

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Gottlieb offered the following:

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3 **Amendment (with title amendment)**

4 Remove line(s) 212-224 and insert:

5 Section 6. Effective January 1, 2005, paragraph (c) is
6 added to subsection (1) and paragraph (g) is added to subsection
7 (2) of section 212.12, Florida Statutes, to read:

8 212.12 Dealer's credit for collecting tax; penalties for
9 noncompliance; powers of Department of Revenue in dealing with
10 delinquents; brackets applicable to taxable transactions;
11 records required.--

12 (1) Notwithstanding any other provision of law and for the
13 purpose of compensating persons granting licenses for and the
14 lessors of real and personal property taxed hereunder, for the
15 purpose of compensating dealers in tangible personal property,
16 for the purpose of compensating dealers providing communication

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HOUSE AMENDMENT

Bill No. HB 1991

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17 services and taxable services, for the purpose of compensating
18 owners of places where admissions are collected, and for the
19 purpose of compensating remitters of any taxes or fees reported
20 on the same documents utilized for the sales and use tax, as
21 compensation for the keeping of prescribed records, filing
22 timely tax returns, and the proper accounting and remitting of
23 taxes by them, such seller, person, lessor, dealer, owner, and
24 remitter (except dealers who make mail order sales) shall be
25 allowed 2.5 percent of the amount of the tax due and accounted
26 for and remitted to the department, in the form of a deduction
27 in submitting his or her report and paying the amount due by him
28 or her; the department shall allow such deduction of 2.5 percent
29 of the amount of the tax to the person paying the same for
30 remitting the tax and making of tax returns in the manner herein
31 provided, for paying the amount due to be paid by him or her,
32 and as further compensation to dealers in tangible personal
33 property for the keeping of prescribed records and for
34 collection of taxes and remitting the same. However, if the
35 amount of the tax due and remitted to the department for the
36 reporting period exceeds \$1,200, no allowance shall be allowed
37 for all amounts in excess of \$1,200. The executive director of
38 the department is authorized to negotiate a collection
39 allowance, pursuant to rules promulgated by the department, with
40 a dealer who makes mail order sales. The rules of the department
41 shall provide guidelines for establishing the collection
42 allowance based upon the dealer's estimated costs of collecting
43 the tax, the volume and value of the dealer's mail order sales
44 to purchasers in this state, and the administrative and legal

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45 costs and likelihood of achieving collection of the tax absent
46 the cooperation of the dealer. However, in no event shall the
47 collection allowance negotiated by the executive director exceed
48 10 percent of the tax remitted for a reporting period.

49 (c) A dealer entitled to the collection allowance
50 provided in this section may elect to forego the collection
51 allowance and direct that the said amount be deposited into the
52 Educational Enhancement Trust Fund. Such election must be made
53 with the timely filing of a return and cannot be rescinded once
54 made. When a dealer who makes such election files a delinquent
55 return, underpays the tax, or files an incomplete return, the
56 amount deposited into the Educational Enhancement Trust Fund
57 shall be the collection allowance remaining after resolution of
58 liability for all of the tax, interest, and penalty due on that
59 return or underpayment of tax. The provisions of this paragraph
60 shall not apply to s. 212.0305 and to any other tax, fee, or
61 levy that is administered, collected, and enforced pursuant to
62 the procedures under chapter 212.

63 (2)

64 (g) Any person who willfully attempts in any manner to
65 evade any tax or fee imposed under this chapter or the payment
66 thereof commits a felony of the third degree, punishable as
67 provided in s. 775.082, s. 775.083, or s. 775.084 and, in
68 addition to other penalties provided by law, is liable for a
69 specific penalty of 100 percent of the tax bill or fee.

70 Section 7. Notwithstanding the provisions of chapter 120,
71 Florida Statutes, to the contrary, the Department of Revenue may

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72 adopt rules to carry out the amendments made by this act to s.
73 212.12, Florida Statutes.

74 Section 8. The sum of \$236,465 is appropriated from the
75 General Revenue Fund to the Department of Revenue for the
76 purpose of administering the amendments to s. 212.12, Florida
77 Statutes, made by this act.

78 Section 9. The Department of Revenue shall retain all of
79 the dealer collection allowance revenues directed to be
80 deposited into the Educational Enhancement Trust Fund until the
81 \$236,465 General Revenue Appropriation is recovered. The
82 \$236,465 retained by the department shall be deposited into the
83 General Revenue Fund.

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

86 Remove line(s) 20-23 and insert:
87 address"; amending s. 212.12, F.S.; authorizing a dealer to
88 elect to forego the collection allowance and direct that the
89 collection allowance be deposited to the Educational Enhancement
90 Trust Fund; providing exceptions; providing that any person who
91 willfully attempts in any manner to evade a tax or fee imposed
92 under ch. 212, F.S., commits a felony of the third degree;
93 providing an additional penalty; authorizing the Department of
94 Revenue to adopt rules; providing appropriations; providing
95 requirements for Department of Revenue retention of dealer
96 collection allowances for certain purposes;