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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

31

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;

31

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.

31

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.

31

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:  
31

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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