

By Senator Altman

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1                                   A bill to be entitled  
2           An act relating to the tax on sales, use, and other  
3           transactions; providing a short title; amending s.  
4           212.05, F.S.; limiting the amount of tax collected on  
5           individual sales of aircraft or boats; providing an  
6           effective date.

7  
8           WHEREAS, Florida's maritime and boating industry, including  
9           the sale and servicing of large boats, has historically been a  
10          significant component of Florida's economy, with over 220,000  
11          people employed in this and related industries, and

12          WHEREAS, Florida has become increasingly important in the  
13          field of aircraft manufacturing, sales, maintenance, repair, and  
14          overhaul, with approximately 80,000 people employed in the  
15          aviation and aerospace industries at an average annual wage of  
16          over \$50,000, and

17          WHEREAS, the aviation and boating industries not only  
18          create significant numbers of jobs in Florida, but also attract  
19          large amounts of capital , cause significant tax revenue to be  
20          collected and create extensive indirect jobs and other benefits,  
21          and

22          WHEREAS, the voters in Florida made clear in the most  
23          recent election that, by amending Florida's constitution, they  
24          value highly Florida's working waterfronts, and want to see  
25          those waterfronts taking advantage of Florida's natural  
26          amenities and adding further to employment and capital  
27          investment in Florida, and

28          WHEREAS, current tax policy discourages the purchase, use,  
29          and maintenance of boats and aircraft in Florida, and actually

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30 requires certain purchasers to leave the state to avoid  
31 unnecessary taxation, with a resulting loss of jobs, capital  
32 investment and sales and use tax revenue, and

33 WHEREAS, current law and policy results in little or no  
34 sales tax revenue collection on the purchase and sale of large  
35 boats and aircraft because of far more advantageous law and  
36 policy in other jurisdictions, including offshore, and

37 WHEREAS, changing tax policy to encourage the sale, use,  
38 maintenance, repair, and overhaul of boats and aircraft in  
39 Florida would energize its economy, create jobs, attract  
40 capital, and generate additional sales and use tax revenue, and,  
41 indirectly, assist law enforcement and the Department of  
42 Homeland Security by decreasing the number of offshore  
43 registered boats in Florida's and America's waters, NOW,  
44 THEREFORE,

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. This act may be cited as the "Aviation and  
49 Maritime Full Employment Act."

50 Section 2. Paragraph (a) of subsection (1) of section  
51 212.05, Florida Statutes, is amended to read:

52 212.05 Sales, storage, use tax.—It is hereby declared to be  
53 the legislative intent that every person is exercising a taxable  
54 privilege who engages in the business of selling tangible  
55 personal property at retail in this state, including the  
56 business of making mail order sales, or who rents or furnishes  
57 any of the things or services taxable under this chapter, or who  
58 stores for use or consumption in this state any item or article

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59 of tangible personal property as defined herein and who leases  
60 or rents such property within the state.

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

64 (a)1.a. At the rate of 6 percent of the sales price of each  
65 item or article of tangible personal property when sold at  
66 retail in this state, computed on each taxable sale for the  
67 purpose of remitting the amount of tax due the state, and  
68 including each and every retail sale.

69 b. Each occasional or isolated sale of an aircraft, boat,  
70 mobile home, or motor vehicle of a class or type which is  
71 required to be registered, licensed, titled, or documented in  
72 this state or by the United States Government shall be subject  
73 to tax at the rate provided in this paragraph, provided the  
74 maximum amount of tax collected under this subparagraph on each  
75 individual sale of an aircraft or boat may not exceed \$25,000.  
76 The department shall by rule adopt any nationally recognized  
77 publication for valuation of used motor vehicles as the  
78 reference price list for any used motor vehicle which is  
79 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),  
80 (b), (c), or (e), or (9). If any party to an occasional or  
81 isolated sale of such a vehicle reports to the tax collector a  
82 sales price which is less than 80 percent of the average loan  
83 price for the specified model and year of such vehicle as listed  
84 in the most recent reference price list, the tax levied under  
85 this paragraph shall be computed by the department on such  
86 average loan price unless the parties to the sale have provided  
87 to the tax collector an affidavit signed by each party, or other

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88 substantial proof, stating the actual sales price. Any party to  
89 such sale who reports a sales price less than the actual sales  
90 price is guilty of a misdemeanor of the first degree, punishable  
91 as provided in s. 775.082 or s. 775.083. The department shall  
92 collect or attempt to collect from such party any delinquent  
93 sales taxes. In addition, such party shall pay any tax due and  
94 any penalty and interest assessed plus a penalty equal to twice  
95 the amount of the additional tax owed. Notwithstanding any other  
96 provision of law, the Department of Revenue may waive or  
97 compromise any penalty imposed pursuant to this subparagraph.

98 2. This paragraph does not apply to the sale of a boat or  
99 aircraft by or through a registered dealer under this chapter to  
100 a purchaser who, at the time of taking delivery, is a  
101 nonresident of this state, does not make his or her permanent  
102 place of abode in this state, and is not engaged in carrying on  
103 in this state any employment, trade, business, or profession in  
104 which the boat or aircraft will be used in this state, or is a  
105 corporation none of the officers or directors of which is a  
106 resident of, or makes his or her permanent place of abode in,  
107 this state, or is a noncorporate entity that has no individual  
108 vested with authority to participate in the management,  
109 direction, or control of the entity's affairs who is a resident  
110 of, or makes his or her permanent abode in, this state. For  
111 purposes of this exemption, either a registered dealer acting on  
112 his or her own behalf as seller, a registered dealer acting as  
113 broker on behalf of a seller, or a registered dealer acting as  
114 broker on behalf of the purchaser may be deemed to be the  
115 selling dealer. This exemption shall not be allowed unless:

116 a. The purchaser removes a qualifying boat, as described in

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117 sub-subparagraph f., from the state within 90 days after the  
118 date of purchase or the purchaser removes a nonqualifying boat  
119 or an aircraft from this state within 10 days after the date of  
120 purchase or, when the boat or aircraft is repaired or altered,  
121 within 20 days after completion of the repairs or alterations;

122       b. The purchaser, within 30 days from the date of  
123 departure, shall provide the department with written proof that  
124 the purchaser licensed, registered, titled, or documented the  
125 boat or aircraft outside the state. If such written proof is  
126 unavailable, within 30 days the purchaser shall provide proof  
127 that the purchaser applied for such license, title,  
128 registration, or documentation. The purchaser shall forward to  
129 the department proof of title, license, registration, or  
130 documentation upon receipt.

131       c. The purchaser, within 10 days of removing the boat or  
132 aircraft from Florida, shall furnish the department with proof  
133 of removal in the form of receipts for fuel, dockage, slippage,  
134 tie-down, or hangaring from outside of Florida. The information  
135 so provided must clearly and specifically identify the boat or  
136 aircraft;

137       d. The selling dealer, within 5 days of the date of sale,  
138 shall provide to the department a copy of the sales invoice,  
139 closing statement, bills of sale, and the original affidavit  
140 signed by the purchaser attesting that he or she has read the  
141 provisions of this section;

142       e. The seller makes a copy of the affidavit a part of his  
143 or her record for as long as required by s. 213.35; and

144       f. Unless the nonresident purchaser of a boat of 5 net tons  
145 of admeasurement or larger intends to remove the boat from this

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146 state within 10 days after the date of purchase or when the boat  
147 is repaired or altered, within 20 days after completion of the  
148 repairs or alterations, the nonresident purchaser shall apply to  
149 the selling dealer for a decal which authorizes 90 days after  
150 the date of purchase for removal of the boat. The department is  
151 authorized to issue decals in advance to dealers. The number of  
152 decals issued in advance to a dealer shall be consistent with  
153 the volume of the dealer's past sales of boats which qualify  
154 under this sub-subparagraph. The selling dealer or his or her  
155 agent shall mark and affix the decals to qualifying boats in the  
156 manner prescribed by the department, prior to delivery of the  
157 boat.

158 (I) The department is hereby authorized to charge dealers a  
159 fee sufficient to recover the costs of decals issued.

160 (II) The proceeds from the sale of decals will be deposited  
161 into the administrative trust fund.

162 (III) Decals shall display information to identify the boat  
163 as a qualifying boat under this sub-subparagraph, including, but  
164 not limited to, the decal's date of expiration.

165 (IV) The department is authorized to require dealers who  
166 purchase decals to file reports with the department and may  
167 prescribe all necessary records by rule. All such records are  
168 subject to inspection by the department.

169 (V) Any dealer or his or her agent who issues a decal  
170 falsely, fails to affix a decal, mismarks the expiration date of  
171 a decal, or fails to properly account for decals will be  
172 considered prima facie to have committed a fraudulent act to  
173 evade the tax and will be liable for payment of the tax plus a  
174 mandatory penalty of 200 percent of the tax, and shall be liable

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175 for fine and punishment as provided by law for a conviction of a  
176 misdemeanor of the first degree, as provided in s. 775.082 or s.  
177 775.083.

178 (VI) Any nonresident purchaser of a boat who removes a  
179 decal prior to permanently removing the boat from the state, or  
180 defaces, changes, modifies, or alters a decal in a manner  
181 affecting its expiration date prior to its expiration, or who  
182 causes or allows the same to be done by another, will be  
183 considered prima facie to have committed a fraudulent act to  
184 evade the tax and will be liable for payment of the tax plus a  
185 mandatory penalty of 200 percent of the tax, and shall be liable  
186 for fine and punishment as provided by law for a conviction of a  
187 misdemeanor of the first degree, as provided in s. 775.082 or s.  
188 775.083.

189 (VII) The department is authorized to adopt rules necessary  
190 to administer and enforce this subparagraph and to publish the  
191 necessary forms and instructions.

192 (VIII) The department is hereby authorized to adopt  
193 emergency rules pursuant to s. 120.54(4) to administer and  
194 enforce the provisions of this subparagraph.

195  
196 If the purchaser fails to remove the qualifying boat from this  
197 state within 90 days after purchase or a nonqualifying boat or  
198 an aircraft from this state within 10 days after purchase or,  
199 when the boat or aircraft is repaired or altered, within 20 days  
200 after completion of such repairs or alterations, or permits the  
201 boat or aircraft to return to this state within 6 months from  
202 the date of departure, or if the purchaser fails to furnish the  
203 department with any of the documentation required by this

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204 subparagraph within the prescribed time period, the purchaser  
205 shall be liable for use tax on the cost price of the boat or  
206 aircraft and, in addition thereto, payment of a penalty to the  
207 Department of Revenue equal to the tax payable. This penalty  
208 shall be in lieu of the penalty imposed by s. 212.12(2) and is  
209 mandatory and shall not be waived by the department. The 90-day  
210 period following the sale of a qualifying boat tax-exempt to a  
211 nonresident may not be tolled for any reason. Notwithstanding  
212 other provisions of this paragraph to the contrary, an aircraft  
213 purchased in this state under the provisions of this paragraph  
214 may be returned to this state for repairs within 6 months after  
215 the date of its departure without being in violation of the law  
216 and without incurring liability for the payment of tax or  
217 penalty on the purchase price of the aircraft if the aircraft is  
218 removed from this state within 20 days after the completion of  
219 the repairs and if such removal can be demonstrated by invoices  
220 for fuel, tie-down, hangar charges issued by out-of-state  
221 vendors or suppliers, or similar documentation.

222 Section 3. This act shall take effect July 1, 2009.