

1 A bill to be entitled
2 An act relating to communications services;
3 amending s. 202.12, F.S.; deleting a provision
4 relating to the manner in which the tax on
5 gross receipts for communications services is
6 applied to a substitute communications system;
7 amending ss. 202.16, 202.17, and 202.18, F.S.;
8 correcting cross-references; amending s.
9 202.19, F.S.; deleting a provision authorizing
10 the imposition of a local communications
11 services tax on substitute communications
12 systems; amending s. 203.01, F.S.; deleting a
13 provision authorizing the imposition of a gross
14 receipts tax on actual costs of operating
15 substitute communications systems; amending s.
16 624.105, F.S.; correcting a cross-reference;
17 specifying that retroactive operation is
18 remedial and does not create any right to or
19 require any refunds; repealing s. 202.15, F.S.,
20 relating to special rules for users of
21 substitute communications systems; providing
22 for retroactive operation; providing an
23 effective date; creating the Communications
24 Service Tax Task Force; providing for the
25 membership of the task force; providing a
26 purpose; providing for staffing and
27 administrative support; requiring a report to
28 the Governor and the Legislature; providing
29 appropriations; amending s. 202.11, F.S.;
30 redefining the term "communications services";
31 providing that the definition of sales price

1 for purposes of communication services tax does
 2 not include specified charges for Internet
 3 access services; defining the term "service
 4 address" when the location of the equipment is
 5 unknown or under other circumstances; amending
 6 s. 202.26, F.S.; prescribing methods of record
 7 keeping relating to bundled sales; amending s.
 8 212.02, F.S.; providing that the definition of
 9 sales price for purposes of sales tax does not
 10 include specified charges for Internet access
 11 services; amending s. 202.13, F.S.; prescribing
 12 methods of record keeping relating to bundled
 13 sales; providing for emergency rulemaking by
 14 the Department of Revenue; amending s. 202.17,
 15 F.S.; providing intent that all sellers of
 16 communications services must comply with ch.
 17 202, F.S.; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Sections (2) through (15) of section
 22 202.11, Florida Statutes, are renumbered as subsections (1)
 23 through (14), respectively, subsections (17) through (25) of
 24 that section are renumbered as subsections (15) through (23),
 25 respectively, and present subsections (1) and (16) of that
 26 section are amended to read:

27 202.11 Definitions.--As used in this chapter:

28 ~~(1) "Actual cost of operating a substitute~~
 29 ~~communications system" includes, but is not limited to,~~
 30 ~~depreciation, interest, maintenance, repair, and other~~
 31 ~~expenses directly attributable to the operation of such~~

1 ~~system. For purposes of this chapter, the depreciation expense~~
 2 ~~included in actual cost is the depreciation expense claimed~~
 3 ~~for federal income tax purposes. The total amount of any~~
 4 ~~payment required by a lease or rental contract or agreement~~
 5 ~~must be included within the actual cost of operating the~~
 6 ~~substitute communications system.~~

7 ~~(16) "Substitute communications system" means any~~
 8 ~~telephone system, or other system capable of providing~~
 9 ~~communications services, which a person purchases, installs,~~
 10 ~~rents, or leases for his or her own use to provide himself or~~
 11 ~~herself with services used as a substitute for any switched~~
 12 ~~service or dedicated facility by which a dealer of~~
 13 ~~communications services provides a communication path.~~

14 Section 2. Paragraphs (c), (d), and (e) of subsection
 15 (1) of section 202.12, Florida Statutes, are redesignated as
 16 paragraphs (b), (c), and (d), respectively, and present
 17 paragraph (b) of subsection (1) and subsection (2) of that
 18 section are amended to read:

19 202.12 Sales of communications services.--The
 20 Legislature finds that every person who engages in the
 21 business of selling communications services at retail in this
 22 state is exercising a taxable privilege. It is the intent of
 23 the Legislature that the tax imposed by chapter 203 be
 24 administered as provided in this chapter.

25 (1) For the exercise of such privilege, a tax is
 26 levied on each taxable transaction, and the tax is due and
 27 payable as follows:

28 ~~(b) At the rate set forth in paragraph (a) on the~~
 29 ~~actual cost of operating a substitute communications system,~~
 30 ~~to be paid in accordance with s. 202.15. This paragraph does~~
 31 ~~not apply to the use by any dealer of his or her own~~

1 ~~communications system to conduct a business of providing~~
 2 ~~communications services or any communications system operated~~
 3 ~~by a county, a municipality, the state, or any political~~
 4 ~~subdivision of the state. The gross receipts tax imposed by~~
 5 ~~chapter 203 shall be applied to the same costs, and remitted~~
 6 ~~with the tax imposed by this paragraph.~~

7 (2) A dealer of taxable communications services shall
 8 bill, collect, and remit the taxes on communications services
 9 imposed pursuant to chapter 203 and this section at a combined
 10 rate that is the sum of the rate of tax on communications
 11 services prescribed in chapter 203 and the applicable rate of
 12 tax prescribed in this section. ~~Each dealer subject to the tax~~
 13 ~~provided in paragraph (1)(b) shall also remit the taxes~~
 14 ~~imposed pursuant to chapter 203 and this section on a combined~~
 15 ~~basis.~~ However, a dealer shall, in reporting each remittance
 16 to the department, identify the portion thereof which consists
 17 of taxes remitted pursuant to chapter 203. Return forms
 18 prescribed by the department shall facilitate such reporting.

19 Section 3. Paragraph (a) of subsection (1) of section
 20 202.16, Florida Statutes, is amended to read:

21 202.16 Payment.--The taxes imposed or administered
 22 under this chapter and chapter 203 shall be collected from all
 23 dealers of taxable communications services on the sale at
 24 retail in this state of communications services taxable under
 25 this chapter and chapter 203. The full amount of the taxes on
 26 a credit sale, installment sale, or sale made on any kind of
 27 deferred payment plan is due at the moment of the transaction
 28 in the same manner as a cash sale.

29 (1)(a) ~~Except as otherwise provided in ss.~~
 30 ~~202.12(1)(b) and 202.15,~~ The taxes collected under this
 31 chapter and chapter 203 shall be paid by the purchaser of the

1 communications service and shall be collected from such person
2 by the dealer of communications services.

3 Section 4. Subsection (6) of section 202.17, Florida
4 Statutes, is amended to read:

5 202.17 Registration.--

6 (6) In addition to the certificate of registration,
7 the department shall provide to each newly registered dealer
8 an initial resale certificate that is valid for the remainder
9 of the period of issuance. The department shall provide to
10 each active dealer, ~~except persons registered pursuant to s.~~
11 ~~202.15,~~ an annual resale certificate. As used in this section,
12 the term "active dealer" means a person who is registered with
13 the department and who is required to file a return at least
14 once during each applicable reporting period.

15 Section 5. Subsections (1) and (2) of section 202.18,
16 Florida Statutes, are amended to read:

17 202.18 Allocation and disposition of tax
18 proceeds.--The proceeds of the communications services taxes
19 remitted under this chapter shall be treated as follows:

20 (1) The proceeds of the taxes remitted under s.
21 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

22 (a) The portion of such proceeds which constitutes
23 gross receipts taxes, imposed at the rate prescribed in
24 chapter 203, shall be deposited as provided by law and in
25 accordance with s. 9, Art. XII of the State Constitution.

26 (b) The remaining portion shall be distributed
27 according to s. 212.20(6).

28 (2) The proceeds of the taxes remitted under s.
29 202.12(1)(b)(~~c~~) shall be divided as follows:

30 (a) The portion of such proceeds which constitutes
31 gross receipts taxes, imposed at the rate prescribed in

1 chapter 203, shall be deposited as provided by law and in
2 accordance with s. 9, Art. XII of the State Constitution.

3 (b) Sixty-three percent of the remainder shall be
4 allocated to the state and distributed pursuant to s.
5 212.20(6), except that the proceeds allocated pursuant to s.
6 212.20(6)(d)3. shall be prorated to the participating counties
7 in the same proportion as that month's collection of the taxes
8 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

9 (c)1. During each calendar year, the remaining portion
10 of such proceeds shall be transferred to the Local Government
11 Half-cent Sales Tax Clearing Trust Fund and shall be allocated
12 in the same proportion as the allocation of total receipts of
13 the half-cent sales tax under s. 218.61 and the emergency
14 distribution under s. 218.65 in the prior state fiscal year.

15 2. The proportion of the proceeds allocated based on
16 the emergency distribution under s. 218.65 shall be
17 distributed pursuant to s. 218.65.

18 3. In each calendar year, the proportion of the
19 proceeds allocated based on the half-cent sales tax under s.
20 218.61 shall be allocated to each county in the same
21 proportion as the county's percentage of total sales tax
22 allocation for the prior state fiscal year and distributed
23 pursuant to s. 218.62.

24 4. The department shall distribute the appropriate
25 amount to each municipality and county each month at the same
26 time that local communications services taxes are distributed
27 pursuant to subsection (3).

28 Section 6. Subsections (8) through (12) of section
29 202.19, Florida Statutes, are renumbered as subsections (7)
30 through (11), respectively, and present subsection (7) of that
31 section is amended to read:

1 202.19 Authorization to impose local communications
2 services tax.--

3 ~~(7) Any tax imposed by a municipality, school board,~~
4 ~~or county under this section also applies to the actual cost~~
5 ~~of operating a substitute communications system, to be paid in~~
6 ~~accordance with s. 202.15. This subsection does not apply to~~
7 ~~the use by any provider of its own communications system to~~
8 ~~conduct a business of providing communications services or to~~
9 ~~the use of any communications system operated by a county, a~~
10 ~~municipality, the state, or any political subdivision of the~~
11 ~~state.~~

12 Section 7. Paragraph (a) of subsection (1) of section
13 203.01, Florida Statutes, is amended to read:

14 203.01 Tax on gross receipts for utility and
15 communications services.--

16 (1)(a)1. Every person that receives payment for any
17 utility service shall report by the last day of each month to
18 the Department of Revenue, under oath of the secretary or some
19 other officer of such person, the total amount of gross
20 receipts derived from business done within this state, or
21 between points within this state, for the preceding month and,
22 at the same time, shall pay into the State Treasury an amount
23 equal to a percentage of such gross receipts at the rate set
24 forth in paragraph (b). Such collections shall be certified by
25 the Chief Financial Officer upon the request of the State
26 Board of Education.

27 2. A tax is levied on communications services as
28 defined in s. 202.11(2)(3). Such tax shall be applied to the
29 same services and transactions as are subject to taxation
30 under chapter 202, and to communications services that are
31 subject to the exemption provided in s. 202.125(1). Such tax

1 shall be applied to the sales price of communications services
2 when sold at retail ~~and to the actual cost of operating~~
3 ~~substitute communications systems~~, as such terms are defined
4 in s. 202.11, shall be due and payable at the same time as the
5 taxes imposed pursuant to chapter 202, and shall be
6 administered and collected pursuant to the provisions of
7 chapter 202.

8 Section 8. Section 624.105, Florida Statutes, is
9 amended to read:

10 624.105 Waiver of customer liability.--Any regulated
11 company as defined in s. 350.111, any electric utility as
12 defined in s. 366.02(2), any utility as defined in s.
13 367.021(12) or s. 367.022(2) and (7), and any provider of
14 communications services as defined in s. 202.11(2)(3) may
15 charge for and include an optional waiver of liability
16 provision in their customer contracts under which the entity
17 agrees to waive all or a portion of the customer's liability
18 for service from the entity for a defined period in the event
19 of the customer's call to active military service, death,
20 disability, involuntary unemployment, qualification for family
21 leave, or similar qualifying event or condition. Such
22 provisions may not be effective in the customer's contract
23 with the entity unless affirmatively elected by the customer.
24 No such provision shall constitute insurance so long as the
25 provision is a contract between the entity and its customer.

26 Section 9. The retroactive application of the
27 provisions of this act are remedial in nature and shall not be
28 construed to create a right to a refund or to require a refund
29 by any governmental entity of any tax, penalty, or interest
30 remitted to the Department of Revenue on substitute
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1 communications systems prior to the effective date of this
2 act.

3 Section 10. Section 202.15, Florida Statutes, is
4 repealed.

5 Section 11. Sections 1 through 10 of this act shall
6 take effect upon becoming a law and shall apply retroactively
7 to October 1, 2001.

8 Section 12. (1) The Communications Service Tax Task
9 Force is created and housed for administrative purposes within
10 the Department of Revenue. The task force shall operate
11 independently of the department.

12 (2)(a) The task force shall consist of nine members,
13 three appointed by the Governor, three appointed by the
14 President of the Senate, and three appointed by the Speaker of
15 the House of Representatives. Members shall serve at the
16 pleasure of the appointing official. Any vacancy shall be
17 filled in the same manner as the original appointment.

18 (b) All members shall possess expertise in state or
19 national telecommunications policy, taxation, law, or
20 technology. A member of the Legislature or a registered
21 lobbyist may not be appointed to the task force.

22 (c) Members shall serve without compensation, but are
23 entitled to reimbursement of travel and per diem expenses
24 pursuant to section 112.061, Florida Statutes, relating to
25 completing their duties and responsibilities under this
26 section.

27 (3) The task force shall study:

28 (a) The national and state regulatory and tax policies
29 relating to the communications industry, including the
30 Internet Tax Freedom Act;

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1 (b) The levels of tax revenue that have been generated
2 by the communications services taxes imposed or administered
3 pursuant to chapter 202, Florida Statutes, in the past and
4 that are expected to be generated in the future, and their
5 adequacy in funding government services and bonded
6 indebtedness that rely on them;

7 (c) The impact of the communications services taxes on
8 Florida's competitiveness;

9 (d) The impact of the diversity of communications
10 technology and of changes in such technology on the state's
11 ability to design tax laws, the applicability of which is
12 reasonably clear to communications service providers and state
13 administrators, and which are susceptible to efficient and
14 fair administration by the state;

15 (e) The administrative burdens imposed on
16 communications services providers; and

17 (f) To the extent that future revenues from the
18 communications services tax are expected to be inadequate to
19 fund government services and bonded indebtedness that rely on
20 them, the options that are available for funding these
21 services and bonded indebtedness.

22 (4) The task force shall hold its organizational
23 meeting by July 15, 2006. It shall select a chair and vice
24 chair and shall meet at the call of the chair at the time and
25 place designated by the chair or as often as necessary to
26 accomplish the purposes of this section. A quorum is necessary
27 for the purpose of conducting official business of the task
28 force. The task force shall use accepted rules of procedure to
29 conduct its meetings and shall keep a complete record of each
30 meeting.

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1 (5) The Public Service Commission shall provide staff
2 for the technical and regulatory issues addressed by the task
3 force. The Department of Revenue shall provide administrative
4 support and staff for the tax issues addressed by the task
5 force.

6 (6) The task force shall report its findings and
7 recommendations to the Governor, the President of the Senate,
8 and the Speaker of the House of Representatives by February 1,
9 2007. The task force shall be dissolved by December 31, 2007.

10 Section 13. (1) The sum of \$100,000 is appropriated
11 from the General Revenue Fund to the Department of Revenue for
12 the purpose of defraying the reimbursable travel and per diem
13 expenses of the Communications Service Tax Task Force.

14 (2) The sum of \$500,000 is appropriated from the
15 General Revenue Fund to the Department of Revenue for the
16 purpose of retaining expert witnesses and consultant services
17 in the areas of communications technology and computer
18 telephony. The purpose of such services is to provide the
19 Communications Service Tax Task Force with information,
20 technical consulting services, analysis, and testimony
21 regarding the current and future development of network and
22 telecommunications architecture, products, and services and
23 issues regarding the taxation of such products and services.
24 These funds shall be appropriated for the 2005-2006 fiscal
25 year in categories determined by the Department of Revenue
26 which will best support the needs of the task force. Any
27 unspent funds shall be reappropriated in future fiscal years
28 until the work of the task force is complete.

29 Section 14. Subsections (3), (14), and (15) of section
30 202.11, Florida Statutes, are amended to read:

31 202.11 Definitions.--As used in this chapter:

1 (3) "Communications services" means the transmission,
2 conveyance, or routing of voice, data, audio, video, or any
3 other information or signals, including cable services, to a
4 point, or between or among points, by or through any
5 electronic, radio, satellite, cable, optical, microwave, or
6 other medium or method now in existence or hereafter devised,
7 regardless of the protocol used for such transmission or
8 conveyance. The term includes such transmission, conveyance,
9 or routing in which computer processing applications are used
10 to act on the form, code, or protocol of the content for
11 purposes of transmission, conveyance, or routing without
12 regard to whether such service is referred to as
13 voice-over-Internet-protocol services or is classified by the
14 Federal Communications Commission as enhanced or value-added.
15 The term does not include:
16 (a) Information services.
17 (b) Installation or maintenance of wiring or equipment
18 on a customer's premises.
19 (c) The sale or rental of tangible personal property.
20 (d) The sale of advertising, including, but not
21 limited to, directory advertising.
22 (e) Bad check charges.
23 (f) Late payment charges.
24 (g) Billing and collection services.
25 (h) Internet access service, electronic mail service,
26 electronic bulletin board service, or similar on-line computer
27 services.
28 (14) "Sales price" means the total amount charged in
29 money or other consideration by a dealer for the sale of the
30 right or privilege of using communications services in this
31 state, including any property or other services that are part

1 of the sale. The sales price of communications services shall
2 not be reduced by any separately identified components of the
3 charge that constitute expenses of the dealer, including, but
4 not limited to, sales taxes on goods or services purchased by
5 the dealer, property taxes, taxes measured by net income, and
6 universal-service fund fees.

7 (a) The sales price of communications services shall
8 include, whether or not separately stated, charges for any of
9 the following:

- 10 1. The connection, movement, change, or termination of
11 communications services.
- 12 2. The detailed billing of communications services.
- 13 3. The sale of directory listings in connection with a
14 communications service.
- 15 4. Central office and custom calling features.
- 16 5. Voice mail and other messaging service.
- 17 6. Directory assistance.
- 18 7. The service of sending or receiving a document
19 commonly referred to as a facsimile or "fax," except when
20 performed during the course of providing professional or
21 advertising services.

22 (b) The sales price of communications services does
23 not include charges for any of the following:

- 24 1. Any excise tax, sales tax, or similar tax levied by
25 the United States or any state or local government on the
26 purchase, sale, use, or consumption of any communications
27 service, including, but not limited to, any tax imposed under
28 this chapter or chapter 203 which is permitted or required to
29 be added to the sales price of such service, if the tax is
30 stated separately.

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1 2. Any fee or assessment levied by the United States
2 or any state or local government, including, but not limited
3 to, regulatory fees and emergency telephone surcharges, which
4 is required to be added to the price of such service if the
5 fee or assessment is separately stated.

6 3. Communications services paid for by inserting coins
7 into coin-operated communications devices available to the
8 public.

9 4. The sale or recharge of a prepaid calling
10 arrangement.

11 5. The provision of air-to-ground communications
12 services, defined as a radio service provided to purchasers
13 while on board an aircraft.

14 6. A dealer's internal use of communications services
15 in connection with its business of providing communications
16 services.

17 7. Charges for property or other services that are not
18 part of the sale of communications services, if such charges
19 are stated separately from the charges for communications
20 services.

21 8. To the extent required by federal law, charges for
22 Internet access services which are not separately itemized on
23 a customer's bill, but which can be reasonably identified from
24 the selling dealer's books and records kept in the regular
25 course of business. The dealer may support the allocation of
26 charges with books and records kept in the regular course of
27 business covering the dealer's entire service area, including
28 territories outside this state.

29 (15) "Service address" means:

30 (a) Except as otherwise provided in this section:7

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1 1. The location of the communications equipment from
2 which communications services originate or at which
3 communications services are received by the customer;~~;~~

4 2. In the case of a communications service paid
5 through a credit or payment mechanism that does not relate to
6 a service address, such as a bank, travel, debit, or credit
7 card, and in the case of third-number and calling-card calls,
8 the term "service address" means ~~service address is~~ the
9 address of the central office, as determined by the area code
10 and the first three digits of the seven-digit originating
11 telephone number; ~~or~~

12 3. If the location of the equipment described in
13 subparagraph 1. is not known and subparagraph 2. is
14 inapplicable, the term "service address" means the location of
15 the customer's primary use of the communications service. For
16 purposes of this subparagraph, the location of the customer's
17 primary use of a communications service is the residential
18 street address or the business street address of the customer.

19 (b) In the case of cable services and direct-to-home
20 satellite services, the location where the customer receives
21 the services in this state.

22 (c) In the case of mobile communications services, the
23 customer's place of primary use.

24 Section 15. Subsection (3) of section 202.26, Florida
25 Statutes, is amended to read:

26 202.26 Department powers.--

27 (3) To administer the tax imposed by this chapter, the
28 department may adopt rules relating to:

29 (a) The filing of returns and remittance of tax,
30 including provisions concerning electronic funds transfer and
31 electronic data interchange.

- 1 (b) The determination of customer service addresses.
- 2 (c) The interpretation or definition of any exemptions
3 or exclusions from taxation granted by law.
- 4 (d) Procedures for handling sales for resale and for
5 determining the taxable status of discounts and rebates.
- 6 (e) Methods for granting self-accrual authority to
7 taxpayers.
- 8 (f) The records and methods necessary for a dealer to
9 demonstrate the exercise of due diligence as defined by s.
10 202.22(4)(b).
- 11 (g) The creation of the database described in s.
12 202.22(2) and the certification and recertification of the
13 databases as described in s. 202.22(3).
- 14 (h) The registration of dealers.
- 15 (i) The review of applications for, and the issuance
16 of, direct-pay permits, and the returns required to be filed
17 by holders thereof.
- 18 (j) The types of books and records kept in the regular
19 course of business which must be available during an audit of
20 a dealer's books and records when the dealer has made an
21 allocation or attribution pursuant to the definition of sales
22 prices in s. 202.11(14)(b)8. and examples of methods for
23 determining the reasonableness thereof. Books and records kept
24 in the regular course of business include, but are not limited
25 to, general ledgers, price lists, cost records, customer
26 billings, billing system reports, tariffs, and other
27 regulatory filings and rules of regulatory authorities. Such
28 records may be required to be made available to the department
29 in an electronic format when so kept by the dealer. The dealer
30 may support the allocation of charges with books and records
31 kept in the regular course of business covering the dealer's

1 entire service area, including territories outside this state.
2 During an audit, the department may reasonably require
3 production of any additional books and records found necessary
4 to assist in its determination.

5 Section 16. Subsection (16) of section 212.02, Florida
6 Statutes, is amended to read:

7 212.02 Definitions.--The following terms and phrases
8 when used in this chapter have the meanings ascribed to them
9 in this section, except where the context clearly indicates a
10 different meaning:

11 (16) "Sales price" means the total amount paid for
12 tangible personal property, including any services that are a
13 part of the sale, valued in money, whether paid in money or
14 otherwise, and includes any amount for which credit is given
15 to the purchaser by the seller, without any deduction
16 therefrom on account of the cost of the property sold, the
17 cost of materials used, labor or service cost, interest
18 charged, losses, or any other expense whatsoever. "Sales
19 price" also includes the consideration for a transaction which
20 requires both labor and material to alter, remodel, maintain,
21 adjust, or repair tangible personal property. Trade-ins or
22 discounts allowed and taken at the time of sale shall not be
23 included within the purview of this subsection. "Sales price"
24 also includes the full face value of any coupon used by a
25 purchaser to reduce the price paid to a retailer for an item
26 of tangible personal property; where the retailer will be
27 reimbursed for such coupon, in whole or in part, by the
28 manufacturer of the item of tangible personal property; or
29 whenever it is not practicable for the retailer to determine,
30 at the time of sale, the extent to which reimbursement for the
31 coupon will be made. The term "sales price" does not include

1 federal excise taxes imposed upon the retailer on the sale of
2 tangible personal property. The term "sales price" does
3 include federal manufacturers' excise taxes, even if the
4 federal tax is listed as a separate item on the invoice. To
5 the extent required by federal law, the term "sales price"
6 does not include charges for Internet access services which
7 are not itemized on the customer's bill, but which can be
8 reasonably identified from the selling dealer's books and
9 records kept in the regular course of business. The dealer may
10 support the allocation of charges with books and records kept
11 in the regular course of business covering the dealer's entire
12 service area, including territories outside this state.

13 Section 17. Subsection (3) of section 212.13, Florida
14 Statutes, is amended to read:

15 212.13 Records required to be kept; power to inspect;
16 audit procedure.--

17 (3) For the purpose of enforcement of this chapter,
18 every manufacturer and seller of tangible personal property or
19 services licensed within this state is required to permit the
20 department to examine his or her books and records at all
21 reasonable hours, and, upon his or her refusal, the department
22 may require him or her to permit such examination by resort to
23 the circuit courts of this state, subject however to the right
24 of removal of the cause to the judicial circuit wherein such
25 person's business is located or wherein such person's books
26 and records are kept, provided further that such person's
27 books and records are kept within the state. When the dealer
28 has made an allocation or attribution pursuant to the
29 definition of sales price in s. 212.02(16), the department may
30 prescribe by rule the books and records that must be made
31 available during an audit of the dealer's books and records

1 and examples of methods for determining the reasonableness
2 thereof. Books and records kept in the regular course of
3 business include, but are not limited to, general ledgers,
4 price lists, cost records, customer billings, billing system
5 reports, tariffs, and other regulatory filings and rules of
6 regulatory authorities. Such record may be required to be made
7 available to the department in an electronic format when so
8 kept by the dealer. The dealer may support the allocation of
9 charges with books and records kept in the regular course of
10 business covering the dealer's entire service area, including
11 territories outside this state. During an audit, the
12 department may reasonably require production of any additional
13 books and records found necessary to assist in its
14 determination.

15 Section 18. The Executive Director of the Department
16 of Revenue is authorized, and all conditions are deemed met,
17 to adopt emergency rules under sections 120.563(1) and
18 120.54(4), Florida Statutes, to administer this act.
19 Notwithstanding any other provision of law, the emergency
20 rules shall remain effective for 6 months after the date of
21 their adoption and may be renewed during the pendency of
22 procedures to adopt rules addressing the subject of the
23 emergency rules.

24 Section 19. Subsection (8) is added to section 202.17,
25 Florida Statutes, to read:

26 202.17 Registration.--

27 (8) It is the intent of the Legislature to subject to
28 the provisions of this chapter all sellers of communications
29 services that have established a sufficient connection with
30 this state to permit the state constitutionally to require
31 compliance with this chapter. Activities of a seller of

1 communications services that may subject such a seller to the
2 provisions of this chapter include, but are not limited to:
3 (a) Maintaining an office or other place of business
4 within this state.
5 (b) Solicitation of business from one or more Florida
6 locations through employees, agents, independent contractors,
7 or other representatives of such seller.

8 Section 20. This act shall take effect July 1, 2005.
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