

By Senator Baker

20-1112-07

See HB 17

1 A bill to be entitled
2 An act relating to payment card transaction
3 exactions; amending s. 212.12, F.S.; specifying
4 absence of dealer liability to the state for
5 certain payment card transaction rates,
6 charges, or fees; specifying such rates,
7 charges, or fees as a credit against and
8 deduction from certain sales and use tax
9 requirements; providing a return requirement;
10 providing an effective date.
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12 Be It Enacted by the Legislature of the State of Florida:
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14 Section 1. Paragraph (c) of subsection (1) of section
15 212.12, Florida Statutes, is amended, and paragraph (d) is
16 added to that subsection, to read:
17 212.12 Dealer's credit for collecting tax; penalties
18 for noncompliance; powers of Department of Revenue in dealing
19 with delinquents; brackets applicable to taxable transactions;
20 records required.--
21 (1) Notwithstanding any other provision of law and for
22 the purpose of compensating persons granting licenses for and
23 the lessors of real and personal property taxed hereunder, for
24 the purpose of compensating dealers in tangible personal
25 property, for the purpose of compensating dealers providing
26 communication services and taxable services, for the purpose
27 of compensating owners of places where admissions are
28 collected, and for the purpose of compensating remitters of
29 any taxes or fees reported on the same documents utilized for
30 the sales and use tax, as compensation for the keeping of
31 prescribed records, filing timely tax returns, and the proper

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

29 | (c)1. A dealer entitled to the collection allowance
30 | provided in this section may elect to forego the collection
31 | allowance and direct that said amount be transferred into the

1 Educational Enhancement Trust Fund. Such an election must be
2 made with the timely filing of a return and may not be
3 rescinded once made. If a dealer who makes such an election
4 files a delinquent return, underpays the tax, or files an
5 incomplete return, the amount transferred into the Educational
6 Enhancement Trust Fund shall be the amount of the collection
7 allowance remaining after resolution of liability for all of
8 the tax, interest, and penalty due on that return or
9 underpayment of tax. The Department of Education shall
10 distribute the remaining amount from the trust fund to the
11 school districts that have adopted resolutions stating that
12 those funds will be used to ensure that up-to-date technology
13 is purchased for the classrooms in the district and that
14 teachers are trained in the use of that technology. Revenues
15 collected in districts that do not adopt such a resolution
16 shall be equally distributed to districts that have adopted
17 such resolutions.

18 2. This paragraph applies to all taxes, surtaxes, and
19 any local option taxes administered under this chapter and
20 remitted directly to the department. This paragraph does not
21 apply to any locally imposed and self-administered convention
22 development tax, tourist development tax, or tourist impact
23 tax administered under this chapter.

24 3. Revenues from the dealer-collection allowances
25 shall be transferred quarterly from the General Revenue Fund
26 to the Educational Enhancement Trust Fund. The Department of
27 Revenue shall provide to the Department of Education quarterly
28 information about such revenues by county to which the
29 collection allowance was attributed.

30 4. Notwithstanding any provision of chapter 120 to the
31 contrary, the Department of Revenue may adopt rules to carry

1 out ~~the provisions of the amendment made by chapter 2006-52,~~
2 ~~Laws of Florida,~~ to this paragraph section.

3 (d) A dealer as described in this subsection is not
4 liable to the state for any discount rate, transaction charge,
5 interchange rate, or any other rate, charge, or fee charged to
6 the dealer by an issuer or deducted from a payment card sale
7 for processing a payment card transaction for which the rate,
8 charge, or fee is a flat rate, charge, or fee or a percentage
9 multiplied by the gross dollar amount of the payment card
10 transaction on the portion of the transaction related to any
11 sales or use tax. Such rate, charge, or fee is a lawful credit
12 against and shall be deducted from any sales and use tax
13 required to be remitted by the dealer to the state. The dealer
14 shall separately state the credit on any required return.

15 Section 2. This act shall take effect July 1, 2007.
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