunction of any part of the body,

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1150 ~~or to assist any disabled person in leading a normal life by~~
 1151 ~~facilitating such person's mobility. Such apparatus,~~
 1152 ~~instrument, device, or equipment shall be exempted according to~~
 1153 ~~an individual prescription or prescriptions written by a~~
 1154 ~~physician licensed under chapter 458, chapter 459, chapter 460,~~
 1155 ~~chapter 461, or chapter 466, or according to a list prescribed~~
 1156 ~~and approved by the Department of Health, which list shall be~~
 1157 ~~certified to the Department of Revenue from time to time and~~
 1158 ~~included in the rules promulgated by the Department of Revenue.~~

1159 ~~2. "Cosmetics" means articles intended to be rubbed,~~
 1160 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
 1161 ~~applied to the human body for cleansing, beautifying, promoting~~
 1162 ~~attractiveness, or altering the appearance and also means~~
 1163 ~~articles intended for use as a compound of any such articles,~~
 1164 ~~including, but not limited to, cold creams, suntan lotions,~~
 1165 ~~makeup, and body lotions.~~

1166 ~~3. "Toilet articles" means any article advertised or held~~
 1167 ~~out for sale for grooming purposes and those articles that are~~
 1168 ~~customarily used for grooming purposes, regardless of the name~~
 1169 ~~by which they may be known, including, but not limited to, soap,~~
 1170 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
 1171 ~~shampoo, deodorant, and mouthwash.~~

1172 ~~7.4.~~ "Prescription" means an order, formula, or recipe
 1173 issued in any form of oral, written, electronic, or other means
 1174 of transmission by a duly licensed practitioner authorized by
 1175 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
 1176 466. The term also includes an orally transmitted order by the
 1177 lawfully designated agent of such practitioner. The term also
 1178 includes an order written or transmitted by a practitioner

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1179 licensed to practice in a jurisdiction other than this state,
 1180 but only if the pharmacist called upon to dispense such order
 1181 determines, in the exercise of his or her professional judgment,
 1182 that the order is valid and necessary for the treatment of a
 1183 chronic or recurrent illness. ~~includes any order for drugs or~~
 1184 ~~medicinal supplies written or transmitted by any means of~~
 1185 ~~communication by a duly licensed practitioner authorized by the~~
 1186 ~~laws of the state to prescribe such drugs or medicinal supplies~~
 1187 ~~and intended to be dispensed by a pharmacist. The term also~~
 1188 ~~includes an orally transmitted order by the lawfully designated~~
 1189 ~~agent of such practitioner. The term also includes an order~~
 1190 ~~written or transmitted by a practitioner licensed to practice in~~
 1191 ~~a jurisdiction other than this state, but only if the pharmacist~~
 1192 ~~called upon to dispense such order determines, in the exercise~~
 1193 ~~of his or her professional judgment, that the order is valid and~~
 1194 ~~necessary for the treatment of a chronic or recurrent illness.~~
 1195 ~~The term also includes a pharmacist's order for a product~~
 1196 ~~selected from the formulary created pursuant to s. 465.186. A~~
 1197 ~~prescription may be retained in written form, or the pharmacist~~
 1198 ~~may cause it to be recorded in a data processing system,~~
 1199 ~~provided that such order can be produced in printed form upon~~
 1200 ~~lawful request.~~

1201 (c) Chlorine shall not be exempt from the tax imposed by
 1202 this chapter when used for the treatment of water in swimming
 1203 pools.

1204 ~~(d) Lithotripters are exempt.~~

1205 (d)(e) Human organs are exempt.

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1206 ~~(f) Sales of drugs to or by physicians, dentists,~~
 1207 ~~veterinarians, and hospitals in connection with medical~~
 1208 ~~treatment are exempt.~~

1209 ~~(g) Medical products and supplies used in the cure,~~
 1210 ~~mitigation, alleviation, prevention, or treatment of injury,~~
 1211 ~~disease, or incapacity which are temporarily or permanently~~
 1212 ~~incorporated into a patient or client by a practitioner of the~~
 1213 ~~healing arts licensed in the state are exempt.~~

1214 ~~(h) The purchase by a veterinarian of commonly recognized~~
 1215 ~~substances possessing curative or remedial properties which are~~
 1216 ~~ordered and dispensed as treatment for a diagnosed health~~
 1217 ~~disorder by or on the prescription of a duly licensed~~
 1218 ~~veterinarian, and which are applied to or consumed by animals~~
 1219 ~~for alleviation of pain or the cure or prevention of sickness,~~
 1220 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 1221 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 1222 ~~bandages, lotions, vitamins, and worm remedies.~~

1223 ~~(i) X-ray opaques, also known as opaque drugs and~~
 1224 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 1225 ~~when used in connection with medical X rays for treatment of~~
 1226 ~~bodies of humans and animals, are exempt.~~

1227 (e)~~(j)~~ Parts, special attachments, special lettering, and
 1228 other like items that are added to or attached to tangible
 1229 personal property so that a handicapped person can use them are
 1230 exempt when such items are purchased by a person pursuant to an
 1231 individual prescription.

1232 (f)~~(k)~~ This subsection shall be strictly construed and
 1233 enforced.

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1234 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 1235 entity by this chapter do not inure to any transaction that is
 1236 otherwise taxable under this chapter when payment is made by a
 1237 representative or employee of the entity by any means,
 1238 including, but not limited to, cash, check, or credit card, even
 1239 when that representative or employee is subsequently reimbursed
 1240 by the entity. In addition, exemptions provided to any entity by
 1241 this subsection do not inure to any transaction that is
 1242 otherwise taxable under this chapter unless the entity has
 1243 obtained a sales tax exemption certificate from the department
 1244 or the entity obtains or provides other documentation as
 1245 required by the department. Eligible purchases or leases made
 1246 with such a certificate must be in strict compliance with this
 1247 subsection and departmental rules, and any person who makes an
 1248 exempt purchase with a certificate that is not in strict
 1249 compliance with this subsection and the rules is liable for and
 1250 shall pay the tax. The department may adopt rules to administer
 1251 this subsection.

1252 (t) *Boats temporarily docked in state.*--

1253 1. Notwithstanding the provisions of chapter 328,
 1254 pertaining to the registration of vessels, a boat upon which the
 1255 state sales or use tax has not been paid is exempt from the use
 1256 tax under this chapter if it enters and remains in this state
 1257 for a period not to exceed a total of 20 days in any calendar
 1258 year calculated from the date of first dockage or slippage at a
 1259 facility, registered with the department, that rents dockage or
 1260 slippage space in this state. If a boat brought into this state
 1261 for use under this paragraph is placed in a facility, registered
 1262 with the department, for repairs, alterations, refitting, or

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1263 modifications and such repairs, alterations, refitting, or
 1264 modifications are supported by written documentation, the 20-day
 1265 period shall be tolled during the time the boat is physically in
 1266 the care, custody, and control of the repair facility, including
 1267 the time spent on sea trials conducted by the facility. The 20-
 1268 day time period may be tolled only once within a calendar year
 1269 when a boat is placed for the first time that year in the
 1270 physical care, custody, and control of a registered repair
 1271 facility; however, the owner may request and the department may
 1272 grant an additional tolling of the 20-day period for purposes of
 1273 repairs that arise from a written guarantee given by the
 1274 registered repair facility, which guarantee covers only those
 1275 repairs or modifications made during the first tolled period.
 1276 Within 72 hours after the date upon which the registered repair
 1277 facility took possession of the boat, the facility must have in
 1278 its possession, on forms prescribed by the department, an
 1279 affidavit which states that the boat is under its care, custody,
 1280 and control and that the owner does not use the boat while in
 1281 the facility. Upon completion of the repairs, alterations,
 1282 refitting, or modifications, the registered repair facility
 1283 must, within 72 hours after the date of release, have in its
 1284 possession a copy of the release form which shows the date of
 1285 release and any other information the department requires. The
 1286 repair facility shall maintain a log that documents all
 1287 alterations, additions, repairs, and sea trials during the time
 1288 the boat is under the care, custody, and control of the
 1289 facility. The affidavit shall be maintained by the registered
 1290 repair facility as part of its records for as long as required
 1291 by s. 213.35. When, within 6 months after the date of its

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1292 purchase, a boat is brought into this state under this
 1293 paragraph, the 6-month period provided in s. 212.05(1)(a)2. or
 1294 s. 212.06(7)~~(8)~~ shall be tolled.

1295 2. During the period of repairs, alterations, refitting,
 1296 or modifications and during the 20-day period referred to in
 1297 subparagraph 1., the boat may be listed for sale, contracted for
 1298 sale, or sold exclusively by a broker or dealer registered with
 1299 the department without incurring a use tax under this chapter;
 1300 however, the sales tax levied under this chapter applies to such
 1301 sale.

1302 3. The mere storage of a boat at a registered repair
 1303 facility does not qualify as a tax-exempt use in this state.

1304 4. As used in this paragraph, "registered repair facility"
 1305 means:

1306 a. A full-service facility that:

1307 (I) Is located on a navigable body of water;

1308 (II) Has haulout capability such as a dry dock, travel
 1309 lift, railway, or similar equipment to service craft under the
 1310 care, custody, and control of the facility;

1311 (III) Has adequate piers and storage facilities to provide
 1312 safe berthing of vessels in its care, custody, and control; and

1313 (IV) Has necessary shops and equipment to provide repair
 1314 or warranty work on vessels under the care, custody, and control
 1315 of the facility;

1316 b. A marina that:

1317 (I) Is located on a navigable body of water;

1318 (II) Has adequate piers and storage facilities to provide
 1319 safe berthing of vessels in its care, custody, and control; and

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1320 (III) Has necessary shops and equipment to provide repairs
 1321 or warranty work on vessels; or

1322 c. A shoreside facility that:

1323 (I) Is located on a navigable body of water;

1324 (II) Has adequate piers and storage facilities to provide
 1325 safe berthing of vessels in its care, custody, and control; and

1326 (III) Has necessary shops and equipment to provide repairs
 1327 or warranty work.

1328 Section 7. Section 212.095, Florida Statutes, is amended
 1329 to read:

1330 212.095 Refunds.--

1331 (1) No exemption granted on a refund basis pursuant to
 1332 this chapter is authorized except as provided in this section.

1333 ~~(2)(a) No person may secure a refund under this chapter
 1334 unless such person is the holder of an unrevoked refund permit
 1335 issued by the department before the purchase for which a refund
 1336 is sought, which permit shall be numbered and issued annually.~~

1337 ~~(b) To procure a permit, a person must file with the
 1338 department an application, on forms furnished by the department,
 1339 stating that he or she is entitled to a refund according to the
 1340 provisions of this chapter and that he or she intends to file an
 1341 application for refund for the current calendar year, and must
 1342 furnish the department such other information as the department
 1343 requests.~~

1344 ~~(c) No person may in any event be allowed a refund unless
 1345 he or she has filed the application provided for in paragraph
 1346 (b) with the department. A permit shall be effective on the date
 1347 issued by the department.~~

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1348 ~~(d) If an applicant for a refund permit has violated any~~
 1349 ~~provision of this section or any regulation pursuant hereto, or~~
 1350 ~~has been convicted of bribery, theft, or false swearing within~~
 1351 ~~the period of 5 years preceding the application, or if the~~
 1352 ~~department has evidence of the financial irresponsibility of the~~
 1353 ~~applicant, the department may require the applicant to execute a~~
 1354 ~~corporate surety bond of \$1,000 to be approved by the~~
 1355 ~~department, conditioned upon the payment of all taxes,~~
 1356 ~~penalties, and fines for which such applicant may become liable~~
 1357 ~~under this chapter.~~

1358 (2)~~(3)~~(a) When a sale is made to a person who claims to be
 1359 entitled to a refund under this section, the seller shall make
 1360 out a sales invoice, which shall contain the following
 1361 information:

- 1362 1. The name and business address of the purchaser.
- 1363 2. A description of the item or services sold.
- 1364 3. The date on which the purchase was made.
- 1365 4. The price and amount of tax paid for the item or
 1366 services.
- 1367 5. The name and place of business of the seller at which
 1368 the sale was made.
- 1369 ~~6. The refund permit number of the purchaser.~~

1370 (b) The sales invoice shall be retained by the purchaser
 1371 for attachment to his or her application for a refund, as a part
 1372 thereof. No refund will be allowed unless the seller has
 1373 executed such an invoice and unless proof of payment of the
 1374 taxes for which the refund is claimed is attached. The
 1375 department may refuse to grant a refund if the invoice is

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1376 incomplete and fails to contain the full information required in
 1377 this subsection.

1378 (c) No person may execute a sales invoice, as described in
 1379 paragraph (a), except a dealer duly registered pursuant to this
 1380 chapter, or an authorized agent thereof.

1381 (3)~~(4)~~(a) No refund may be authorized unless a sworn
 1382 application therefor containing the information required in this
 1383 section is filed with the department not later than 30 days
 1384 immediately following the quarter for which the refund is
 1385 claimed. When a claim is filed after such 30 days and a
 1386 justified excuse for late filing is presented to the department
 1387 and the last preceding claim was filed on time, such late filing
 1388 may be accepted through 60 days following the quarter. No
 1389 refund will be authorized unless the amount due is for \$5 or
 1390 more in any quarter and unless application is made upon forms
 1391 prescribed by the department.

1392 (b) Claims shall be filed and paid for each calendar
 1393 quarter. The department shall deduct a fee of \$2 for each
 1394 claim, which fee shall be deposited in the General Revenue Fund.

1395 (c) Refund application forms shall include at a minimum
 1396 the following information:

1397 1. The name and address of the person claiming the refund.

1398 ~~2. The refund permit number of such person.~~

1399 ~~2.3.~~ The location at which the items or services for which
 1400 a refund is claimed are used.

1401 ~~3.4.~~ A description of each such item or service and the
 1402 purpose for which such item or service was acquired.

1403 ~~4.5.~~ Copies of the sales invoices of items or services for
 1404 which a refund is being claimed.

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1405 (4)~~(5)~~ The right to receive any refund under the
 1406 provisions of this section is not assignable, except to the
 1407 executor or administrator, or to the receiver, trustee in
 1408 bankruptcy, or assignee in an insolvency proceeding, of the
 1409 person entitled to the refund.

1410 (5)~~(6)~~(a) Each registered dealer shall, in accordance with
 1411 the requirements of the department, keep at his or her principal
 1412 place of business in this state or at the location where the
 1413 sale is made a complete record or duplicate sales tickets of all
 1414 items or services sold by the registered dealer for which a
 1415 refund provided in this section may be claimed, which records
 1416 shall contain the information required in paragraph (2) ~~(3)~~(a).

1417 (b) Every person applying for ~~to whom~~ a refund ~~permit has~~
 1418 ~~been issued~~ under this section shall, in accordance with the
 1419 requirements of the department, keep at his or her residence or
 1420 principal place of business in this state a record of each
 1421 purchase for which a refund is claimed, including the
 1422 information required in paragraph (2) ~~(3)~~(a).

1423 (c) The records required to be kept under this subsection
 1424 shall at all reasonable hours be subject to audit or inspection
 1425 by the department or by any person duly authorized by it. Such
 1426 records shall be preserved and may not be destroyed until 3
 1427 years after the date the item to which they relate was sold or
 1428 purchased.

1429 (d) The department shall keep a permanent record of the
 1430 amount of refund claimed and paid to each claimant. Such
 1431 records shall be open to public inspection.

1432 (6)~~(7)~~ Agents of the department are authorized to go upon
 1433 the premises of any refund applicant ~~permitholder~~, or duly

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1434 authorized agent thereof, to make an inspection to ascertain any
 1435 matter connected with the operation of this section or the
 1436 enforcement hereof. However, no agent may enter the dwelling of
 1437 any person without the consent of the occupant or authority from
 1438 a court of competent jurisdiction.

1439 (7)~~(8)~~ If any taxes are refunded erroneously, the
 1440 department shall advise the payee by registered mail of the
 1441 erroneous refund. If the payee fails to reimburse the state
 1442 within 15 days after the receipt of the letter, an action may be
 1443 instituted by the department against such payee in the circuit
 1444 court, and the department shall recover from the payee the
 1445 amount of the erroneous refund plus a penalty of 25 percent.

1446 (8)~~(9)~~ No person shall:

1447 (a) Knowingly make a false or fraudulent statement in ~~an~~
 1448 ~~application for a refund permit or in an application for a~~
 1449 refund of any taxes under this section;

1450 (b) Fraudulently obtain a refund of such taxes; or

1451 (c) Knowingly aid or assist in making any such false or
 1452 fraudulent statement or claim.

1453 ~~(10) The refund permit of any person who violates any~~
 1454 ~~provision of this section shall be revoked by the department and~~
 1455 ~~may not be reissued until 2 years have elapsed from the date of~~
 1456 ~~such revocation. The refund permit of any person who violates~~
 1457 ~~any other provision of this chapter may be suspended by the~~
 1458 ~~department for any period, in its discretion, not exceeding 6~~
 1459 ~~months.~~

1460 (9)~~(11)~~ Refund ~~permits and refund~~ application forms shall
 1461 include instructions for dealers and purchasers as to the
 1462 relevant requirements of this section.

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1463 Section 8. Section 212.094, Florida Statutes, is created
 1464 to read:

1465 212.094 Purchaser requests for refunds from dealers.--

1466 (1) If a purchaser seeks a refund of or credit from a
 1467 dealer for a tax collected under this chapter by that dealer,
 1468 the purchaser must submit a written request for the refund or
 1469 credit to the dealer in accordance with this section. The
 1470 request must contain all the information necessary for the
 1471 dealer to determine the validity of the purchaser's request.

1472 (2) The purchaser may not take any other action against
 1473 the dealer with respect to the requested refund or credit until
 1474 the dealer has had 60 days following receipt of a completed
 1475 request in which to respond.

1476 (3) This section does not change the law regarding
 1477 standing to claim a refund.

1478 Section 9. Subsection (3) of section 212.17, Florida
 1479 Statutes, is amended to read:

1480 212.17 Credits for returned goods, rentals, or admissions;
 1481 goods acquired for dealer's own use and subsequently resold;
 1482 additional powers of department.--

1483 (3) A dealer who has paid the tax imposed by this chapter
 1484 on tangible personal property or services may take a credit or
 1485 obtain a refund for any tax paid by the dealer on the unpaid
 1486 balance due on worthless accounts within 12 months following the
 1487 month in which the bad debt has been charged off for federal
 1488 income tax purposes. A dealer who has paid the tax imposed by
 1489 this chapter on tangible personal property or services and who
 1490 is not required to file federal income tax returns may take a
 1491 credit or obtain a refund for any tax paid by the dealer on the

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1492 unpaid balance due on worthless accounts within 12 months
 1493 following the month in which the bad debt is written off as
 1494 uncollectible in the dealer's books and records and would be
 1495 eligible for a bad debt deduction for federal income tax
 1496 purposes if the dealer were required to file a federal income
 1497 tax return.

1498 (a) A dealer that is taking a credit or obtaining a refund
 1499 on worthless accounts shall base the bad debt recovery
 1500 calculation in accordance with 26 U.S.C. s. 166.

1501 (b) Notwithstanding paragraph (a), the amount calculated
 1502 pursuant to 26 U.S.C. s. 166 shall be adjusted to exclude
 1503 financing charges or interest; sales or use taxes charged on the
 1504 purchase price; uncollectible amounts on property that remain in
 1505 the possession of the seller until the full purchase price is
 1506 paid; expenses incurred in attempting to collect any debt; and
 1507 repossessed property.

1508 (c) When the amount of bad debt exceeds the amount of
 1509 taxable sales for the period during which the bad debt is
 1510 written off, a refund claim may be filed in accordance with the
 1511 timing provisions of s. 215.26(2), except that the statute of
 1512 limitations for filing the refund claim shall be measured from
 1513 the due date of the return on which the bad debt could first be
 1514 claimed.

1515 (d) If any accounts so charged off for which a credit or
 1516 refund has been obtained are thereafter in whole or in part paid
 1517 to the dealer, the amount so paid shall be included in the first
 1518 return filed after such collection and the tax paid accordingly.

1519 (e) When filing responsibilities have been assumed by a
 1520 certified service provider, the certified service provider shall

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1521 claim, on behalf of the seller, any bad debt allowance provided
 1522 by this section. The certified service provider must credit or
 1523 refund to the seller the full amount of any bad debt allowance
 1524 or refund received.

1525 (f) For the purposes of reporting a payment received on a
 1526 previously claimed bad debt, any payments made on a debt or
 1527 account are applied first proportionally to the taxable price of
 1528 the property or service and the sales tax thereon, and secondly
 1529 to interest, service charges, and any other charges.

1530 (g) In situations in which the books and records of the
 1531 party claiming the bad debt allowance support an allocation of
 1532 the bad debts among states that are members of the Streamlined
 1533 Sales and Use Tax Agreement, the allocation is permitted among
 1534 those states.

1535 Section 10. Section 213.052, Florida Statutes, is created
 1536 to read:

1537 213.052 Notice of state rate changes.--

1538 (1) A sales or use tax rate change imposed under chapter
 1539 212 is effective on January 1, April 1, July 1, or October 1.
 1540 The Department of Revenue shall provide notice of such rate
 1541 change to all affected sellers 90 days before the effective date
 1542 of the rate change.

1543 (2) Failure of a seller to receive notice does not relieve
 1544 the seller of its obligation to collect sales or use tax.

1545 Section 11. Section 213.0521, Florida Statutes, is created
 1546 to read:

1547 213.0521 Effective date of state rate changes.--The
 1548 effective date for services covering a period starting before

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1549 and ending after the statutory effective date shall be as
 1550 follows:

1551 (1) For a rate increase, the new rate shall apply to the
 1552 first billing period starting on or after the effective date.

1553 (2) For a rate decrease, the new rate shall apply to bills
 1554 rendered on or after the effective date.

1555 Section 12. Subsection (11) is added to section 213.21,
 1556 Florida Statutes, to read:

1557 213.21 Informal conferences; compromises.--

1558 (11) Amnesty shall be provided for uncollected or unpaid
 1559 sales or use tax to a seller who registers to pay or to collect
 1560 and remit applicable sales or use tax in accordance with the
 1561 terms of the Streamlined Sales and Use Tax Agreement authorized
 1562 under s. 213.256, if the seller was not registered with the
 1563 Department of Revenue in the 12-month period preceding the
 1564 effective date of participation in the agreement by this state.

1565 (a) The amnesty precludes assessment for uncollected or
 1566 unpaid sales or use tax together with penalty or interest for
 1567 sales made during the period the seller was not registered with
 1568 the Department of Revenue, if registration occurs within 12
 1569 months after the effective date of this state's participation in
 1570 the agreement.

1571 (b) The amnesty is not available to a seller with respect
 1572 to any matter or matters for which the seller received notice of
 1573 the commencement of an audit and which audit is not yet finally
 1574 resolved, including any related administrative and judicial
 1575 processes.

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1576 (c) The amnesty is not available for sales or use taxes
 1577 already paid or remitted to the state or to taxes collected by
 1578 the seller.

1579 (d) The amnesty is fully effective, absent the seller's
 1580 fraud or intentional misrepresentation of a material fact, as
 1581 long as the seller continues registration and continues payment
 1582 or collection and remittance of applicable sales or use taxes
 1583 for at least 36 months.

1584 (e) The amnesty is applicable only to sales or use taxes
 1585 due from a seller in its capacity as a seller and not to sales
 1586 or use taxes due from a seller in its capacity as a buyer.

1587 Section 13. Subsections (1) and (7) of section 213.256,
 1588 Florida Statutes, are amended, present subsections (8), (9), and
 1589 (10) of said section are renumbered as subsections (11), (12),
 1590 and (13), respectively, and new subsections (8), (9), (10), and
 1591 (14) are added to said section, to read:

1592 213.256 Simplified Sales and Use Tax Administration Act.--

1593 (1) As used in ss. 213.256 and 213.2567 ~~this section~~, the
 1594 term:

1595 (a) "Department" means the Department of Revenue.

1596 (b) "Agent" means a person appointed by a seller to
 1597 represent the seller before the member states.

1598 (c)(b) "Agreement" means the Streamlined Sales and Use Tax
 1599 Agreement as amended and adopted on November 12, 2002 ~~January~~
 1600 ~~27, 2001~~, by the Executive Committee of the National Conference
 1601 of State Legislatures.

1602 (d)(e) "Certified automated system" means software
 1603 certified jointly by the states that are signatories to the
 1604 agreement to calculate the tax imposed by each jurisdiction on a

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1605 transaction, determine the amount of tax to remit to the
 1606 appropriate state, and maintain a record of the transaction.

1607 (e)(d) "Certified service provider" means an agent
 1608 certified under jointly by the states that are signatories to
 1609 the agreement to perform all of the seller's sales tax functions
 1610 other than the seller's obligation to remit tax on its own
 1611 purchases.

1612 (f) "Model 1 seller" means a seller that has selected a
 1613 certified service provider as its agent to perform all the
 1614 seller's sales and use tax functions other than the seller's
 1615 obligation to remit tax on its own purchases.

1616 (g) "Model 2 seller" means a seller that has selected a
 1617 certified automated system to perform part of its sales and use
 1618 tax functions, but retains responsibility for remitting the tax.

1619 (h) "Model 3 seller" means a seller that has sales in at
 1620 least five member states, has total annual sales revenue of at
 1621 least \$500 million, has a proprietary system that calculates the
 1622 amount of tax due each jurisdiction, and has entered into a
 1623 performance agreement with the member states which establishes a
 1624 tax performance standard for the seller. As used in this
 1625 subsection, a seller includes an affiliated group of sellers
 1626 using the same proprietary system.

1627 (i)(e) "Person" means an individual, trust, estate,
 1628 fiduciary, partnership, limited liability company, limited
 1629 liability partnership, corporation, or any other legal entity.

1630 (j) "Registered under this agreement" means registration
 1631 by a seller with the member states under the central
 1632 registration system.

1633 (k)(f) "Sales tax" means the tax levied under chapter 212.

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1634 ~~(l)(g)~~ "Seller" means any person making sales, leases, or
 1635 rentals of personal property or services.

1636 ~~(m)(h)~~ "State" means any state of the United States and
 1637 the District of Columbia.

1638 ~~(n)(i)~~ "Use tax" means the tax levied under chapter 212.

1639 (7)(a) The agreement authorized by this act binds and
 1640 inures only to the benefit of this state and the other member
 1641 states. No person, other than a member state, is an intended
 1642 beneficiary of the agreement. Any benefit to a person other than
 1643 a state is established by the laws of this state and of other
 1644 member states and not by the terms of the agreement.

1645 (b) Consistent with paragraph (a), no person has any cause
 1646 of action or defense under the agreement or by virtue of this
 1647 state's approval of the agreement. No person may challenge, in
 1648 any action brought under any provision of law, any action or
 1649 inaction by any department, agency, or other instrumentality of
 1650 this state, or of any political subdivision of this state, on
 1651 the ground that the action or inaction is inconsistent with the
 1652 agreement.

1653 (c) No law of this state, or the application thereof, may
 1654 be declared invalid as to any person or circumstance on the
 1655 ground that the provision or application is inconsistent with
 1656 the agreement.

1657 (d) The determinations pertaining to the agreement
 1658 authorized by this act which are made by the member states are
 1659 final when rendered and are not subject to any protest, appeal,
 1660 or review.

1661 (8) Authority to administer the agreement authorized under
 1662 this act shall rest with the governing board comprised of

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1663 representatives of each member state. Each member state may
1664 appoint up to four representatives to the governing board. This
1665 state shall be represented by three delegates, one appointed by
1666 the President of the Senate, one appointed by the Speaker of the
1667 House of Representatives, and the executive director of the
1668 department or his or her designee.

1669 (9) With respect to each member state, the agreement
1670 authorized by this act shall continue in full force and effect
1671 until a member state withdraws its membership or is expelled. A
1672 member state's withdrawal or expulsion is not effective until
1673 the first day of a calendar quarter after a minimum of 60 days'
1674 notice. A member state shall submit notice of its intent to
1675 withdraw from the agreement to the governing board and the chief
1676 executive of each member state's tax agency. The member state
1677 shall provide public notice of its intent to withdraw and post
1678 its notice of intent to withdraw from the agreement to the
1679 governing board and the chief executive of each member state's
1680 tax agency. The member state shall provide public notice of its
1681 intent to withdraw and post its notice of intent to withdraw on
1682 its Internet website. The withdrawal by or expulsion of a state
1683 does not affect the validity of the agreement among other member
1684 states. A state that withdraws or is expelled from the agreement
1685 remains liable for its share of any financial or contractual
1686 obligations that were incurred by the governing board before the
1687 effective date of that state's withdrawal or expulsion. The
1688 appropriate share of any financial or contractual obligation
1689 shall be determined by the state and the governing board in good
1690 faith based on the relative benefits received and burdens
1691 incurred by the parties.

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1692 (10) A member state that is found to be out of compliance
 1693 with the agreement authorized by this act may be imposed with
 1694 sanctions, which include expulsion or other penalties as
 1695 determined by the governing board.

1696 (14) Each member state shall annually recertify that such
 1697 state is in compliance with the agreement authorized under this
 1698 act. Each member state shall make a recertification to the
 1699 governing board on or before August 1 of each year after the
 1700 year of the state's entry. In its annual recertification, the
 1701 state shall include any changes in its statutes, rules, or
 1702 regulations or other authorities that could affect its
 1703 compliance with the terms of the agreement. The recertification
 1704 shall be signed by the executive director of the department. A
 1705 member state that cannot recertify its compliance with the
 1706 agreement shall submit a statement of noncompliance to the
 1707 governing board. The statement of noncompliance shall include
 1708 any action or decision that takes such state out of compliance
 1709 with the agreement and the steps it will take to return to
 1710 compliance. Each member state shall post its annual
 1711 recertification or statement of noncompliance on that state's
 1712 Internet website.

1713 Section 14. Section 213.2567, Florida Statutes, is created
 1714 to read:

1715 213.2567 Simplified sales and use tax registration,
 1716 certification, liability, audit.--

1717 (1) A seller that registers pursuant to the agreement
 1718 agrees to collect and remit sales and use taxes for all taxable
 1719 sales into the member states, including member states joining
 1720 after the seller's registration. Withdrawal or revocation of a

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1721 member state does not relieve a seller of its responsibility to
 1722 remit taxes previously or subsequently collected on behalf of
 1723 the state.

1724 (a) When registering, the seller may select a model 1,
 1725 model 2, or model 3 method of remittance or other method allowed
 1726 by state law to remit the taxes collected.

1727 (b) A seller may be registered by an agent. Such an
 1728 appointment must be in writing and submitted to a member state.

1729 (2)(a) A certified service provider is the agent of a
 1730 model 1 seller with whom the certified service provider has
 1731 contracted for the collection and remittance of sales and use
 1732 taxes. As the model 1 seller's agent, the certified service
 1733 provider is liable for sales and use tax due each member state
 1734 on all sales transactions it processes for the model 1 seller,
 1735 except as set out in paragraph (b).

1736 (b) A model 1 seller is not liable to the state for sales
 1737 or use tax due on transactions processed by the certified
 1738 service provider unless the model 1 seller has misrepresented
 1739 the type of items it sells or has committed fraud. In the
 1740 absence of probable cause to believe that the model 1 seller has
 1741 committed fraud or made a material misrepresentation, the model
 1742 1 seller is not subject to audit on the transactions processed
 1743 by the certified service provider. A model 1 seller is subject
 1744 to audit for transactions that have not been processed by the
 1745 certified service provider. The member states acting jointly may
 1746 perform a system check of the model 1 seller and review the
 1747 model 1 seller's procedures to determine if the certified
 1748 service provider's system is functioning properly and to

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1749 determine the extent to which the model 1 seller's transactions
 1750 are being processed by the certified service provider.

1751 (3) A person that provides a certified automated system is
 1752 responsible for the proper functioning of that system and is
 1753 liable to the state for underpayments of tax attributable to
 1754 errors in the functioning of the certified automated system. A
 1755 model 2 seller that uses a certified automated system remains
 1756 responsible and is liable to the state for reporting and
 1757 remitting tax.

1758 (4) A model 3 seller is liable for the failure of the
 1759 proprietary system to meet the performance standard.

1760 (5) The governing board may certify a person as a
 1761 certified service provider if the person meets all of the
 1762 following requirements:

1763 (a) The person uses a certified automated system;

1764 (b) The person integrates its certified automated system
 1765 with the system of a seller for whom the person collects tax so
 1766 that the tax due on a sale is determined at the time of the
 1767 sale;

1768 (c) The person agrees to remit the taxes it collects at
 1769 the time and in the manner specified by the member states;

1770 (d) The person agrees to file returns on behalf of the
 1771 sellers for whom it collects tax;

1772 (e) The person agrees to protect the privacy of tax
 1773 information it obtains in accordance with s. 213.053; and

1774 (f) The person enters into a contract with the member
 1775 states and agrees to comply with the terms of the contract.

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1776 (6) The governing board may certify a software program as
1777 a certified automated system if the governing board determines
1778 that the program meets all of the following requirements:

1779 (a) The program determines the applicable state and local
1780 sales and use tax rate for a transaction in accordance with s.
1781 212.06(3) and (4);

1782 (b) The program determines whether or not an item is
1783 exempt from tax;

1784 (c) The program determines the amount of tax to be
1785 remitted for each taxpayer for a reporting period;

1786 (d) The program can generate reports and returns as
1787 required by the governing board; and

1788 (e) The program meets any other requirement set by the
1789 governing board.

1790 (7) The governing board may establish one or more sales
1791 tax performance standards for model 3 sellers that meet the
1792 eligibility criteria set by the governing board and that
1793 developed a proprietary system to determine the amount of sales
1794 and use tax due on transactions.

1795 (8) Disclosure of information necessary under this section
1796 must be pursuant to a written agreement between the executive
1797 director of the department or his or her designee and the
1798 certified service provider. The certified service provider is
1799 bound by the same requirements of confidentiality as the
1800 department. Breach of confidentiality is a misdemeanor of the
1801 first degree, punishable as provided in s. 775.082 or s.
1802 775.083.

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1803 Section 15. Paragraph (c) of subsection (2) and paragraph
 1804 (c) of subsection (3) of section 212.055, Florida Statutes, are
 1805 amended to read:

1806 212.055 Discretionary sales surtaxes; legislative intent;
 1807 authorization and use of proceeds.--It is the legislative intent
 1808 that any authorization for imposition of a discretionary sales
 1809 surtax shall be published in the Florida Statutes as a
 1810 subsection of this section, irrespective of the duration of the
 1811 levy. Each enactment shall specify the types of counties
 1812 authorized to levy; the rate or rates which may be imposed; the
 1813 maximum length of time the surtax may be imposed, if any; the
 1814 procedure which must be followed to secure voter approval, if
 1815 required; the purpose for which the proceeds may be expended;
 1816 and such other requirements as the Legislature may provide.
 1817 Taxable transactions and administrative procedures shall be as
 1818 provided in s. 212.054.

1819 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

1820 (c) Pursuant to s. 212.054~~(6)~~~~(4)~~, the proceeds of the
 1821 surtax levied under this subsection shall be distributed to the
 1822 county and the municipalities within such county in which the
 1823 surtax was collected, according to:

1824 1. An interlocal agreement between the county governing
 1825 authority and the governing bodies of the municipalities
 1826 representing a majority of the county's municipal population,
 1827 which agreement may include a school district with the consent
 1828 of the county governing authority and the governing bodies of
 1829 the municipalities representing a majority of the county's
 1830 municipal population; or

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1831 2. If there is no interlocal agreement, according to the
1832 formula provided in s. 218.62.

1833
1834 Any change in the distribution formula must take effect on the
1835 first day of any month that begins at least 60 days after
1836 written notification of that change has been made to the
1837 department.

1838 (3) SMALL COUNTY SURTAX.--

1839 (c) Pursuant to s. 212.054(6)~~(4)~~, the proceeds of the
1840 surtax levied under this subsection shall be distributed to the
1841 county and the municipalities within the county in which the
1842 surtax was collected, according to:

1843 1. An interlocal agreement between the county governing
1844 authority and the governing bodies of the municipalities
1845 representing a majority of the county's municipal population,
1846 which agreement may include a school district with the consent
1847 of the county governing authority and the governing bodies of
1848 the municipalities representing a majority of the county's
1849 municipal population; or

1850 2. If there is no interlocal agreement, according to the
1851 formula provided in s. 218.62.

1852
1853 Any change in the distribution formula shall take effect on the
1854 first day of any month that begins at least 60 days after
1855 written notification of that change has been made to the
1856 department.

1857 Section 16. Paragraph (c) of subsection (1) of section
1858 212.07, Florida Statutes, is amended to read:

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1859 212.07 Sales, storage, use tax; tax added to purchase
 1860 price; dealer not to absorb; liability of purchasers who cannot
 1861 prove payment of the tax; penalties; general exemptions.--

1862 (1)

1863 (c) Unless the purchaser of tangible personal property
 1864 that is incorporated into tangible personal property
 1865 manufactured, produced, compounded, processed, or fabricated for
 1866 one's own use and subject to the tax imposed under s.

1867 212.06(1)(b) or is purchased for export under s.

1868 212.06~~(4)~~~~(5)~~(a)1. extends a certificate in compliance with the
 1869 rules of the department, the dealer shall himself or herself be
 1870 liable for and pay the tax.

1871 Section 17. Subsection (1) of section 212.15, Florida
 1872 Statutes, is amended to read:

1873 212.15 Taxes declared state funds; penalties for failure
 1874 to remit taxes; due and delinquent dates; judicial review.--

1875 (1) The taxes imposed by this chapter shall, except as
 1876 provided in s. 212.06~~(4)~~~~(5)~~(a)2.e., become state funds at the
 1877 moment of collection and shall for each month be due to the
 1878 department on the first day of the succeeding month and be
 1879 delinquent on the 21st day of such month. All returns postmarked
 1880 after the 20th day of such month are delinquent.

1881 Section 18. Subsection (6) of section 212.183, Florida
 1882 Statutes, is amended to read:

1883 212.183 Rules for self-accrual of sales tax.--The
 1884 Department of Revenue is authorized to provide by rule for self-
 1885 accrual of the sales tax under one or more of the following
 1886 circumstances:

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1887 (6) When the purchaser makes purchases of promotional
 1888 materials as defined in s. 212.06~~(10)~~~~(11)~~ and at the time of
 1889 purchase, the purchaser does not know whether the materials will
 1890 be exported outside this state.

1891 Section 19. Subsection (6) of section 212.0596, Florida
 1892 Statutes, is repealed.

1893 Section 20. It is the intent of the Legislature to further
 1894 amend chapter 212, Florida Statutes, to make the changes
 1895 necessary to be in compliance with the provisions of the
 1896 Streamlined Sales and Use Tax Agreement which take effect on
 1897 December 31, 2005, and to address the prohibition on multiple
 1898 state rates in a revenue-neutral manner.

1899 Section 21. Emergency rules.--The executive director of
 1900 the Department of Revenue is authorized, and all conditions are
 1901 deemed met, to adopt emergency rules, under ss. 120.536(1) and
 1902 120.54(4), Florida Statutes, to implement this act.
 1903 Notwithstanding any other provision of law, such emergency rules
 1904 shall remain effective for 6 months after the date of adoption
 1905 and may be renewed during the pendency of procedures to adopt
 1906 rules addressing the subject of the emergency rules.

1907 Section 22. This act shall take effect January 1, 2005.