

1 A bill to be entitled
2 An act relating to the Streamlined Sales and Use Tax
3 Agreement; amending s. 212.02, F.S.; revising definitions
4 for the purposes of sales and use taxes; defining the
5 terms "agent," "seller," "certified service provider,"
6 "direct mail," "prewritten computer software," and
7 "delivery charges"; providing applicability; amending ss.
8 212.0306 and 212.04, F.S.; deleting references to
9 brackets; amending s. 212.05, F.S.; deleting provisions
10 relating to the rental or lease of motor vehicles;
11 revising the determination of the location of the sale or
12 recharge of prepaid calling arrangements; deleting a
13 reference to brackets; amending s. 212.0506, F.S.;
14 deleting a reference to brackets; conforming a cross-
15 reference; amending s. 212.054, F.S.; providing the time
16 for applying changes in local option tax rates; providing
17 guidelines for determining the situs of certain
18 transactions; providing for notice of a change in the rate
19 of a local option sales tax; providing for applicability
20 of s. 202.22(2), F.S., relating to determination of local
21 tax situs, for the purpose of providing and maintaining a
22 database of sales and use tax rates for local
23 jurisdictions; amending s. 212.06, F.S.; providing for
24 determining the location of transactions involving the
25 retail sale of tangible personal property, digital goods,
26 or services and for the lease or rental of tangible
27 personal property; requiring certain business purchasers
28 to obtain multiple-points-of-use exemption forms;

29 providing for use of such forms; requiring certain
30 purchasers of direct mail to obtain a direct-mail form;
31 providing for the use of such form; amending s. 212.08,
32 F.S., relating to exemptions from the sales and use tax;
33 defining and redefining terms used with respect to the
34 exemption for general groceries; defining and redefining
35 terms used with respect to the exemption for medical
36 products and supplies; revising that exemption; conforming
37 a cross-reference; creating s. 212.094, F.S.; requiring a
38 purchaser seeking a refund or credit under ch. 212, F.S.,
39 to submit a written request for the refund or credit;
40 providing a time period within which the dealer must
41 respond to the written request; amending s. 212.12, F.S.;
42 providing for a monetary allowance for tax credits to
43 certified service providers and voluntary sellers pursuant
44 to the Streamlined Sales and Use Tax Agreement; providing
45 for computation of tax due; deleting the brackets for
46 state and discretionary sales surtax calculations;
47 amending s. 212.17, F.S.; prescribing additional
48 guidelines and procedures with respect to dealer credits
49 for taxes paid on worthless accounts; creating s. 213.052,
50 F.S.; providing for notice of state sales or use tax rate
51 changes; creating s. 213.0521, F.S.; providing the
52 effective date for state sales and use tax rate changes;
53 amending s. 213.21, F.S.; providing for amnesty to certain
54 sellers for uncollected or unpaid sales and use taxes;
55 amending s. 213.256, F.S.; relating to simplified sales
56 and use tax administration; defining terms; providing that

57 authority to administer the Streamlined Sales and Use Tax
 58 Agreement rests with a governing board comprised of
 59 representatives of member states; providing for continuing
 60 effect of the agreement; providing for annual
 61 recertification; creating s. 213.2565, F.S.; providing for
 62 the registration of sellers, the certification of a person
 63 as a certified service provider, and the certification of
 64 a software program as a certified automated system by the
 65 governing board under the Streamlined Sales and Use Tax
 66 Agreement; amending ss. 196.012, 203.01, 212.03, 212.031,
 67 212.052, 212.081, 212.13, 213.015, 288.1045, 551.102, and
 68 790.0655, F.S.; conforming cross-references; amending s.
 69 212.0596, F.S.; conforming a cross-reference; deleting a
 70 provision relating to the exemption from collecting and
 71 remitting local option surtaxes for certain dealers who
 72 make mail order sales; declaring legislative intent;
 73 providing for the adoption of emergency rules; providing
 74 an effective date.

75
 76 Be It Enacted by the Legislature of the State of Florida:

77
 78 Section 1. Section 212.02, Florida Statutes, is amended to
 79 read:

80 212.02 Definitions.--As used in this chapter, the term ~~The~~
 81 ~~following terms and phrases when used in this chapter have the~~
 82 ~~meanings ascribed to them in this section, except where the~~
 83 ~~context clearly indicates a different meaning:~~

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84 (1) ~~The term~~ "Admissions" means ~~and includes~~ the net sum
85 of money after the deduction of any federal taxes for admitting
86 a person or vehicle ~~or persons~~ to a any place of amusement,
87 sport, or recreation or for the privilege of entering or staying
88 in a any place of amusement, sport, or recreation, including,
89 but not limited to, theaters, outdoor theaters, shows,
90 exhibitions, games, races, or any place where charge is made
91 through the ~~by way of~~ sale of tickets, gate charges, seat
92 charges, box charges, season pass charges, cover charges, greens
93 fees, participation fees, entrance fees, or other fees or
94 receipts of anything of value measured on an admission or
95 entrance or length of stay or seat box accommodations in any
96 place where there is an any exhibition, amusement, sport, or
97 recreation, and all dues and fees paid to private clubs and
98 membership clubs providing recreational or physical fitness
99 facilities, including, but not limited to, golf, tennis,
100 swimming, yachting, boating, athletic, exercise, and fitness
101 facilities, except physical fitness facilities owned or operated
102 by a any hospital licensed under chapter 395.

103 (2) "Agent" means any person appointed by, or authorized
104 to act for, a principal in a transaction involving the sale of
105 an item of tangible personal property.

106 (3) "Agricultural commodity" means horticultural products,
107 aquacultural products, poultry and farm products, and livestock
108 and livestock products.

109 (4) "Agricultural production" means the production of
110 plants and animals useful to humans, including the preparation,
111 planting, cultivating, or harvesting of these products or any

112 other processes necessary to accomplish production through the
 113 harvest phase, and includes aquaculture, horticulture,
 114 floriculture, viticulture, forestry, dairy, livestock, poultry,
 115 bees, and all other forms of farm products and farm production.

116 (5)(2) "Business" means any activity engaged in ~~by any~~
 117 ~~person,~~ or caused to be engaged in, by a person ~~him or her,~~ with
 118 the object of private or public gain, benefit, or advantage,
 119 directly or indirectly ~~either direct or indirect.~~ Except for the
 120 sale ~~sales~~ of any aircraft, boat, mobile home, or motor vehicle,
 121 the term does ~~"business"~~ shall not be construed in this chapter
 122 ~~to~~ include occasional or isolated sales or transactions
 123 involving tangible personal property or services by a person who
 124 does not hold himself or herself out as engaged in business or
 125 sales of unclaimed tangible personal property under s. 717.122,
 126 but does include ~~includes other~~ charges for the sale or rental
 127 of tangible personal property, sales of services taxable under
 128 this chapter, sales of or charges of admission, communication
 129 services, all rentals and leases of living quarters, other than
 130 low-rent housing operated under chapter 421, sleeping or
 131 housekeeping accommodations in hotels, apartment houses,
 132 roominghouses, tourist or trailer camps, or mobile home or
 133 recreational vehicle parks, and all rentals of or licenses in
 134 real property, other than low-rent housing operated under
 135 chapter 421, all leases or rentals of or licenses in parking
 136 lots or garages for motor vehicles, docking or storage spaces
 137 for boats in boat docks or marinas ~~as defined in this chapter~~
 138 ~~and~~ made subject to a tax imposed by this chapter. The term does
 139 ~~"business"~~ shall not be construed in this chapter to include the

140 leasing, subleasing, or licensing of real property by one
 141 corporation to another if all of the stock of both ~~such~~
 142 corporations is owned, directly or through one or more wholly
 143 owned subsidiaries, by a common parent corporation; the property
 144 was in use before ~~prior to~~ July 1, 1989, title to the property
 145 was transferred after July 1, 1988, and before July 1, 1989,
 146 between members of an affiliated group, as defined in s. 1504(a)
 147 of the Internal Revenue Code of 1986, which group included both
 148 ~~such~~ corporations, and there is no substantial change in the use
 149 of the property following the transfer of title; the leasing,
 150 subleasing, or licensing of the property was required by an
 151 unrelated lender as a condition of providing financing to one or
 152 more members of the affiliated group; and the corporation to
 153 which the property is leased, subleased, or licensed had sales
 154 subject to the tax imposed by this chapter of at least ~~not less~~
 155 ~~than~~ \$667 million during the most recent 12-month period ended
 156 June 30. A ~~Any~~ tax on such sales, charges, rentals, admissions,
 157 or other transactions ~~made~~ subject to the tax imposed by this
 158 chapter shall be collected by the state, ~~county, municipality,~~
 159 any political subdivision, ~~agency, bureau, or department,~~ or
 160 other state or local governmental instrumentality in the same
 161 manner as other dealers, unless specifically exempted by this
 162 chapter.

163 ~~(3) The terms "cigarettes," "tobacco," or "tobacco~~
 164 ~~products" referred to in this chapter include all such products~~
 165 ~~as are defined or may be hereafter defined by the laws of the~~
 166 ~~state.~~

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167 (6) "Certified service provider" has the same meaning as
168 in s. 213.256.

169 (7) "Coin-operated amusement machine" means a machine
170 operated by coin, slug, token, coupon, or similar device for the
171 purposes of entertainment or amusement. The term includes coin-
172 operated pinball machines, music machines, juke boxes,
173 mechanical games, video games, arcade games, billiard tables,
174 moving picture viewers, shooting galleries, and all similar
175 amusement devices.

176 (8)-(4) "Cost price" means the actual cost of articles of
177 tangible personal property without any deductions ~~for therefrom~~
178 ~~on account of~~ the cost of materials used, labor or service
179 costs, transportation charges, or any other expenses ~~whatsoever~~.

180 (9)-(5) ~~The term~~ "Department" means the Department of
181 Revenue.

182 (10) "Dealer" means a person who:

183 (a) Manufactures or produces tangible personal property
184 for sale at retail; for use, consumption, or distribution; or
185 for storage to be used or consumed in this state.

186 (b) Imports, or causes to be imported, tangible personal
187 property from any state or foreign country for sale at retail;
188 for use, consumption, or distribution; or for storage to be used
189 or consumed in this state.

190 (c) Sells at retail or who offers for sale at retail, or
191 who has in his or her possession for sale at retail; or for use,
192 consumption, or distribution; or for storage to be used or
193 consumed in this state, tangible personal property, and includes
194 a retailer who transacts a mail order sale.

195 (d) Has sold at retail; or used, or consumed, or
 196 distributed; or stored for use or consumption in this state,
 197 tangible personal property and who cannot prove that the tax
 198 levied by this chapter has been paid. However, the term does not
 199 include a person who is not a dealer under any other paragraph
 200 of this subsection and whose only owned or leased property in
 201 this state, including property owned or leased by an affiliate,
 202 is located on the premises of a printer with whom it has
 203 contracted for printing, if the property consists of the final
 204 printed product, property that becomes a part of the final
 205 printed product, or property from which the printed product is
 206 produced.

207 (e) Leases or rents tangible personal property for
 208 consideration, permitting the use or possession of such property
 209 without transferring title to the property, except as expressly
 210 provided for under this chapter.

211 (f) Maintains within this state, directly or by a
 212 subsidiary, an office, distributing house, salesroom, or house,
 213 warehouse, or other place of business.

214 (g) Solicits business through direct representatives,
 215 indirect representatives, or manufacturers' agents; through
 216 distribution of catalogs or other advertising matter; or by any
 217 other means, for the purpose of receiving orders for tangible
 218 personal property from consumers for use, consumption,
 219 distribution, and storage for use or consumption in this state.
 220 Such dealer shall collect the tax imposed by this chapter from
 221 the purchaser and may not bring a cause of action, in law or in
 222 equity, on a sale or transaction in this state unless it is

223 affirmatively shown that this chapter has been fully complied
 224 with.

225 (h) Solicits, receives, and accepts orders for future
 226 delivery from consumers in the state as a representative, agent,
 227 or solicitor for an out-of-state principal who refuses to
 228 register as a dealer.

229 (i) Leases or grants a license to use, occupy, or enter
 230 upon living quarters, sleeping or housekeeping accommodations in
 231 hotels, apartment houses, roominghouses, tourist or trailer
 232 camps, mobile home or recreational vehicle parks, real property,
 233 space or spaces in parking lots or garages for motor vehicles,
 234 docking or storage space or spaces for boats in boat docks or
 235 marinas, or tie-down or storage space or spaces for aircraft at
 236 airports. The term also includes a person who has leased,
 237 occupied, or used or was entitled to use living quarters,
 238 sleeping or housekeeping accommodations in hotels, apartment
 239 houses, roominghouses, tourist or trailer camps, mobile home or
 240 recreational vehicle parks, real property, spaces in parking
 241 lots or garages for motor vehicles or docking or storage spaces
 242 for boats in boat docks or marinas, or who has purchased
 243 communication services or electric power or energy, and who
 244 cannot prove that the tax levied by this chapter has been paid
 245 to the vendor or lessor on any such transactions. The term does
 246 not include a person who leases, lets, rents, or grants a
 247 license to use, occupy, or enter upon living quarters, sleeping
 248 quarters, or housekeeping accommodations in apartment houses,
 249 roominghouses, tourist camps, or trailer camps, mobile home or
 250 recreational vehicle parks, and who exclusively enters into a

251 bona fide written agreement for continuous residence for longer
252 than 6 months with a person who leases, lets, rents, or is
253 granted a license to use the property.

254 (j) Sells, provides, or performs a service taxable under
255 this chapter. The term includes a person who purchases, uses, or
256 consumes a service taxable under this chapter and cannot prove
257 that the tax has been paid to the seller of the taxable service.

258 (k) Solicits, offers, provides, enters into, issues, or
259 delivers a service warranty taxable under this chapter, or who
260 receives on behalf of such a person, consideration from a
261 service warranty holder.

262 (11) "Delivery charges" means charges by the seller of
263 personal property or services for preparation and delivery to a
264 location designated by the purchaser of personal property or
265 services, including, but not limited to, transportation,
266 shipping, postage, handling, crating, and packing. The term does
267 not include the charges for delivery of direct mail if the
268 charges are separately stated on an invoice or similar billing
269 document given to the purchaser.

270 (12) "Diesel fuel" means any liquid product, gas product,
271 or combination thereof used in an internal combustion engine or
272 motor to propel any form of vehicle, machine, or mechanical
273 contrivance. The term includes, but is not limited to, all forms
274 of fuel commonly or commercially known or sold as diesel fuel or
275 kerosene. However, the term does not include butane gas, propane
276 gas, or any other form of liquefied petroleum gas or compressed
277 natural gas.

278 (13) "Direct mail" means printed material delivered or
 279 distributed by United States mail or other delivery service to a
 280 mass audience or to addressees on a mailing list provided by the
 281 purchaser or at the direction of the purchaser if the cost of
 282 the items is not billed directly to the recipients. The term
 283 includes tangible personal property supplied directly or
 284 indirectly by the purchaser to the direct mail seller for
 285 inclusion in the package containing the printed material. The
 286 term does not include multiple items of printed material
 287 delivered to a single address.

288 ~~(14)(6)~~ "Enterprise zone" means an area of the state
 289 designated pursuant to s. 290.0065. This subsection expires on
 290 the date specified in s. 290.016 for the expiration of the
 291 Florida Enterprise Zone Act.

292 ~~(15)(7)~~ "Factory-built building" means a structure
 293 manufactured in a manufacturing facility for installation or
 294 erection as a finished building. ~~The term; "factory-built~~
 295 ~~building"~~ includes, but is not limited to, residential,
 296 commercial, institutional, storage, and industrial structures.

297 (16) "Farmer" means a person who is directly engaged in
 298 the business of producing crops, livestock, or other
 299 agricultural commodities. The term includes, but is not limited
 300 to, horse breeders, nurserymen, dairy farmers, poultry farmers,
 301 cattle ranchers, apiarists, and persons raising fish.

302 (17) "Forest" means the land stocked by trees of any size
 303 used in the production of forest products, or formerly having
 304 such tree cover and not currently being developed for nonforest
 305 use.

306 (18) "Gross sales" means the sum total of all sales of
 307 tangible personal property without any deduction of any kind or
 308 character, except as otherwise provided in this chapter.

309 ~~(8) "In this state" or "in the state" means within the~~
 310 ~~state boundaries of Florida as defined in s. 1, Art. II of the~~
 311 ~~State Constitution and includes all territory within these~~
 312 ~~limits owned by or ceded to the United States.~~

313 (19)~~(9) The term "Intoxicating beverages" or "alcoholic~~
 314 beverages" means referred to in this chapter includes all such
 315 beverages as are so defined or may be hereafter defined by the
 316 laws of the state.

317 ~~(20)~~~~(10) "Lease," "let," or "rental" means:~~

318 (a) The leasing or renting of living quarters or sleeping
 319 or housekeeping accommodations in hotels, apartment houses,
 320 roominghouses, tourist camps, ~~or~~ trailer camps, mobile home
 321 parks, or recreational vehicle parks and ~~real property~~, the same
 322 being defined as follows:

323 1.~~(a) A "hotel" is every building or other structure kept,~~
 324 used, maintained, ~~or~~ advertised as, or held out to the public to
 325 be, a place where sleeping accommodations are supplied for pay
 326 to transient or permanent guests or tenants, in which 10 or more
 327 rooms are furnished for the accommodation of such guests, and
 328 having one or more dining rooms or cafes where meals or lunches
 329 are served to ~~such~~ transient or permanent guests; ~~such sleeping~~
 330 ~~accommodations and dining rooms or cafes being conducted in the~~
 331 ~~same building or buildings in connection therewith, shall, for~~
 332 ~~the purpose of this chapter, be deemed a hotel.~~

333 ~~2.(b)~~ An "apartment house" is any building, or part
 334 thereof, where separate accommodations for two or more families
 335 living independently of each other are supplied to transient or
 336 permanent guests or tenants ~~shall for the purpose of this~~
 337 ~~chapter be deemed an apartment house.~~

338 ~~3.(e)~~ A "roominghouse" is every house, boat, vehicle,
 339 motor court, trailer court, or other structure or any place or
 340 location kept, used, maintained, or advertised as, or held out
 341 to the public to be, a place where living quarters or sleeping
 342 or housekeeping accommodations are supplied for pay to transient
 343 or permanent guests or tenants, whether in one or adjoining
 344 buildings, ~~shall for the purpose of this chapter be deemed a~~
 345 ~~roominghouse.~~

346 ~~4.(d)~~ A "room" in all hotels, apartment houses, and
 347 roominghouses includes ~~within the meaning of this chapter,~~ the
 348 parlor, dining room, sleeping porch ~~porches,~~ kitchen, office,
 349 and sample rooms ~~shall be construed to mean "rooms."~~

350 ~~5.(e)~~ A "tourist camp" is a place where two or more tents,
 351 tent houses, or camp cottages are located and offered by a
 352 person or municipality for sleeping or eating accommodations,
 353 most generally to the transient public for ~~either~~ a direct money
 354 consideration or an indirect benefit to the lessor or owner in
 355 connection with a related business.

356 ~~6.(f)~~ A "trailer camp," "mobile home park," or
 357 "recreational vehicle park" is a place where space is offered,
 358 with or without service facilities, by any person ~~persons~~ or
 359 municipality to the public for the parking and accommodation of
 360 two or more automobile trailers, mobile homes, or recreational

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361 vehicles ~~which are~~ used for lodging, for ~~either~~ a direct money
362 consideration or an indirect benefit to the lessor or owner in
363 connection with a related business, such space being ~~hereby~~
364 ~~defined as~~ living quarters, and the rental price includes
365 ~~thereof shall include~~ all service charges paid to the lessor.

366 (b) (g) The transfer of possession or control "Lease,"
367 "let," or "rental" also means the leasing or rental of tangible
368 personal property for a fixed or indeterminate term and the
369 possession or use thereof by the lessee or rentee for a
370 consideration, without transfer of the title of such property,
371 except as expressly provided to the contrary herein. A clause in
372 an agreement for a future option to purchase or to extend an
373 agreement does not preclude an agreement from being a lease or
374 rental. This provision may be used for sales and use tax
375 purposes regardless of whether a transaction is characterized as
376 a lease or rental under generally accepted accounting
377 principles, the Internal Revenue Code, the Uniform Commercial
378 Code, or other provisions of federal, state, or local law.
379 Agreements covering motor vehicles and trailers are included if
380 the amount of consideration may be increased or decreased by
381 reference to the amount realized upon sale or disposition of the
382 property as defined in 26 U.S.C. s. 7701(h) (1).

383 1. This paragraph does not apply to:

384 a. A transfer of possession or control of property under a
385 security agreement or deferred payment plan that requires the
386 transfer of title upon completion of the required payments;

387 b. A transfer of possession or control of property under
388 an agreement that requires the transfer of title upon completion

389 of required payments and payment of an option price that does
 390 not exceed the greater of \$100 or 1 percent of the total
 391 required payments; or

392 c. Providing tangible personal property along with an
 393 operator for a fixed or indeterminate period of time where the
 394 operator is necessary for the equipment to perform as designed.
 395 For the purpose of this sub-subparagraph, an operator must do
 396 more than maintain, inspect, or set up the tangible personal
 397 property.

398 2. The term "lease," "let," or "rental" does not include:
 399 mean

400 a. Hourly, daily, or mileage charges, ~~to the extent that~~
 401 ~~such charges are~~ subject to the jurisdiction of the United
 402 States Interstate Commerce Commission, for ~~when such charges are~~
 403 ~~paid by reason of the presence of~~ railroad cars owned by another
 404 on the tracks of the taxpayer, or charges made pursuant to car
 405 service agreements.

406 ~~b. The term "lease," "let," "rental," or "license" does~~
 407 ~~not include~~ Payments made to an owner of high-voltage bulk
 408 transmission facilities in connection with the possession or
 409 control of such facilities by a regional transmission
 410 organization, independent system operator, or similar entity
 411 under the jurisdiction of the Federal Energy Regulatory
 412 Commission. However, if ~~where~~ two taxpayers, in connection with
 413 the interchange of facilities, rent or lease property, each to
 414 the other, for use in providing or furnishing any of the
 415 services mentioned in s. 166.231, the term "lease or rental"
 416 applies ~~means~~ only to the net amount of rental involved.

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417 ~~(c)-(h)~~ The leasing or rental of real property. "Real
418 property" means the surface land, improvements thereto, and
419 fixtures, and is synonymous with "realty" and "real estate."

420 1.(i) "License," as used in ~~this chapter~~ with reference to
421 the use of real property, means the granting of a privilege to
422 use or occupy a building or a parcel of real property for any
423 purpose.

424 2.(j) Privilege, franchise, or concession fees, or fees
425 for a license to do business, paid to an airport are not
426 payments for leasing, letting, renting, or granting a license
427 for the use of real property.

428 (21) "Livestock" means all animals of the equine, bovine,
429 or swine class, including goats, sheep, mules, horses, hogs,
430 cattle, and other grazing animals raised for commercial
431 purposes. The term also includes ostriches and fish raised for
432 commercial purposes.

433 (22)-(11) "Motor fuel" means ~~and includes~~ what is commonly
434 known and sold as gasoline and fuels containing a mixture of
435 gasoline and other products.

436 (23)-(12) "Person" means an ~~includes any~~ individual, firm,
437 copartnership, joint adventure, association, corporation,
438 estate, trust, business trust, receiver, syndicate, or other
439 group or combination acting as a unit and also includes any
440 political subdivision, ~~municipality,~~ state agency, or other
441 public or quasi-public instrumentality ~~bureau, or department and~~
442 ~~includes the plural as well as the singular number.~~

443 (24) "Power farm equipment" means moving or stationary
444 equipment that contains within itself the means for its own

445 propulsion or power and moving or stationary equipment that is
446 dependent upon an external power source to perform its
447 functions.

448 (25) "Prewritten computer software" means computer
449 software, including prewritten upgrades, which is not designed
450 and developed by the author or other creator to the
451 specifications of a specific purchaser. The combining of two or
452 more prewritten computer software programs, or portions thereof,
453 does not cause the combination to be other than "prewritten
454 computer software." The term includes software designed and
455 developed by the author or other creator to the specifications
456 of a specific purchaser when it is sold to a person other than
457 that purchaser. If a person who modifies or enhances computer
458 software is not the author or creator of the software, the
459 person shall be deemed to be the author or creator only of the
460 modifications or enhancements. Prewritten computer software, or
461 a portion thereof, which is modified or enhanced to any degree
462 to the specifications of a specific purchaser remains prewritten
463 computer software, unless there is a reasonable, separately
464 stated charge or an invoice or other statement of the price
465 given to the purchaser for the modification or enhancement.

466 (26) "Qualified aircraft" means aircraft having a maximum
467 certified takeoff weight of less than 10,000 pounds, equipped
468 with twin turbofan engines that meet Stage IV noise
469 requirements, and used by a business, operating as an on-demand
470 air carrier under Federal Aviation Administration Regulation
471 Title 14, chapter I, part 135, Code of Federal Regulations,

472 which owns or leases and operates a fleet of at least 25 such
 473 aircraft in this state.

474 (27) "Real property" means the surface land, improvements
 475 thereto, and fixtures, and is synonymous with "realty" and "real
 476 estate." For the purposes of this definition:

477 (a) "Fixtures" means items that are an accessory to a
 478 building, other structure, or land and that do not lose their
 479 identity as accessories when installed, but do become
 480 permanently attached to realty. It is not necessary for the
 481 owner of the item to also own the real property to which it is
 482 attached. However, the term does not include the following
 483 items, regardless of whether such items are attached to real
 484 property in a permanent manner: property that is required to be
 485 registered, licensed, titled, or documented by this state or by
 486 the Federal Government, including, but not limited to, mobile
 487 homes, except for mobile homes assessed as real property, or
 488 industrial machinery or equipment. For purposes of this
 489 paragraph, industrial machinery or equipment is not limited to
 490 machinery and equipment used to manufacture, process, compound,
 491 or produce tangible personal property.

492 (b) "Improvements to real property" include the activities
 493 of building, erecting, constructing, altering, improving,
 494 repairing, or maintaining real property.

495 (28)~~(13)~~ "Retailer" means ~~and includes~~ every person
 496 engaged in the business of making sales at retail or for
 497 distribution, or use, or consumption, or storage to be used or
 498 consumed in this state.

499 ~~(29)(14)(a)~~ "Retail sale" or a "sale at retail" means a
 500 sale of tangible personal property or services taxable under
 501 this chapter to a consumer or to any person for any purpose
 502 ~~other than for resale in the form of tangible personal property~~
 503 ~~or services taxable under this chapter~~, and includes all such
 504 transactions that may be made in lieu of retail sales or sales
 505 at retail. The term includes a mail order sale, as defined in s.
 506 212.0596(1).

507 (a) A sale for resale includes a sale of qualifying
 508 property. As used in this paragraph, the term "qualifying
 509 property" means tangible personal property, other than
 510 electricity, which is used or consumed by a government
 511 contractor in the performance of a qualifying contract, as
 512 defined in s. 212.08(17)(c), if to the extent that the cost of
 513 the property is allocated or charged as a direct item of cost to
 514 the such contract, title to the ~~which~~ property vests in or
 515 passes to the government under the contract. The term
 516 "government contractor" includes prime contractors and
 517 subcontractors. As used in this paragraph, a cost is a "direct
 518 item of cost" if it is a "direct cost" as defined in 48 C.F.R.
 519 s. 9904.418-30(a)(2), or similar successor provisions, including
 520 costs identified specifically with a particular contract.

521 (b) The terms "retail sales," "sales at retail," "use,"
 522 "storage," and "consumption" include the sale, use, storage, or
 523 consumption of all tangible advertising materials imported or
 524 caused to be imported into this state. Tangible advertising
 525 material includes displays, display containers, brochures,
 526 catalogs, price lists, point-of-sale advertising, and technical

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527 manuals or any tangible personal property that ~~which~~ does not
528 accompany the product to the ultimate consumer.

529 (c) "Retail sales," "sale at retail," "use," "storage,"
530 and "consumption" do not include materials, containers, labels,
531 sacks, bags, or similar items intended to accompany a product
532 sold to a customer without which delivery of the product would
533 be impracticable because of the character of the contents and ~~be~~
534 used only one time ~~only~~ for packaging tangible personal property
535 for sale, ~~or~~ for the convenience of the customer, or for
536 packaging in the process of providing a service taxable under
537 this chapter. If ~~When~~ a separate charge for packaging materials
538 is made, the charge is ~~shall be considered~~ part of the sales
539 price or rental charge for purposes of determining the
540 applicability of tax. The terms do not include the sale, use,
541 storage, or consumption of industrial materials, including
542 chemicals and fuels except as provided herein, for future
543 processing, manufacture, or conversion into articles of tangible
544 personal property for resale if the ~~when such~~ industrial
545 materials, ~~including chemicals and fuels except as provided~~
546 ~~herein~~, become a component or ingredient of the finished
547 product. However, the terms include the sale, use, storage, or
548 consumption of tangible personal property, including machinery
549 and equipment or parts thereof, purchased electricity, and fuels
550 used to power machinery, if the ~~when such~~ items are used and
551 dissipated in fabricating, converting, or processing tangible
552 personal property for sale, even though they may become
553 ingredients or components of the tangible personal property for
554 sale through accident, wear, tear, erosion, corrosion, or

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555 similar means. The terms do not include the sale of materials to
556 a registered repair facility for use in repairing a motor
557 vehicle, airplane, or boat, if the ~~when such~~ materials are
558 incorporated into and sold as part of the repair. Such a sale
559 shall be deemed a purchase for resale by the repair facility,
560 even though every material is not separately stated or
561 separately priced on the repair invoice.

562 ~~(d) "Gross sales" means the sum total of all sales of~~
563 ~~tangible personal property as defined herein, without any~~
564 ~~deduction whatsoever of any kind or character, except as~~
565 ~~provided in this chapter.~~

566 ~~(e) The term "retail sale" includes a mail order sale, as~~
567 ~~defined in s. 212.0596(1).~~

568 ~~(30)(15)~~ (30) "Sale" means ~~and includes:~~

569 (a) Any transfer of title or possession, or both,
570 exchange, barter, license, lease, or rental, conditional or
571 otherwise, in any manner or by any means whatsoever, of tangible
572 personal property for a consideration.

573 (b) The leasing or rental of living quarters or sleeping
574 or housekeeping accommodations in ~~hotels, apartment houses or~~
575 ~~roominghouses, or tourist or trailer camps, as hereinafter~~
576 ~~defined in this chapter.~~

577 (c) The producing, fabricating, processing, printing, or
578 imprinting of tangible personal property for a consideration for
579 consumers who furnish, either ~~either~~ directly or indirectly, the
580 materials used in the producing, fabricating, processing,
581 printing, or imprinting.

582 (d) The furnishing, preparing, or serving for a
583 consideration of ~~any~~ tangible personal property for consumption
584 on or off the premises of the person furnishing, preparing, or
585 serving the ~~such~~ tangible personal property, which includes the
586 sale of meals or prepared food by an employer to his or her
587 employees.

588 (e) A transaction whereby the possession of property is
589 transferred but the seller retains title as security for the
590 payment of the price.

591 ~~(31)(16)~~ "Sales price" means the total amount of
592 consideration, including cash, credit, property, and services,
593 for which personal property or services are sold, leased, or
594 rented, valued in money, whether received in money or otherwise,
595 and applies to the measure subject to the sales tax. ~~paid for~~
596 ~~tangible personal property, including any services that are a~~
597 ~~part of the sale, valued in money, whether paid in money or~~
598 ~~otherwise, and includes any amount for which credit is given to~~
599 ~~the purchaser by the seller, without any deduction therefrom on~~
600 ~~account of the cost of the property sold, the cost of materials~~
601 ~~used, labor or service cost, interest charged, losses, or any~~
602 ~~other expense whatsoever. "Sales price" also includes the~~
603 ~~consideration for a transaction which requires both labor and~~
604 ~~material to alter, remodel, maintain, adjust, or repair tangible~~
605 ~~personal property. Trade-ins or discounts allowed and taken at~~
606 ~~the time of sale shall not be included within the purview of~~
607 ~~this subsection. "Sales price" also includes the full face value~~
608 ~~of any coupon used by a purchaser to reduce the price paid to a~~
609 ~~retailer for an item of tangible personal property; where the~~

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610 ~~retailer will be reimbursed for such coupon, in whole or in~~
611 ~~part, by the manufacturer of the item of tangible personal~~
612 ~~property; or whenever it is not practicable for the retailer to~~
613 ~~determine, at the time of sale, the extent to which~~
614 ~~reimbursement for the coupon will be made. The term "sales~~
615 ~~price" does not include federal excise taxes imposed upon the~~
616 ~~retailer on the sale of tangible personal property. The term~~
617 ~~"sales price" does include federal manufacturers' excise taxes,~~
618 ~~even if the federal tax is listed as a separate item on the~~
619 ~~invoice. To the extent required by federal law, the term "sales~~
620 ~~price" does not include charges for Internet access services~~
621 ~~which are not itemized on the customer's bill, but which can be~~
622 ~~reasonably identified from the selling dealer's books and~~
623 ~~records kept in the regular course of business. The dealer may~~
624 ~~support the allocation of charges with books and records kept in~~
625 ~~the regular course of business covering the dealer's entire~~
626 ~~service area, including territories outside this state.~~

627 (a) The sales price may be adjusted to include a deduction
628 for:

- 629 1. The seller's cost of the property sold.
630 2. The cost of materials used, labor or service cost,
631 interest, losses, all costs of transportation to the seller, all
632 taxes imposed on the seller, and any other expense of the
633 seller.
634 3. Charges by the seller for services necessary to
635 complete the sale, other than delivery and installation charges.
636 4. Delivery charges.
637 5. Installation charges.

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638 (b) The sales price does not include:

639 1. Trade-ins allowed and taken at the time of sale if the
640 amount is separately stated on the invoice, bill of sale, or
641 similar document given to the purchaser.

642 2. Discounts, including cash, term, or coupons, which are
643 not reimbursed by a third party, which are allowed by a seller,
644 and which are taken by a purchaser at the time of sale.

645 3. Interest, financing, and carrying charges from credit
646 extended on the sale of personal property or services, if the
647 amount is separately stated on the invoice, bill of sale, or
648 similar document given to the purchaser.

649 4. Any taxes legally imposed directly on the consumer
650 which are separately stated on the invoice, bill of sale, or
651 similar document given to the purchaser.

652 ~~(17) "Diesel fuel" means any liquid product, gas product,~~
653 ~~or combination thereof used in an internal combustion engine or~~
654 ~~motor to propel any form of vehicle, machine, or mechanical~~
655 ~~contrivance. This term includes, but is not limited to, all~~
656 ~~forms of fuel commonly or commercially known or sold as diesel~~
657 ~~fuel or kerosene. However, the term "diesel fuel" does not~~
658 ~~include butane gas, propane gas, or any other form of liquefied~~
659 ~~petroleum gas or compressed natural gas.~~

660 (32) "Seller" means any person making sales, leases, or
661 rentals of tangible personal property or services.

662 (33) "Solar energy system" means the equipment and
663 requisite hardware that provide and are used for collecting,
664 transferring, converting, storing, or using incident solar
665 energy for water heating, space heating, cooling, or other

666 applications that would otherwise require the use of a
 667 conventional source of energy such as petroleum products,
 668 natural gas, manufactured gas, or electricity.

669 (34) "Space flight" means any flight designed for
 670 suborbital, orbital, or interplanetary travel of a space
 671 vehicle, satellite, or station of any kind.

672 (35) "Spaceport activities" means activities directed or
 673 sponsored by Space Florida on spaceport territory pursuant to
 674 its powers and responsibilities under the Space Florida Act.

675 (36)~~(18)~~ "Storage" means and includes any keeping or
 676 retention in this state of tangible personal property for use or
 677 consumption in this state or for any purpose other than sale at
 678 retail in the regular course of business.

679 (37)~~(19)~~ "Tangible personal property" means and includes
 680 personal property that ~~which~~ may be seen, weighed, measured, or
 681 touched or is in any manner perceptible to the senses, including
 682 electric power or energy, water, gas, steam, prewritten computer
 683 software, boats, motor vehicles and mobile homes as defined in
 684 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
 685 other types of vehicles. The term ~~"tangible personal property"~~
 686 does not include stocks, bonds, notes, insurance, or other
 687 obligations or securities or pari-mutuel tickets sold or issued
 688 under the racing laws of the state.

689 (38) "Tobacco," or "tobacco products" means all such
 690 products as are defined or may be hereafter defined by the laws
 691 of this state.

692 (39) "Transportation equipment" means:

693 (a) Locomotives and rail cars that are used for the
 694 carriage of persons or property in interstate commerce;
 695 (b) Trucks and truck tractors having a Gross Vehicle
 696 Weight Rating (GVWR) of 10,001 pounds or greater, trailers,
 697 semitrailers, or passenger buses that are registered through the
 698 International Registration Plan and operated under authority of
 699 a carrier authorized and certificated by the United States
 700 Department of Transportation or other federal authority to
 701 engage in the carriage of persons or property in interstate
 702 commerce;
 703 (c) Aircraft that are operated by air carriers authorized
 704 and certificated by the United States Department of
 705 Transportation or other federal or foreign authority to engage
 706 in the carriage of persons or property in interstate or foreign
 707 commerce; or
 708 (d) Containers designed for use on and component parts
 709 attached to or secured on the items set forth in paragraphs (a)
 710 through (c).
 711 ~~(40)-(20)~~ "Use" means ~~and includes~~ the exercise of any
 712 right or power over tangible personal property incident to the
 713 ownership thereof, or interest therein, except that it does not
 714 include the sale at retail of that property in the regular
 715 course of business. The term "use" does not include the loan of
 716 an automobile by a motor vehicle dealer to a high school for use
 717 in its driver education and safety program. The term "use" does
 718 not include a contractor's use of "qualifying property" as
 719 defined by paragraph (29) (a) ~~(14) (a)~~.

720 ~~(41)(21)~~ The term "use tax" means the tax imposed for
721 ~~referred to in this chapter includes~~ the use, the consumption,
722 the distribution, and the storage of tangible personal property
723 ~~as herein defined.~~

724 ~~(22)~~ "Spaceport activities" ~~means activities directed or~~
725 ~~sponsored by Space Florida on spaceport territory pursuant to~~
726 ~~its powers and responsibilities under the Space Florida Act.~~

727 ~~(23)~~ "Space flight" ~~means any flight designed for~~
728 ~~suborbital, orbital, or interplanetary travel of a space~~
729 ~~vehicle, satellite, or station of any kind.~~

730 ~~(24)~~ "Coin-operated amusement machine" ~~means any machine~~
731 ~~operated by coin, slug, token, coupon, or similar device for the~~
732 ~~purposes of entertainment or amusement. The term includes, but~~
733 ~~is not limited to, coin-operated pinball machines, music~~
734 ~~machines, juke boxes, mechanical games, video games, arcade~~
735 ~~games, billiard tables, moving picture viewers, shooting~~
736 ~~galleries, and all other similar amusement devices.~~

737 ~~(25)~~ "Sea trial" ~~means a voyage for the purpose of testing~~
738 ~~repair or modification work, which is in length and scope~~
739 ~~reasonably necessary to test repairs or modifications, or a~~
740 ~~voyage for the purpose of ascertaining the seaworthiness of a~~
741 ~~vessel. If the sea trial is to test repair or modification work,~~
742 ~~the owner or repair facility shall certify, in a form required~~
743 ~~by the department, what repairs have been tested. The owner and~~
744 ~~the repair facility may also be required to certify that the~~
745 ~~length and scope of the voyage were reasonably necessary to test~~
746 ~~the repairs or modifications.~~

747 ~~(26) "Solar energy system" means the equipment and~~
 748 ~~requisite hardware that provide and are used for collecting,~~
 749 ~~transferring, converting, storing, or using incident solar~~
 750 ~~energy for water heating, space heating, cooling, or other~~
 751 ~~applications that would otherwise require the use of a~~
 752 ~~conventional source of energy such as petroleum products,~~
 753 ~~natural gas, manufactured gas, or electricity.~~

754 ~~(27) "Agricultural commodity" means horticultural,~~
 755 ~~aquacultural, poultry and farm products, and livestock and~~
 756 ~~livestock products.~~

757 ~~(28) "Farmer" means a person who is directly engaged in~~
 758 ~~the business of producing crops, livestock, or other~~
 759 ~~agricultural commodities. The term includes, but is not limited~~
 760 ~~to, horse breeders, nurserymen, dairy farmers, poultry farmers,~~
 761 ~~cattle ranchers, apiarists, and persons raising fish.~~

762 ~~(29) "Livestock" includes all animals of the equine,~~
 763 ~~bovine, or swine class, including goats, sheep, mules, horses,~~
 764 ~~hogs, cattle, ostriches, and other grazing animals raised for~~
 765 ~~commercial purposes. The term "livestock" shall also include~~
 766 ~~fish raised for commercial purposes.~~

767 ~~(30) "Power farm equipment" means moving or stationary~~
 768 ~~equipment that contains within itself the means for its own~~
 769 ~~propulsion or power and moving or stationary equipment that is~~
 770 ~~dependent upon an external power source to perform its~~
 771 ~~functions.~~

772 ~~(31) "Forest" means the land stocked by trees of any size~~
 773 ~~used in the production of forest products, or formerly having~~
 774 ~~such tree cover, and not currently developed for nonforest use.~~

775 ~~(32) "Agricultural production" means the production of~~
 776 ~~plants and animals useful to humans, including the preparation,~~
 777 ~~planting, cultivating, or harvesting of these products or any~~
 778 ~~other practices necessary to accomplish production through the~~
 779 ~~harvest phase, and includes aquaculture, horticulture,~~
 780 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~
 781 ~~bees, and any and all forms of farm products and farm~~
 782 ~~production.~~

783 ~~(33) "Qualified aircraft" means any aircraft having a~~
 784 ~~maximum certified takeoff weight of less than 10,000 pounds and~~
 785 ~~equipped with twin turbofan engines that meet Stage IV noise~~
 786 ~~requirements that is used by a business operating as an on-~~
 787 ~~demand air carrier under Federal Aviation Administration~~
 788 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~
 789 ~~Regulations, that owns or leases and operates a fleet of at~~
 790 ~~least 25 of such aircraft in this state.~~

791 Section 2. The amendment of the terms "lease," "let," and
 792 "rental" in s. 212.02, Florida Statutes, made by this act
 793 applies prospectively only from January 1, 2009, and does not
 794 apply retroactively to leases or rentals existing before that
 795 date.

796 Section 3. Subsection (6) of section 212.0306, Florida
 797 Statutes, is amended to read:

798 212.0306 Local option food and beverage tax; procedure for
 799 levying; authorized uses; administration.--

800 (6) Any county levying a tax authorized by this section
 801 must locally administer the tax using the powers and duties
 802 enumerated for local administration of the tourist development

803 tax by s. 125.0104, 1992 Supplement to the Florida Statutes
 804 1991. ~~The county's ordinance shall also provide for brackets~~
 805 ~~applicable to taxable transactions.~~

806 Section 4. Paragraph (b) of subsection (1) of section
 807 212.04, Florida Statutes, is amended to read:

808 212.04 Admissions tax; rate, procedure, enforcement.--

809 (1)

810 (b) For the exercise of this ~~such~~ privilege, a tax is
 811 levied at the rate of 6 percent of the sales price, or the
 812 actual value received for ~~from~~ ~~such~~ admissions, which ~~6 percent~~
 813 shall be added to and collected with all ~~such~~ admissions paid by
 814 ~~from~~ the purchaser thereof, and ~~such tax shall be paid for the~~
 815 ~~exercise of the privilege as defined in the preceding paragraph.~~

816 Each ticket must show on its face the actual sales price of the
 817 admission, or each dealer selling the admission must prominently
 818 display at the box office or other place where the admission
 819 charge is made a notice disclosing the price of the admission,
 820 and the tax shall be computed and collected on the basis of the
 821 actual price of the admission charged by the dealer. The sale
 822 price or actual value of admission shall, for the purpose of
 823 this chapter, be that price remaining after deduction of federal
 824 taxes and state or locally imposed or authorized seat
 825 surcharges, taxes, or fees, if any, imposed upon such admission.
 826 The sale price or actual value does not include separately
 827 stated ticket service charges that are imposed by a facility
 828 ticket office or a ticketing service and added to a separately
 829 stated, established ticket price. The rate of tax on each

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830 admission shall be determined in accordance with ~~according to~~
831 ~~the brackets established by~~ s. 212.12(9).

832 Section 5. Paragraphs (c) and (e) of subsection (1) and
833 subsection (4) of section 212.05, Florida Statutes, are amended
834 to read:

835 212.05 Sales, storage, use tax.--It is hereby declared to
836 be the legislative intent that every person is exercising a
837 taxable privilege who engages in the business of selling
838 tangible personal property at retail in this state, including
839 the business of making mail order sales, or who rents or
840 furnishes any of the things or services taxable under this
841 chapter, or who stores for use or consumption in this state any
842 item or article of tangible personal property as defined herein
843 and who leases or rents such property within the state.

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

847 (c) At the rate of 6 percent of the gross proceeds derived
848 from the lease or rental of tangible personal property, as
849 ~~defined herein; however, the following special provisions apply~~
850 ~~to the lease or rental of motor vehicles:~~

851 1. ~~When a motor vehicle is leased or rented for a period~~
852 ~~of less than 12 months:~~

853 a. ~~If the motor vehicle is rented in Florida, the entire~~
854 ~~amount of such rental is taxable, even if the vehicle is dropped~~
855 ~~off in another state.~~

856 b. ~~If the motor vehicle is rented in another state and~~
857 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

858 ~~2. Except as provided in subparagraph 3., for the lease or~~
 859 ~~rental of a motor vehicle for a period of not less than 12~~
 860 ~~months, sales tax is due on the lease or rental payments if the~~
 861 ~~vehicle is registered in this state; provided, however, that no~~
 862 ~~tax shall be due if the taxpayer documents use of the motor~~
 863 ~~vehicle outside this state and tax is being paid on the lease or~~
 864 ~~rental payments in another state.~~

865 ~~3. The tax imposed by this chapter does not apply to the~~
 866 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 867 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~
 868 ~~than 12 months when tax was paid on the purchase price of such~~
 869 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 870 ~~to the purchase of such vehicle in another state, territory of~~
 871 ~~the United States, or the District of Columbia, the Florida tax~~
 872 ~~payable shall be reduced in accordance with the provisions of s.~~
 873 ~~212.06(7). This subparagraph shall only be available when the~~
 874 ~~lease or rental of such property is an established business or~~
 875 ~~part of an established business or the same is incidental or~~
 876 ~~germane to such business.~~

877 (e)1. At the rate of 6 percent on charges for:

878 a. Prepaid calling arrangements. ~~The tax on charges for~~
 879 ~~prepaid calling arrangements~~ shall be collected at the time of
 880 sale and remitted by the selling dealer.

881 (I) "Prepaid calling arrangement" means the separately
 882 stated retail sale by advance payment of communications services
 883 that consist exclusively of telephone calls originated by using
 884 an access number, authorization code, or other means that may be
 885 manually, electronically, or otherwise entered and that are sold

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886 in predetermined units or dollars whose number declines with use
887 in a known amount.

888 (II) The sale or recharge of the prepaid calling
889 arrangement is deemed to take place in accordance with paragraph
890 212.06(2)(d). For a sale of a mobile communications service that
891 is a prepaid calling arrangement, the retail sale may be sourced
892 at ~~If the sale or recharge of the prepaid calling arrangement~~
893 ~~does not take place at the dealer's place of business, it shall~~
894 ~~be deemed to take place at the customer's shipping address or,~~
895 ~~if no item is shipped, at the customer's address or the location~~
896 associated with the customer's mobile telephone number.

897 (III) The sale or recharge of a prepaid calling
898 arrangement shall be treated as a sale of tangible personal
899 property for purposes of this chapter, whether or not a tangible
900 item evidencing such arrangement is furnished to the purchaser,
901 and the ~~such~~ sale within this state subjects the selling dealer
902 to the jurisdiction of this state for purposes of this
903 subsection.

904 b. The installation of telecommunication and telegraphic
905 equipment.

906 c. Electrical power or energy, except that the tax rate
907 for charges for electrical power or energy is 7 percent.

908 2. The provisions of s. 212.17(3), regarding credit for
909 tax paid on charges subsequently found to be worthless, are
910 ~~shall be~~ equally applicable to a ~~any~~ tax paid under ~~the~~
911 ~~provisions of~~ this section on charges for prepaid calling
912 arrangements, telecommunication or telegraph services, or
913 electric power subsequently found to be uncollectible. The word

914 "charges" in this paragraph does not include any excise or
 915 similar tax levied by the Federal Government, any political
 916 subdivision of the state, or any municipality upon the purchase,
 917 sale, or recharge of prepaid calling arrangements or upon the
 918 purchase or sale of telecommunication, television system
 919 program, or telegraph service or electric power, which tax is
 920 collected by the seller from the purchaser.

921 (4) The tax imposed pursuant to this chapter shall be due
 922 and payable according to the applicable state and local rate
 923 provided ~~the brackets set forth~~ in s. 212.12.

924 Section 6. Subsections (6) and (11) of section 212.0506,
 925 Florida Statutes, are amended to read:

926 212.0506 Taxation of service warranties.--

927 (6) This tax shall be due and payable according to the
 928 applicable state and local rate provided ~~brackets set forth~~ in
 929 s. 212.12.

930 (11) Any duties imposed by this chapter upon dealers of
 931 tangible personal property with respect to collecting and
 932 remitting taxes; making returns; keeping books, records, and
 933 accounts; and complying with the rules ~~and regulations~~ of the
 934 department apply to all dealers ~~as defined in s. 212.06(2)(1)~~.

935 Section 7. Section 212.054, Florida Statutes, is amended
 936 to read:

937 212.054 Discretionary sales surtax; limitations,
 938 administration, and collection.--

939 (1) A ~~No~~ general excise tax on sales may not shall be
 940 levied by the governing body of a ~~any~~ county unless specifically
 941 authorized in s. 212.055. Any general excise tax on sales

942 authorized pursuant to that ~~said~~ section shall be administered
 943 and collected exclusively as provided in this section.

944 (2) ~~(a)~~ The tax imposed by the governing body of a ~~any~~
 945 county ~~authorized to so levy~~ pursuant to s. 212.055 shall be a
 946 discretionary surtax on all transactions occurring in the county
 947 which ~~transactions~~ are subject to the state tax imposed on
 948 sales, use, services, rentals, admissions, and other
 949 transactions by this chapter and on communications services
 950 under ~~as defined for purposes of~~ chapter 202.

951 (a) The surtax, if levied, shall be computed as the
 952 applicable rate or rates authorized pursuant to s. 212.055 times
 953 the amount of taxable sales and taxable purchases representing
 954 such transactions. If the surtax is levied on the sale of an
 955 item of tangible personal property or on the sale of a service,
 956 the surtax shall be computed by multiplying the rate imposed by
 957 the county within which the sale occurs by the amount of the
 958 taxable sale. The sale of an item of tangible personal property
 959 or the sale of a service is not subject to the surtax if the
 960 property, the service, or the tangible personal property
 961 representing the service is delivered within a county that does
 962 not impose a discretionary sales surtax.

963 (b) However:

964 1. A ~~The~~ sales amount above \$5,000 on an ~~any~~ item of
 965 tangible personal property is ~~shall~~ not ~~be~~ subject to the
 966 surtax. However, charges for prepaid calling arrangements, as
 967 described ~~defined~~ in s. 212.05(1)(e)1.a., are ~~shall be~~ subject
 968 to the surtax. For purposes of administering the \$5,000
 969 ~~limitation on an item of tangible personal property,~~ if two or

970 more taxable items of tangible personal property are sold to the
 971 same purchaser at the same time and, under generally accepted
 972 business practice or industry standards or usage, are normally
 973 sold in bulk or are items that, when assembled, comprise a
 974 working unit or part of a working unit, the such items shall
 975 ~~must~~ be considered a single item for purposes of the \$5,000
 976 limitation if ~~when~~ supported by a charge ticket, sales slip,
 977 invoice, or other tangible evidence of a single sale or rental.

978 2. For In the case of utility services covering a period
 979 starting before and ending billed on or after the effective date
 980 of the any such surtax, the rate applies as follows:

981 a. For a rate adoption or increase, the new rate shall
 982 apply to the first billing period starting on or after the
 983 effective date of the surtax or increase.

984 b. For a rate decrease or termination, the new rate shall
 985 apply to bills rendered on or after the effective date of the
 986 rate change ~~the entire amount of the charge for utility services~~
 987 ~~shall be subject to the surtax. In the case of utility services~~
 988 ~~billed after the last day the surtax is in effect, the entire~~
 989 ~~amount of the charge on said items shall not be subject to the~~
 990 ~~surtax.~~

991
 992 "Utility service," as used in this paragraph ~~section~~, does not
 993 include any communications services as defined in chapter 202.

994 3. For In the case of written contracts that ~~which~~ are
 995 signed before ~~prior to~~ the effective date of the any such surtax
 996 for the construction of improvements to real property or for
 997 remodeling of existing structures, the surtax shall be paid by

998 the contractor responsible for the performance of the contract.
 999 However, the contractor may apply for one refund of the ~~any such~~
 1000 surtax paid on materials necessary for the completion of the
 1001 contract. An ~~Any~~ application for refund must ~~shall~~ be made
 1002 within ~~no later than~~ 15 months after the ~~following~~ initial
 1003 imposition of the surtax in that county. The application for
 1004 refund shall be in the manner prescribed by the department by
 1005 rule. A complete application must ~~shall~~ include proof of the
 1006 written contract and of payment of the surtax, and. ~~The~~
 1007 ~~application shall~~ contain a sworn statement, signed by the
 1008 applicant or its representative, attesting to the validity of
 1009 the application. The department shall, within 30 days after
 1010 approval of a complete application, certify to the county
 1011 information necessary for issuance of a refund to the applicant.
 1012 Counties are ~~hereby~~ authorized to issue refunds for this purpose
 1013 and must ~~shall~~ set aside from the proceeds of the surtax a sum
 1014 sufficient to pay any refund lawfully due. Any person who
 1015 fraudulently obtains or attempts to obtain a refund pursuant to
 1016 this subparagraph, in addition to being liable for repayment of
 1017 any refund fraudulently obtained plus a mandatory penalty of 100
 1018 percent of the refund, commits ~~is guilty of~~ a felony of the
 1019 third degree, punishable as provided in s. 775.082, s. 775.083,
 1020 or s. 775.084.

1021 4. For a ~~In the case of any~~ vessel, railroad, or motor
 1022 vehicle common carrier entitled to a partial exemption from tax
 1023 imposed under this chapter pursuant to s. 212.08(4), (8), or
 1024 (9), the basis for imposition of the surtax is ~~shall be~~ the same
 1025 as provided in s. 212.08 and the ratio shall be applied each

1026 month to total purchases in this state of property qualified for
 1027 proration which is delivered or sold in the taxing county to
 1028 establish the portion used and consumed in intracounty movement
 1029 and subject to surtax.

1030 (3) Except as otherwise provided in this section, a
 1031 discretionary surtax applies to a retail sale, lease, or rental
 1032 of tangible personal property, a digital good, or a service if,
 1033 under s. 212.06(2), the transaction occurs in a county that
 1034 imposes a surtax. ~~For the purpose of this section,~~ A transaction
 1035 shall be deemed to have occurred in a county if ~~imposing the~~
 1036 ~~surtax when:~~

1037 (a)~~1.~~ The retail sale of a modular or manufactured home,
 1038 not including a mobile home, occurs in the county where the home
 1039 is delivered. ~~The sale includes an item of tangible personal~~
 1040 ~~property, a service, or tangible personal property representing~~
 1041 ~~a service, and the item of tangible personal property, the~~
 1042 ~~service, or the tangible personal property representing the~~
 1043 ~~service is delivered within the county. If there is no~~
 1044 ~~reasonable evidence of delivery of a service, the sale of a~~
 1045 ~~service is deemed to occur in the county in which the purchaser~~
 1046 ~~accepts the bill of sale.~~

1047 (b)~~2.~~ The retail sale, excluding a lease or rental, of a
 1048 motor vehicle that does not qualify as transportation equipment
 1049 or a ~~The sale of any motor vehicle or~~ mobile home of a class or
 1050 type that ~~which~~ is required to be registered in this state or in
 1051 any other state occurs ~~shall be deemed to have occurred only in~~
 1052 the county identified as the residence ~~address~~ of the purchaser
 1053 on the registration or title document for the ~~such~~ property.

1054 (c) The lease or rental of real property occurs in the
 1055 county in which the real property is located.

1056 (d) A transient rental transaction occurs in the county in
 1057 which the rental property is located.

1058 ~~(e)(b)~~ ~~The event for which an Admission~~ for an event is
 1059 charged ~~is located~~ in the county in which the event is held.

1060 ~~(e) The consumer of utility services is located in the~~
 1061 ~~county.~~

1062 (f) A transaction made from a coin-operated amusement
 1063 machine or vending machine occurs in the county in which the
 1064 machine is located.

1065 (g) A florist taking the original order to sell tangible
 1066 personal property is located in the county in which the order
 1067 occurs.

1068 (h) The retail sale, excluding the lease or rental, of
 1069 aircraft that does not qualify as transportation equipment, or a
 1070 boat of a class or type that is required to be registered,
 1071 licensed, titled, or documented in this state or by the Federal
 1072 Government occurs in the county in which the aircraft or boat is
 1073 delivered.

1074 ~~(i)(d)1.~~ The use ~~user~~ of any aircraft or boat of a class
 1075 or type that ~~which~~ is required to be registered, licensed,
 1076 titled, or documented in this state or by the Federal ~~United~~
 1077 ~~States~~ Government imported into the county for use, consumption,
 1078 distribution, or storage to be used or consumed occurs in the
 1079 county in which the user is located ~~in the county.~~

1080 2. However, it is ~~shall be~~ presumed that ~~such~~ items used
 1081 outside the county for 6 months or longer before being imported

1082 into the county were not purchased for use in the county, except
 1083 as provided in s. 212.06(8) (b) .

1084 ~~3.~~ This paragraph does not apply to the use or consumption
 1085 of items upon which a like tax of equal or greater amount has
 1086 been lawfully imposed and paid outside the county.

1087 (j)~~(e)~~ The purchase purchaser of a any motor vehicle or
 1088 mobile home of a class or type that ~~which~~ is required to be
 1089 registered in this state occurs in the county identified as the
 1090 residence of the purchaser ~~is a resident of the taxing county as~~
 1091 ~~determined by the address appearing on or to be reflected on the~~
 1092 registration document for the ~~such~~ property.

1093 (k)~~(f)~~1. The use, consumption, distribution, or storage of
 1094 a Any motor vehicle or mobile home of a class or type that ~~which~~
 1095 is required to be registered in this state and that is imported
 1096 from another state occurs in the county to which it is imported
 1097 ~~into the taxing county by a user residing therein for the~~
 1098 ~~purpose of use, consumption, distribution, or storage in the~~
 1099 ~~taxing county.~~

1100 ~~2.~~ However, it is ~~shall be~~ presumed that ~~such~~ items used
 1101 outside the taxing county for 6 months or longer before being
 1102 imported into the county were not purchased for use in the
 1103 county.

1104 ~~(g)~~ ~~The real property which is leased or rented is located~~
 1105 ~~in the county.~~

1106 ~~(h)~~ ~~The transient rental transaction occurs in the county.~~

1107 ~~(i)~~ ~~The delivery of any aircraft or boat of a class or~~
 1108 ~~type which is required to be registered, licensed, titled, or~~
 1109 ~~documented in this state or by the United States Government is~~

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1110 ~~to a location in the county. However, this paragraph does not~~
1111 ~~apply to the use or consumption of items upon which a like tax~~
1112 ~~of equal or greater amount has been lawfully imposed and paid~~
1113 ~~outside the county.~~

1114 (l)(j) The dealer owing a use tax on purchases or leases
1115 is located in the county.

1116 ~~(k) The delivery of tangible personal property other than~~
1117 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
1118 ~~is made to a location outside the county, but the property is~~
1119 ~~brought into the county within 6 months after delivery, in which~~
1120 ~~event, the owner must pay the surtax as a use tax.~~

1121 ~~(l) The coin-operated amusement or vending machine is~~
1122 ~~located in the county.~~

1123 ~~(m) The florist taking the original order to sell tangible~~
1124 ~~personal property is located in the county, notwithstanding any~~
1125 ~~other provision of this section.~~

1126 (4)(a) The department shall administer, collect, and
1127 enforce a discretionary surtax ~~the tax~~ authorized under s.
1128 212.055 pursuant to the same procedures used in the
1129 administration, collection, and enforcement of the general state
1130 sales tax imposed under ~~the provisions of~~ this chapter, except
1131 as provided in this section. The provisions of this chapter
1132 regarding interest and penalties on delinquent taxes shall also
1133 apply to the surtax. Discretionary sales surtaxes may ~~shall~~ not
1134 be included in the computation of estimated taxes pursuant to s.
1135 212.11. Notwithstanding any other provision of law, ~~a dealer~~
1136 ~~need not separately state~~ the amount of the surtax does not need
1137 to be separately stated on the charge ticket, sales slip,

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1138 invoice, or other tangible evidence of sale. For the purposes of
1139 this section and s. 212.055, the "proceeds" of a ~~any~~ surtax
1140 means all funds collected and received by the department
1141 pursuant to a specific authorization and levy under s. 212.055,
1142 including any interest and penalties on delinquent surtaxes.

1143 (a) ~~(b)~~ The proceeds of a discretionary sales surtax
1144 collected by the selling dealer located in a county that ~~which~~
1145 imposes the surtax shall be returned, less the cost of
1146 administration, to the county where the selling dealer is
1147 located. The proceeds shall be transferred to the Discretionary
1148 Sales Surtax Clearing Trust Fund. A separate account shall be
1149 established in the ~~such~~ trust fund for each county imposing a
1150 discretionary surtax. The amount deducted for the costs of
1151 administration may ~~shall~~ not exceed 3 percent of the total
1152 revenue generated for all counties levying a discretionary
1153 surtax ~~authorized in s. 212.055~~. The amount deducted for the
1154 costs of administration shall be used only for those costs that
1155 ~~which~~ are solely and directly attributable to the surtax. The
1156 total cost of administration shall be prorated among those
1157 counties levying the surtax on the basis of the amount collected
1158 for a particular county to the total amount collected for all
1159 counties. By ~~No later than~~ March 1 of each year, the department
1160 shall submit a written report that ~~which~~ details the expenses
1161 and amounts deducted for the costs of administration to the
1162 President of the Senate, the Speaker of the House of
1163 Representatives, and the governing authority of each county
1164 levying a surtax. The department shall distribute the moneys in

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1165 the trust fund each month to the appropriate counties pursuant
1166 to, ~~unless otherwise provided in~~ s. 212.055.

1167 (b)(c)1. A ~~Any~~ dealer located in a county that does not
1168 impose a discretionary sales surtax but who collects the surtax
1169 due to sales of tangible personal property or services delivered
1170 outside the county shall remit monthly the proceeds of the
1171 surtax to the department to be deposited into an account in the
1172 Discretionary Sales Surtax Clearing Trust Fund which is separate
1173 from the county surtax collection accounts. The department shall
1174 distribute funds in this account using a distribution factor
1175 determined for each county that levies a surtax and multiplied
1176 by the amount of funds in the account and available for
1177 distribution.

1178 1. The distribution factor for each county equals the
1179 product of:

1180 a. The county's latest official population determined
1181 pursuant to s. 186.901;

1182 b. The county's rate of surtax; and

1183 c. The number of months the county has levied a surtax
1184 during the most recent distribution period;

1185
1186 divided by the sum of all such products of the counties levying
1187 the surtax during the most recent distribution period.

1188 2. The department shall compute distribution factors for
1189 eligible counties once each quarter and make appropriate
1190 quarterly distributions.

1191 3. A county that fails to timely provide the information
1192 required by this section to the department authorizes the

1193 department, ~~by such action,~~ to use the best information
 1194 available to it in distributing surtax revenues to the county.
 1195 If this information is unavailable ~~to the department,~~ the
 1196 department may partially or entirely disqualify the county from
 1197 receiving surtax revenues ~~under this paragraph.~~ A county that
 1198 fails to provide timely information waives its right to
 1199 challenge the department's determination of the county's share,
 1200 if any, of revenues provided under this paragraph.

1201 ~~(5) No discretionary sales surtax or increase or decrease~~
 1202 ~~in the rate of any discretionary sales surtax shall take effect~~
 1203 ~~on a date other than January 1. No discretionary sales surtax~~
 1204 ~~shall terminate on a day other than December 31.~~

1205 (5)~~(6)~~ The governing body of a ~~any~~ county levying a
 1206 discretionary sales surtax shall enact an ordinance levying the
 1207 surtax in accordance with the procedures described in s.
 1208 125.66(2).

1209 (6)~~(7)~~(a) An adoption, repeal, or rate change of a
 1210 discretionary surtax by the governing body of a ~~any~~ county
 1211 levying a ~~discretionary sales~~ surtax or the school board of a
 1212 ~~any~~ county levying the school capital outlay surtax authorized
 1213 by s. 212.055(6) is effective on April 1.

1214 (a) A county or school board must ~~shall~~ notify the
 1215 department within 10 days after final adoption by ordinance or
 1216 referendum of an adoption, repeal, ~~imposition, termination,~~ or
 1217 rate change of the surtax, but no later than November 16
 1218 immediately preceding ~~prior to~~ the effective date. The notice
 1219 must specify the time period during which the surtax will be in
 1220 effect and the rate and must include a copy of the ordinance and

1221 such other information as the department requires by rule.
 1222 Failure to timely provide ~~such~~ notification to the department
 1223 shall result in the delay of the effective date for a period of
 1224 1 year.

1225 (b) A county or school board must also notify the
 1226 department ~~In addition to the notification required by paragraph~~
 1227 ~~(a), the governing body of any county proposing to levy a~~
 1228 ~~discretionary sales surtax or the school board of any county~~
 1229 ~~proposing to levy the school capital outlay surtax authorized by~~
 1230 ~~s. 212.055(6) shall notify the department by October 1 if the~~
 1231 referendum or consideration of the ordinance that would result
 1232 in imposition, termination, or rate change of the surtax is
 1233 scheduled to occur on or after October 1 of that year. Failure
 1234 to timely provide ~~such~~ notification to the department shall
 1235 result in the delay of the effective date for a period of 1
 1236 year.

1237 (c) The department shall provide notice of the adoption,
 1238 repeal, or change to affected sellers by December 1 immediately
 1239 preceding the effective date.

1240 (d) A surtax may be terminated only on April 1. A surtax
 1241 imposed before January 1, 2009, for which an ordinance provides
 1242 a different termination date terminates on April 1 following the
 1243 termination date established in the ordinance.

1244 (7)-(8) With respect to a ~~any~~ motor vehicle or mobile home
 1245 of a class or type which is required to be registered in this
 1246 state, the tax due on a transaction occurring in the taxing
 1247 county ~~as herein provided~~ shall be collected from the purchaser
 1248 or user incident to the titling and registration of the ~~such~~

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1249 property, irrespective of whether such titling or registration
1250 occurs in the taxing county.

1251 (8) For the purpose of the state in providing and
1252 maintaining a database of all sales and use tax rates for all
1253 local taxing jurisdictions in accordance with the Streamlined
1254 Sales and Use Tax Agreement under s. 213.256, the provisions of
1255 s. 202.22(2) apply.

1256 (a) A seller or certified service provider who collects
1257 and remits the state and local tax imposed by this chapter is
1258 held harmless from tax, interest, and penalties due solely as a
1259 result of relying on erroneous data on tax rates, boundaries, or
1260 taxing jurisdiction assignments provided by the state if the
1261 seller or certified service provider exercises due diligence in
1262 applying one or more of the following methods for determining
1263 the taxing jurisdiction and tax rate for a transaction:

1264 1. Employing an electronic database provided by the
1265 department under s. 202.22(2); or

1266 2. Employing a database that has been approved by the
1267 county governing board and developed by a seller or certified
1268 service provider.

1269 (b) If a seller or certified service provider does not use
1270 one of the methods specified in paragraph (a), the seller or
1271 certified service provider may be held liable to the department
1272 for tax, interest, and penalties that are due for charging and
1273 collecting the incorrect amount of tax.

1274 Section 8. Section 212.06, Florida Statutes, is amended to
1275 read:

1276 212.06 Sales, storage, use tax; transaction location;
 1277 ~~collectible from dealers; "dealer" defined;~~ dealers to collect
 1278 from purchasers; mail order sales; legislative intent as to
 1279 scope of tax.--

1280 (1) (a) The ~~aforesaid~~ tax at the rate of 6 percent of the
 1281 retail sales price as of the moment of sale, 6 percent of the
 1282 cost price as of the moment of purchase, or 6 percent of the
 1283 cost price as of the moment of commingling with the general mass
 1284 of property in this state, ~~as the case may be,~~ shall be
 1285 collectible from all dealers ~~as herein defined~~ on the sale at
 1286 retail, the use, the consumption, the distribution, and the
 1287 storage for use or consumption in this state of tangible
 1288 personal property or services taxable under this chapter. The
 1289 full amount of the tax on a credit sale, installment sale, or
 1290 sale made on any kind of deferred payment plan is ~~shall be~~ due
 1291 at the moment of the transaction in the same manner as on a cash
 1292 sale.

1293 (b) Except as otherwise provided, any person who
 1294 manufactures, produces, compounds, processes, or fabricates in
 1295 any manner tangible personal property for his or her own use
 1296 shall pay a tax upon the cost of the product manufactured,
 1297 produced, compounded, processed, or fabricated without any
 1298 deduction for ~~therefrom on account of~~ the cost of material used,
 1299 labor or service costs, or transportation charges,
 1300 notwithstanding ~~the provisions of~~ s. 212.02 defining "cost
 1301 price." However, the tax may ~~levied under this paragraph shall~~
 1302 not be imposed upon any person who manufactures or produces
 1303 electrical power or energy, steam energy, or other energy at a

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1304 single location, if the ~~when such~~ power or energy is used
1305 directly and exclusively at that ~~such~~ location, or at other
1306 locations if the energy is transferred through facilities of the
1307 owner in the operation of machinery or equipment that is used to
1308 manufacture, process, compound, produce, fabricate, or prepare
1309 for shipment tangible personal property for sale or to operate
1310 pollution control equipment, maintenance equipment, or
1311 monitoring or control equipment used in such operations. The
1312 manufacture or production of electrical power or energy that is
1313 used for space heating, lighting, office equipment, or air-
1314 conditioning or any other nonmanufacturing, nonprocessing,
1315 noncompounding, nonproducing, nonfabricating, or nonshipping
1316 activity is taxable. Electrical power or energy consumed or
1317 dissipated in the transmission or distribution of electrical
1318 power or energy for resale is also not taxable. Fabrication
1319 labor is ~~shall~~ not be taxable if ~~when~~ a person is using his or
1320 her own equipment and personnel, for his or her own account, as
1321 a producer, subproducer, or coproducer of a qualified motion
1322 picture. For purposes of this chapter, the term "qualified
1323 motion picture" means all or any part of a series of related
1324 images, ~~either~~ on film, tape, or other embodiment, including,
1325 but not limited to, all items comprising part of the original
1326 work and film-related products derived therefrom as well as
1327 duplicates and prints thereof and all sound recordings created
1328 to accompany a motion picture, which is produced, adapted, or
1329 altered for exploitation in, on, or through any medium or device
1330 and at any location, primarily for entertainment, commercial,
1331 industrial, or educational purposes. This exemption for

1332 fabrication labor associated with production of a qualified
 1333 motion picture inures ~~will inure~~ to the taxpayer upon
 1334 presentation of the certificate of exemption issued to the
 1335 taxpayer under ~~the provisions of~~ s. 288.1258. A person who
 1336 manufactures factory-built buildings for his or her own use in
 1337 the performance of contracts for the construction or improvement
 1338 of real property shall pay a tax only upon the person's cost
 1339 price of items used in the manufacture of the ~~such~~ buildings.

1340 (c)~~1.~~ Notwithstanding ~~the provisions of~~ paragraph (b), the
 1341 use tax on asphalt manufactured for one's own use shall be
 1342 calculated ~~with respect to paragraph (b)~~ only upon the cost of
 1343 materials that ~~which~~ become a component part or that ~~which~~ are
 1344 an ingredient of the finished asphalt and upon the cost of the
 1345 transportation of the ~~such~~ components and ingredients. In
 1346 addition, an indexed tax of 38 cents per ton of such
 1347 manufactured asphalt is ~~shall be~~ due at the same time and in the
 1348 same manner as taxes due under ~~pursuant to~~ paragraph (b).

1349 1. Beginning July 1, 1989, the indexed tax must ~~shall~~ be
 1350 adjusted each July 1 to an amount, rounded to the nearest cent,
 1351 equal to the product of 38 cents multiplied by a fraction, the
 1352 numerator of which is the annual average of the "materials and
 1353 components for construction" series of the producer price index,
 1354 as calculated and published by the United States Department of
 1355 Labor, Bureau of Statistics, for the previous calendar year, and
 1356 the denominator of which is the annual average of that ~~said~~
 1357 series for calendar year 1988.

1358 2.a. Beginning July 1, 1999, the indexed tax imposed by
 1359 this paragraph on manufactured asphalt ~~which is~~ used for a ~~any~~

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1360 federal, state, or local government public works project shall
 1361 be reduced by 20 percent.

1362 ~~3.b.~~ Beginning July 1, 2000, the indexed tax imposed by
 1363 this paragraph on manufactured asphalt ~~which is~~ used for a any
 1364 federal, state, or local government public works project shall
 1365 be reduced by 40 percent.

1366 (d) For purposes of paragraph (b), the department may
 1367 establish a cost price amount for industry groups that
 1368 manufacture, produce, compound, process, or fabricate tangible
 1369 personal property for their own use in the performance of
 1370 contracts for improvements to real property. The ~~Such~~ cost price
 1371 amount must be established as a percentage, rounded to the
 1372 nearest whole number, of the total contract price charged for
 1373 the improvement. The cost price percentages ~~established~~ must be
 1374 adopted by rule pursuant to ~~the procedures provided in s.~~
 1375 120.54, upon petition of a majority of the members of an
 1376 industry group or by a statewide association that represents the
 1377 ~~such~~ industry group, and must be based on a reasonable estimate
 1378 of average costs incurred by members of the petitioning industry
 1379 group. The department shall ~~is required to~~ adopt a cost price
 1380 percentage only if sufficient information is available to
 1381 determine such percentage. The information ~~considered by the~~
 1382 ~~department to establish the cost price percentage~~ must be ~~that~~
 1383 set forth in the petition or ~~that which is~~ otherwise be made
 1384 available to the department. A ~~Any~~ cost price percentage so
 1385 established shall ~~must~~ be made available only by election of a
 1386 member of the industry group for which the percentage was
 1387 established and applies ~~may apply~~ only to the ~~such~~ periods or

1388 | contracts for which the election is made. The election must be
 1389 | made by the taxpayer by timely accruing and remitting tax on the
 1390 | contract using the established percentage figure. If the
 1391 | taxpayer does not timely accrue and remit the use tax due for a
 1392 | contract using the percentage figure, the taxpayer may not later
 1393 | use this method of calculating the use tax due for that
 1394 | contract. Taxpayers must maintain adequate records showing the
 1395 | accrual of tax using the percentage figure on total contract
 1396 | price. A ~~Any~~ cost price so established must remain available for
 1397 | use for a period of at least 5 years from the date of its
 1398 | adoption and must be reviewed and be subject to adjustment by
 1399 | the department no more frequently than at 5-year intervals. The
 1400 | provisions of this paragraph are not available to persons
 1401 | subject to paragraph (c).

1402 | (e) ~~1-~~ Notwithstanding any other provision of this chapter,
 1403 | tax may ~~shall~~ not be imposed on a ~~any~~ vessel registered under s.
 1404 | 328.52 by a vessel dealer or vessel manufacturer and ~~with~~
 1405 | ~~respect to a vessel~~ used solely for demonstration, sales
 1406 | promotional, or testing purposes. The term "promotional
 1407 | purposes" includes ~~shall include~~, but is not ~~be~~ limited to,
 1408 | participation in fishing tournaments. For the purposes of this
 1409 | paragraph, "promotional purposes" means the entry of the vessel
 1410 | in a marine-related event where prospective purchasers would be
 1411 | in attendance, ~~where~~ the vessel is entered in the name of the
 1412 | dealer or manufacturer, ~~and where~~ the vessel is clearly marked
 1413 | as for sale, ~~on which vessel~~ the name of the dealer or
 1414 | manufacturer is clearly displayed on the vessel, and the ~~which~~
 1415 | vessel has never been transferred into the dealer's or

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1416 manufacturer's accounting books from an inventory item to a
1417 capital asset for depreciation purposes.

1418 ~~1.2.~~ The provisions of this paragraph do not apply to a
1419 ~~any~~ vessel ~~when~~ used for transporting persons or goods for
1420 compensation; ~~when~~ offered, let, or rented to another for
1421 consideration; ~~when~~ offered for rent or hire as a means of
1422 transportation for compensation; or ~~when~~ offered or used to
1423 provide transportation for persons solicited through personal
1424 contact or through advertisement on a "share expense" basis.

1425 ~~2.3.~~ Notwithstanding any other provision of this chapter,
1426 tax may not be imposed on a ~~any~~ vessel imported into this state
1427 for the sole purpose of being offered for sale at retail by a
1428 yacht broker or yacht dealer registered in this state if the
1429 vessel remains under the care, custody, and control of the
1430 registered broker or dealer and the owner of the vessel does not
1431 make personal use of the vessel during that time. The provisions
1432 of this chapter govern the taxability of any sale or use of the
1433 vessel subsequent to its importation under this provision.

1434 (2) The provisions of this subsection shall be used to
1435 determine the location where a transaction occurs for purposes
1436 of applying the tax imposed by this chapter.

1437 (a) For purposes of this subsection, the term:

1438 1. "Receive" and "receipt" means taking possession of
1439 tangible personal property; making first use of services; or
1440 taking possession or making first use of digital goods,
1441 whichever occurs first. The terms do not include possession by a
1442 shipping company on behalf of the purchaser.

1443 2. "Product" means tangible personal property, a digital
1444 good, or a service.

1445 (b) The retail sale of a product, excluding a lease or
1446 rental, shall be sourced as follows:

1447 1. At a business location of the seller, if the product is
1448 received by the purchaser at that location.

1449 2. If subparagraph 1. does not apply, at the location the
1450 product is received by the purchaser or the purchaser's donee,
1451 as designated by the purchaser, including the location indicated
1452 by delivery instructions known to the seller.

1453 3. If subparagraphs 1. and 2. do not apply, at the
1454 purchaser's address, which is available from the seller's
1455 business records maintained in the ordinary course of business,
1456 if use of this address does not constitute bad faith.

1457 4. If subparagraphs 1., 2., and 3. do not apply, at the
1458 purchaser's address obtained during the consummation of the
1459 sale, including the address of a purchaser's payment instrument,
1460 if no other address is available, if use of this address does
1461 not constitute bad faith.

1462 5. If subparagraphs 1., 2., 3., and 4. do not apply,
1463 including when the seller is without sufficient information to
1464 apply the previous paragraphs, the address from which the
1465 tangible personal property was shipped, the digital good or the
1466 computer software delivered electronically was first available
1467 for transmission by the seller, or the service was provided,
1468 disregarding a location that merely provided the digital
1469 transfer of the product sold.

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1470 (c) The lease or rental of tangible personal property,
1471 other than property identified in paragraphs (d) and (e), shall
1472 be sourced as follows:

1473 1. For a lease or rental that requires recurring periodic
1474 payments, the first payment is deemed to take place in
1475 accordance with paragraph (b) notwithstanding the exclusion of a
1476 lease or rental. Subsequent periodic payments are deemed to have
1477 occurred at the primary property location for each period
1478 covered by the payment. The primary property location is the
1479 address for the property provided by the lessee, which is
1480 available to the lessor from its records maintained in the
1481 ordinary course of business, if use of this address does not
1482 constitute bad faith. The property location is not altered by
1483 intermittent use of the property at different locations, such as
1484 the use of business property that accompanies employees on
1485 business trips and service calls.

1486 2. For a lease or rental that does not require recurring
1487 periodic payments, the payment is deemed to take place in
1488 accordance with paragraph (b) notwithstanding the exclusion of a
1489 lease or rental.

1490 3. This paragraph does not affect the imposition or
1491 computation of sales or use tax on leases or rentals based on a
1492 lump sum or accelerated basis, or on the acquisition of property
1493 for lease.

1494 (d) The lease or rental of a motor vehicle or aircraft
1495 that does not qualify as transportation equipment shall be
1496 sourced as follows:

1497 1. For a lease or rental that requires recurring periodic
1498 payments, each periodic payment is deemed to take place at the
1499 primary property location. The primary property location is the
1500 address for the property provided by the lessee, which is
1501 available to the lessor from its records maintained in the
1502 ordinary course of business, if use of this address does not
1503 constitute bad faith. This location may not be altered by
1504 intermittent use at different locations.

1505 2. For a lease or rental that does not require recurring
1506 periodic payments, the payment is deemed to take place in
1507 accordance with paragraph (b) notwithstanding the exclusion of a
1508 lease or rental.

1509 3. This paragraph does not affect the imposition or
1510 computation of sales or use taxes on leases or rentals based on
1511 a lump-sum or accelerated basis, or on the acquisition of
1512 property for lease.

1513 (e) The retail sale, including lease or rental, of
1514 transportation equipment shall be deemed to take place in
1515 accordance with paragraph (b) notwithstanding the exclusion of a
1516 lease or rental.

1517 (f) This section does not apply to sales or use taxes
1518 levied on:

1519 1. The retail sale or transfer of a boat, modular home,
1520 manufactured home, or mobile home.

1521 2. The retail sale, excluding a lease or rental, of a
1522 motor vehicle or aircraft that does not qualify as
1523 transportation equipment. The lease or rental of these items

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1524 shall be deemed to have occurred in accordance with paragraph
1525 (d).

1526 3. The retail sale of tangible personal property by a
1527 florist.

1528
1529 Such retail sales are deemed to take place at the location
1530 determined under s. 212.054(3).

1531 ~~(a) The term "dealer," as used in this chapter, includes~~
1532 ~~every person who manufactures or produces tangible personal~~
1533 ~~property for sale at retail; for use, consumption, or~~
1534 ~~distribution; or for storage to be used or consumed in this~~
1535 ~~state.~~

1536 ~~(b) The term "dealer" is further defined to mean every~~
1537 ~~person, as used in this chapter, who imports, or causes to be~~
1538 ~~imported, tangible personal property from any state or foreign~~
1539 ~~country for sale at retail; for use, consumption, or~~
1540 ~~distribution; or for storage to be used or consumed in this~~
1541 ~~state.~~

1542 ~~(c) The term "dealer" is further defined to mean every~~
1543 ~~person, as used in this chapter, who sells at retail or who~~
1544 ~~offers for sale at retail, or who has in his or her possession~~
1545 ~~for sale at retail; or for use, consumption, or distribution; or~~
1546 ~~for storage to be used or consumed in this state, tangible~~
1547 ~~personal property as defined herein, including a retailer who~~
1548 ~~transacts a mail order sale.~~

1549 ~~(d) The term "dealer" is further defined to mean any~~
1550 ~~person who has sold at retail; or used, or consumed, or~~
1551 ~~distributed; or stored for use or consumption in this state,~~

1552 ~~tangible personal property and who cannot prove that the tax~~
1553 ~~levied by this chapter has been paid on the sale at retail, the~~
1554 ~~use, the consumption, the distribution, or the storage of such~~
1555 ~~tangible personal property. However, the term "dealer" does not~~
1556 ~~mean a person who is not a "dealer" under the definition of any~~
1557 ~~other paragraph of this subsection and whose only owned or~~
1558 ~~leased property (including property owned or leased by an~~
1559 ~~affiliate) in this state is located at the premises of a printer~~
1560 ~~with which it has contracted for printing, if such property~~
1561 ~~consists of the final printed product, property which becomes a~~
1562 ~~part of the final printed product, or property from which the~~
1563 ~~printed product is produced.~~

1564 ~~(e) The term "dealer" is further defined to mean any~~
1565 ~~person, as used in this chapter, who leases or rents tangible~~
1566 ~~personal property, as defined in this chapter, for a~~
1567 ~~consideration, permitting the use or possession of such property~~
1568 ~~without transferring title thereto, except as expressly provided~~
1569 ~~for to the contrary herein.~~

1570 ~~(f) The term "dealer" is further defined to mean any~~
1571 ~~person, as used in this chapter, who maintains or has within~~
1572 ~~this state, directly or by a subsidiary, an office, distributing~~
1573 ~~house, salesroom, or house, warehouse, or other place of~~
1574 ~~business.~~

1575 ~~(g) "Dealer" also means and includes every person who~~
1576 ~~solicits business either by direct representatives, indirect~~
1577 ~~representatives, or manufacturers' agents; by distribution of~~
1578 ~~catalogs or other advertising matter; or by any other means~~
1579 ~~whatsoever, and by reason thereof receives orders for tangible~~

1580 ~~personal property from consumers for use, consumption,~~
1581 ~~distribution, and storage for use or consumption in the state;~~
1582 ~~such dealer shall collect the tax imposed by this chapter from~~
1583 ~~the purchaser, and no action, either in law or in equity, on a~~
1584 ~~sale or transaction as provided by the terms of this chapter may~~
1585 ~~be had in this state by any such dealer unless it is~~
1586 ~~affirmatively shown that the provisions of this chapter have~~
1587 ~~been fully complied with.~~

1588 ~~(h) "Dealer" also means and includes every person who, as~~
1589 ~~a representative, agent, or solicitor of an out-of-state~~
1590 ~~principal or principals, solicits, receives, and accepts orders~~
1591 ~~from consumers in the state for future delivery and whose~~
1592 ~~principal refuses to register as a dealer.~~

1593 ~~(i) "Dealer" also means and includes the state, county,~~
1594 ~~municipality, any political subdivision, agency, bureau or~~
1595 ~~department, or other state or local governmental~~
1596 ~~instrumentality.~~

1597 ~~(j) The term "dealer" is further defined to mean any~~
1598 ~~person who leases, or grants a license to use, occupy, or enter~~
1599 ~~upon, living quarters, sleeping or housekeeping accommodations~~
1600 ~~in hotels, apartment houses, roominghouses, tourist or trailer~~
1601 ~~amps, real property, space or spaces in parking lots or garages~~
1602 ~~for motor vehicles, docking or storage space or spaces for boats~~
1603 ~~in boat docks or marinas, or tie-down or storage space or spaces~~
1604 ~~for aircraft at airports. The term "dealer" also means any~~
1605 ~~person who has leased, occupied, or used or was entitled to use~~
1606 ~~any living quarters, sleeping or housekeeping accommodations in~~
1607 ~~hotels, apartment houses, roominghouses, tourist or trailer~~

1608 ~~camps, real property, space or spaces in parking lots or garages~~
 1609 ~~for motor vehicles or docking or storage space or spaces for~~
 1610 ~~boats in boat docks or marinas, or who has purchased~~
 1611 ~~communication services or electric power or energy, and who~~
 1612 ~~cannot prove that the tax levied by this chapter has been paid~~
 1613 ~~to the vendor or lessor on any such transactions. The term~~
 1614 ~~"dealer" does not include any person who leases, lets, rents, or~~
 1615 ~~grants a license to use, occupy, or enter upon any living~~
 1616 ~~quarters, sleeping quarters, or housekeeping accommodations in~~
 1617 ~~apartment houses, roominghouses, tourist camps, or trailer~~
 1618 ~~camps, and who exclusively enters into a bona fide written~~
 1619 ~~agreement for continuous residence for longer than 6 months in~~
 1620 ~~duration with any person who leases, lets, rents, or is granted~~
 1621 ~~a license to use such property.~~

1622 ~~(k) "Dealer" also means any person who sells, provides, or~~
 1623 ~~performs a service taxable under this chapter. "Dealer" also~~
 1624 ~~means any person who purchases, uses, or consumes a service~~
 1625 ~~taxable under this chapter who cannot prove that the tax levied~~
 1626 ~~by this chapter has been paid to the seller of the taxable~~
 1627 ~~service.~~

1628 ~~(l) "Dealer" also means any person who solicits, offers,~~
 1629 ~~provides, enters into, issues, or delivers any service warranty~~
 1630 ~~taxable under this chapter, or who receives, on behalf of such a~~
 1631 ~~person, any consideration from a service warranty holder.~~

1632 (3)(a) Except as provided in paragraphs (a) and paragraph
 1633 (b), every dealer making retail sales, whether within or outside
 1634 the state, of tangible personal property for distribution,
 1635 storage, or use or other consumption, in this state, shall, at

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1636 the time of making sales, collect the tax imposed by this
1637 chapter from the purchaser.

1638 (a) A business purchaser who is not a holder of a direct-
1639 pay permit and who knows at the time of purchase of a digital
1640 good, computer software delivered electronically, or a service
1641 that the digital good, computer software, or service is
1642 concurrently available for use in more than one jurisdiction
1643 shall deliver to the dealer a multiple-points-of-use (MPU)
1644 exemption form at the time of purchase.

1645 1. Upon receipt of the MPU exemption form, the seller is
1646 relieved of all obligation to collect, pay, or remit the
1647 applicable tax, and the purchaser is obligated to collect, pay,
1648 or remit the applicable tax on a direct-pay basis.

1649 2. A purchaser delivering the MPU exemption form may use
1650 any reasonable, consistent, and uniform method of apportioning
1651 the applicable tax which is supported by the purchaser's
1652 business records as they exist at the time of the sale.

1653 3. The MPU exemption form remains in effect for all future
1654 sales by the seller to the purchaser, except as to the
1655 subsequent sale's specific apportionment, which is governed by
1656 subparagraph 2. and the facts existing at the time of the sale,
1657 until the MPU exemption form is revoked in writing.

1658 4. A holder of a direct-pay permit is not required to
1659 deliver an MPU exemption form to the seller and must comply with
1660 subparagraph 2. in apportioning the tax due on a digital good or
1661 a service that is concurrently available for use in more than
1662 one jurisdiction.

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1663 (b)1. A purchaser of direct mail who is not a holder of a
1664 direct-pay permit shall provide to the seller in conjunction
1665 with the purchase a direct-mail form or information to show the
1666 jurisdictions to which the direct mail is delivered to
1667 recipients.

1668 1. Upon receipt of the direct-mail form, the seller is
1669 relieved of all obligations to collect, pay, or remit the
1670 applicable tax, and the purchaser is obligated to pay or remit
1671 the applicable tax on a direct-pay basis. A direct-mail form
1672 remains in effect for all future sales of direct mail by the
1673 seller to the purchaser until it is revoked in writing.

1674 2. Upon receipt of information from the purchaser showing
1675 the jurisdictions to which the direct mail is delivered to
1676 recipients, the seller shall collect the tax according to the
1677 delivery information provided by the purchaser. In the absence
1678 of bad faith, the seller is relieved of any further obligation
1679 to collect tax on any transaction for which the seller has
1680 collected tax pursuant to the delivery information provided by
1681 the purchaser.

1682 3. If the purchaser of direct mail does not have a direct-
1683 pay permit and does not provide the seller with a direct-mail
1684 form or delivery information as required by this paragraph, the
1685 seller shall collect the tax according to subparagraph (2)(b)5.
1686 This subparagraph does not limit a purchaser's obligation for
1687 sales or use tax to any state to which the direct mail is
1688 delivered.

1689 4. If a purchaser of direct mail provides the seller with
1690 documentation of direct-pay authority, the purchaser is not

1691 required to provide a direct-mail form or delivery information
 1692 to the seller. ~~A purchaser of printed materials shall have sole~~
 1693 ~~responsibility for the taxes imposed by this chapter on those~~
 1694 ~~materials when the printer of the materials delivers them to the~~
 1695 ~~United States Postal Service for mailing to persons other than~~
 1696 ~~the purchaser located within and outside this state. Printers of~~
 1697 ~~materials delivered by mail to persons other than the purchaser~~
 1698 ~~located within and outside this state shall have no obligation~~
 1699 ~~or responsibility for the payment or collection of any taxes~~
 1700 ~~imposed under this chapter on those materials. However, printers~~
 1701 ~~are obligated to collect the taxes imposed by this chapter on~~
 1702 ~~printed materials when all, or substantially all, of the~~
 1703 ~~materials will be mailed to persons located within this state.~~
 1704 ~~For purposes of the printer's tax collection obligation, there~~
 1705 ~~is a rebuttable presumption that all materials printed at a~~
 1706 ~~facility are mailed to persons located within the same state as~~
 1707 ~~that in which the facility is located. A certificate provided by~~
 1708 ~~the purchaser to the printer concerning the delivery of the~~
 1709 ~~printed materials for that purchase or all purchases shall be~~
 1710 ~~sufficient for purposes of rebutting the presumption created~~
 1711 ~~herein.~~

1712 5.2. ~~The department of Revenue is authorized to adopt~~
 1713 ~~rules and forms to~~ administer ~~implement the provisions of this~~
 1714 ~~paragraph.~~

1715 (4) On all tangible personal property imported or caused
 1716 to be imported from other states, territories, the District of
 1717 Columbia, or a ~~any~~ foreign country, and used ~~by him or her,~~ the
 1718 dealer, ~~as herein defined,~~ shall pay the same tax imposed by

1719 | this chapter on all articles of tangible personal property so
 1720 | imported and used, ~~the same~~ as if the ~~such~~ articles had been
 1721 | sold at retail for use or consumption in this state. For the
 1722 | purposes of this chapter, the use, or consumption, or
 1723 | distribution, or storage to be used or consumed in this state of
 1724 | tangible personal property shall each be equivalent to a sale at
 1725 | retail, and the tax shall ~~thereupon~~ immediately levy and be
 1726 | collected in the manner provided herein, provided that there is
 1727 | ~~there shall be~~ no duplication of the tax ~~in any event~~.

1728 | (5) (a)1. Except as provided in subparagraph 2., it is not
 1729 | the intention of this chapter to levy a tax upon tangible
 1730 | personal property imported, produced, or manufactured in this
 1731 | state for export, ~~provided that tangible personal property may~~
 1732 | ~~not be considered as being imported, produced, or manufactured~~
 1733 | ~~for export~~ unless the importer, producer, or manufacturer
 1734 | delivers the same to a licensed exporter for exporting or to a
 1735 | common carrier for shipment outside the state or mails the same
 1736 | by United States mail to a destination outside the state; or,
 1737 | for ~~in the case of~~ aircraft being exported under their own power
 1738 | to a destination outside the continental limits of the United
 1739 | States, by submission to the department of a duly signed and
 1740 | validated United States customs declaration, ~~showing the~~
 1741 | departure of the aircraft from the continental United States;
 1742 | and further with respect to aircraft, submission to the
 1743 | department of the canceled United States registry of said
 1744 | aircraft; or for ~~in the case of~~ parts and equipment installed on
 1745 | aircraft of foreign registry, by submission to the department of
 1746 | documentation, as ~~the extent of which shall be~~ provided by rule,

1747 showing the departure of the aircraft from the continental
 1748 United States. It is also not; ~~nor is it~~ the intention of this
 1749 chapter to levy a tax on any sale that ~~which~~ the state is
 1750 prohibited from taxing under the Constitution or laws of the
 1751 United States. Every retail sale made to a person physically
 1752 present at the time of sale is ~~shall be~~ presumed to have been
 1753 delivered in this state.

1754 2.a. Notwithstanding subparagraph 1., a tax is levied on
 1755 each sale of tangible personal property to be transported to a
 1756 cooperating state as defined in sub-subparagraph c., at the rate
 1757 specified in sub-subparagraph d. However, a registered Florida
 1758 dealer is not required to collect this tax ~~will be relieved from~~
 1759 ~~the requirements of collecting taxes pursuant to this~~
 1760 ~~subparagraph~~ if the Florida dealer obtains from the purchaser an
 1761 affidavit setting forth the purchaser's name, address, state
 1762 taxpayer identification number, and a statement that the
 1763 purchaser is aware of his or her state's use tax laws, is a
 1764 registered dealer in this state Florida or another state, ~~or~~ is
 1765 purchasing the tangible personal property for resale, or is
 1766 otherwise not required to pay the tax on the transaction. The
 1767 department may, by rule, provide a form to be used for this
 1768 purpose ~~the purposes set forth herein~~.

1769 b. For purposes of this subparagraph, "a cooperating
 1770 state" is one determined by the executive director of the
 1771 department to cooperate satisfactorily with this state in
 1772 collecting taxes on mail order sales by meeting. ~~No state shall~~
 1773 ~~be so determined unless it meets~~ all the following minimum
 1774 requirements:

1775 (I) It levies and collects taxes on mail order sales of
 1776 property transported from that state to persons in this state,
 1777 as described in s. 212.0596, upon request of the department.

1778 (II) The tax so collected is ~~shall be~~ at the rate
 1779 specified in s. 212.05, not including any local option or
 1780 tourist or convention development taxes collected pursuant to s.
 1781 125.0104 or this chapter.

1782 (III) The ~~Such~~ state agrees to remit to the department all
 1783 taxes so collected no later than 30 days after ~~from~~ the last day
 1784 of the calendar quarter following their collection.

1785 (IV) The ~~Such~~ state authorizes the department to audit
 1786 dealers within its jurisdiction who make mail order sales that
 1787 are the subject of s. 212.0596, or makes arrangements deemed
 1788 adequate by the department for auditing them with its own
 1789 personnel.

1790 (V) The ~~Such~~ state agrees to provide to the department
 1791 records obtained by it from retailers or dealers in the ~~such~~
 1792 state showing delivery of tangible personal property into this
 1793 state upon which no sales or use tax has been paid in a manner
 1794 similar to that provided in sub-subparagraph g.

1795 c. For purposes of this subparagraph, "sales of tangible
 1796 personal property to be transported to a cooperating state"
 1797 means a mail order sale ~~sales~~ to a person who is in the
 1798 cooperating state at the time the order is executed, from a
 1799 dealer who receives that order in this state.

1800 d. The tax levied by sub-subparagraph a. shall be at the
 1801 rate at which ~~such~~ a sale would have been taxed pursuant to the
 1802 cooperating state's tax laws if consummated in the cooperating

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1803 state by a dealer and a purchaser, both of whom were physically
 1804 present in that state at the time of the sale.

1805 e. The tax levied by sub-subparagraph a., when collected,
 1806 shall be held in the State Treasury in trust for the benefit of
 1807 the cooperating state and shall be paid to it at a time agreed
 1808 upon between the department, acting for this state, and the
 1809 cooperating state or the department or agency designated by it
 1810 to act for it; however, the such payment must be made within
 1811 ~~shall in no event be made later than~~ 30 days after ~~from~~ the last
 1812 day of the calendar quarter after the tax was collected. Funds
 1813 held in trust for the benefit of a cooperating state are ~~shall~~
 1814 not ~~be~~ subject to the service charges imposed by s. 215.20.

1815 f. The department may ~~is authorized to~~ perform such acts
 1816 and ~~to~~ provide such cooperation to a cooperating state with
 1817 reference to the tax levied by sub-subparagraph a. as is
 1818 required of the cooperating state by sub-subparagraph b.

1819 g. In furtherance of this subparagraph ~~act~~, dealers
 1820 selling tangible personal property for delivery in another state
 1821 shall make available to the department, upon request of the
 1822 department, records of all tangible personal property so sold.
 1823 The ~~Such~~ records must ~~shall~~ include a description of the
 1824 property, the name and address of the purchaser, the name and
 1825 address of the person to whom the property was sent, the
 1826 purchase price of the property, information regarding whether
 1827 sales tax was paid in this state on the purchase price, and such
 1828 other information as the department may by rule prescribe.

1829 (b)~~1~~. Notwithstanding ~~the provisions of~~ paragraph (a), it
 1830 is not the intention of this chapter to levy a tax on the sale

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1831 of tangible personal property to a nonresident dealer who does
1832 not hold a Florida sales tax registration if the, ~~provided such~~
1833 nonresident dealer furnishes the seller with a statement
1834 declaring that the tangible personal property will be
1835 transported outside this state by the nonresident dealer for
1836 resale and for no other purpose.

1837 1. The statement must ~~shall~~ include, but need not be
1838 limited to, the nonresident dealer's name, address, applicable
1839 passport or visa number, arrival-departure card number, and
1840 evidence of authority to do business in the nonresident dealer's
1841 home state or country, such as his or her business name and
1842 address, occupational license number, if applicable, or any
1843 other suitable requirement. The statement must ~~shall~~ be signed
1844 by the nonresident dealer and must ~~shall~~ include the following
1845 sentence: "Under penalties of perjury, I declare that I have
1846 read the foregoing, and the facts alleged are true to the best
1847 of my knowledge and belief."

1848 2. The burden of proof ~~of subparagraph 1.~~ rests with the
1849 seller, who must retain the proper documentation to support the
1850 exempt sale. The exempt transaction is subject to verification
1851 by the department.

1852 (c) Notwithstanding ~~the provisions of~~ paragraph (a), it is
1853 not the intention of this chapter to levy a tax on the sale by a
1854 printer to a nonresident print purchaser of material printed by
1855 that printer if ~~for that nonresident print purchaser when the~~
1856 print purchaser does not furnish to the printer a resale
1857 certificate containing a sales tax registration number but does

1858 furnish to the printer a statement declaring that the ~~such~~
 1859 material will be resold by the nonresident print purchaser.

1860 (6) It is ~~however,~~ the intention of this chapter to levy a
 1861 tax on the sale at retail, the use, the consumption, the
 1862 distribution, and the storage to be used or consumed in this
 1863 state of tangible personal property after it has come to rest in
 1864 this state and has become a part of the mass property of this
 1865 state.

1866 (7) The provisions of this chapter do not apply ~~in respect~~
 1867 to the use or consumption of tangible personal property or
 1868 services, or distribution or storage of tangible personal
 1869 property for use or consumption in this state, upon which a like
 1870 tax equal to or greater than the amount imposed by this chapter
 1871 has been lawfully imposed and paid in another state, territory
 1872 of the United States, or the District of Columbia. The proof of
 1873 payment of such tax shall be made in accordance with department
 1874 ~~according to rules and regulations of the department.~~ If the
 1875 amount of tax paid in another state, territory of the United
 1876 States, or the District of Columbia is not equal to or greater
 1877 than the amount of tax imposed by this chapter, ~~then~~ the dealer
 1878 must shall pay the difference to the department ~~an amount~~
 1879 ~~sufficient to make the tax paid in the other state, territory of~~
 1880 ~~the United States, or the District of Columbia and in this state~~
 1881 ~~equal to the amount imposed by this chapter.~~

1882 (8) (a) Use tax applies ~~will apply~~ and is ~~be~~ due on
 1883 tangible personal property imported or caused to be imported
 1884 into this state for use, consumption, distribution, or storage
 1885 to be used or consumed in this state. ~~; provided, however, that,~~

1886 Except as provided in paragraph (b), it is ~~shall be~~ presumed
 1887 that tangible personal property used in another state, territory
 1888 of the United States, or the District of Columbia for 6 months
 1889 or longer before being imported into this state was not
 1890 purchased for use in this state. The rental or lease of tangible
 1891 personal property that ~~which~~ is used or stored in this state is
 1892 ~~shall be~~ taxable without regard to its prior use or tax paid on
 1893 purchase outside this state.

1894 (b) The presumption that tangible personal property used
 1895 in another state, territory of the United States, or the
 1896 District of Columbia for 6 months or longer before being
 1897 imported into this state was not purchased for use in this state
 1898 does not apply to a ~~any~~ boat for which a saltwater vessel
 1899 ~~fishing~~ license fee is required to be paid pursuant to s.
 1900 379.354(7), ~~either directly or indirectly, for the purpose of~~
 1901 ~~taking, attempting to take, or possessing any saltwater fish for~~
 1902 ~~noncommercial purposes.~~ Use tax applies ~~shall apply~~ and is ~~be~~
 1903 due on such a boat ~~as provided in this paragraph~~, and proof of
 1904 payment of the ~~such~~ tax must be presented prior to the first
 1905 ~~such~~ licensure of the boat, registration of the boat pursuant to
 1906 chapter 328, and titling of the boat pursuant to chapter 328.

1907 1. A boat that is first licensed within 1 year after
 1908 purchase is ~~shall be~~ subject to use tax on the full amount of
 1909 the purchase price.†

1910 2. A boat that is first licensed in the second year after
 1911 purchase is ~~shall be~~ subject to use tax on 90 percent of the
 1912 purchase price.†

1913 3. A boat that is first licensed in the third year after
 1914 purchase is ~~shall be~~ subject to use tax on 80 percent of the
 1915 purchase price.~~†~~

1916 4. A boat that is first licensed in the fourth year after
 1917 purchase is ~~shall be~~ subject to use tax on 70 percent of the
 1918 purchase price.~~†~~

1919 5. A boat that is first licensed in the fifth year after
 1920 purchase is ~~shall be~~ subject to use tax on 60 percent of the
 1921 purchase price.~~†~~ and

1922 6. A boat that is first licensed in the sixth year after
 1923 purchase, or later, is ~~shall be~~ subject to use tax on 50 percent
 1924 of the purchase price.

1925 7. If the purchaser fails to provide the purchase invoice
 1926 on such boat, the fair market value of the boat at the time of
 1927 importation into this state shall be used to compute the tax.

1928 (9) The taxes imposed by this chapter do not apply to the
 1929 use, sale, or distribution of religious publications, bibles,
 1930 hymn books, prayer books, vestments, altar paraphernalia,
 1931 sacramental chalices, and similar ~~like~~ church service and
 1932 ceremonial raiments and equipment.

1933 (10) A ~~No~~ title certificate may not be issued on any boat,
 1934 mobile home, motor vehicle, or other vehicle, or, if a ~~no~~ title
 1935 is not required ~~by law~~, a ~~no~~ license or registration may not be
 1936 issued for any boat, mobile home, motor vehicle, or other
 1937 vehicle, unless there is filed with the ~~such~~ application for
 1938 title certificate, or license, or registration ~~certificate~~ a
 1939 receipt, issued by an authorized dealer or a designated agent of
 1940 the department ~~of Revenue~~, evidencing the payment of the tax

1941 imposed by this chapter where the tax ~~same~~ is payable. A
 1942 presumption of sales and use tax applicability is created if the
 1943 motor vehicle is registered in this state. For the purpose of
 1944 enforcing this subsection ~~provision~~, all county tax collectors
 1945 and all persons or firms authorized to sell or issue boat,
 1946 mobile home, and motor vehicle licenses are ~~hereby~~ designated
 1947 agents of the department and are required to perform such duty
 1948 in the same manner and under the same conditions prescribed for
 1949 their other duties by the constitution or laws ~~any statute~~ of
 1950 this state. All transfers of title to boats, mobile homes, motor
 1951 vehicles, and other vehicles are taxable transactions, unless
 1952 expressly exempt under this chapter.

1953 (11) ~~(a)~~ Notwithstanding any other provision of this
 1954 chapter, the taxes imposed by this chapter may ~~shall~~ not be
 1955 imposed on promotional materials that, ~~which~~ are imported,
 1956 purchased, sold, used, manufactured, fabricated, processed,
 1957 printed, imprinted, assembled, distributed, or stored in this
 1958 state, if the promotional materials are subsequently exported
 1959 outside this state, and, regardless of whether the exportation
 1960 process is continuous and unbroken, a separate consideration is
 1961 charged for the material ~~so~~ exported, or the taxpayer keeps,
 1962 retains, or exercises any right, power, dominion, or control
 1963 over the promotional materials before or for the purpose of
 1964 subsequently transporting them outside this state.

1965 (a) ~~(b)~~ As used in this subsection, the term "promotional
 1966 materials" means tangible personal property that is given away
 1967 or otherwise distributed to promote the sale of a subscription
 1968 to a publication; written or printed advertising material,

1969 direct mail literature, correspondence, written solicitations,
 1970 renewal notices, and billings for sales connected with or to
 1971 promote the sale of a subscription to a publication; and the
 1972 component parts of each of these types of promotional materials.

1973 ~~(b)(e)~~ After July 1, 1992, This exemption inures to the
 1974 taxpayer only through refund of previously paid taxes or by
 1975 self-accruing taxes as provided in s. 212.183 and applies only
 1976 where the seller of subscriptions to publications sold in the
 1977 state:

1978 1. Is registered with the department pursuant to this
 1979 chapter; and

1980 2. Remits the taxes imposed by this chapter on such
 1981 publications.

1982 ~~(d) This subsection applies retroactively to July 1, 1987.~~

1983 (12) In lieu of ~~any~~ other facts that ~~which~~ may indicate
 1984 commingling, a ~~any~~ boat that ~~which~~ remains in this state for
 1985 more than an aggregate of 183 days in any 1-year period, except
 1986 as provided in subsection (8) or s. 212.08(7)(t), is ~~shall be~~
 1987 presumed to be commingled with the general mass of property of
 1988 this state.

1989 (13) Registered aircraft dealers who purchase aircraft
 1990 exclusively for resale and who do not pay sales tax on the
 1991 purchase price at the time of purchase must ~~shall~~ pay a use tax
 1992 computed on 1 percent of the value of the aircraft each calendar
 1993 month that the aircraft is used by the dealer. Payment of the
 1994 ~~such~~ tax shall commence in the month during which the aircraft
 1995 is first used for any purpose for which income is received by
 1996 the dealer. A dealer may pay the sales tax on the purchase of

1997 | the aircraft in lieu of the monthly use tax. The value of the
 1998 | aircraft must ~~shall~~ include its acquisition cost and the cost of
 1999 | reconditioning that enhances the value of the aircraft and shall
 2000 | generally be the value shown on the books of the dealer in
 2001 | accordance with generally accepted accounting principles.
 2002 | Notwithstanding ~~the~~ payment by the dealer of tax computed on 1
 2003 | percent of the value of the ~~any~~ aircraft, if the aircraft is
 2004 | leased or rented, the dealer must ~~shall~~ collect from the
 2005 | customer and remit the tax that is due on the lease or rental of
 2006 | the aircraft; such payments do not diminish or offset any use
 2007 | tax due from the dealer.

2008 | ~~(14) For the purpose of determining whether a person is~~
 2009 | ~~improving real property, the term:~~

2010 | ~~(a) "Real property" means the land and improvements~~
 2011 | ~~thereto and fixtures and is synonymous with the terms "realty"~~
 2012 | ~~and "real estate."~~

2013 | ~~(b) "Fixtures" means items that are an accessory to a~~
 2014 | ~~building, other structure, or land and that do not lose their~~
 2015 | ~~identity as accessories when installed but that do become~~
 2016 | ~~permanently attached to realty. However, the term does not~~
 2017 | ~~include the following items, whether or not such items are~~
 2018 | ~~attached to real property in a permanent manner: property of a~~
 2019 | ~~type that is required to be registered, licensed, titled, or~~
 2020 | ~~documented by this state or by the United States Government,~~
 2021 | ~~including, but not limited to, mobile homes, except mobile homes~~
 2022 | ~~assessed as real property, or industrial machinery or equipment.~~
 2023 | ~~For purposes of this paragraph, industrial machinery or~~
 2024 | ~~equipment is not limited to machinery and equipment used to~~

2025 ~~manufacture, process, compound, or produce tangible personal~~
 2026 ~~property. For an item to be considered a fixture, it is not~~
 2027 ~~necessary that the owner of the item also own the real property~~
 2028 ~~to which it is attached.~~

2029 ~~(c) "Improvements to real property" includes the~~
 2030 ~~activities of building, erecting, constructing, altering,~~
 2031 ~~improving, repairing, or maintaining real property.~~

2032 ~~(14) (15)~~ (a) If ~~When~~ a contractor secures rock, shell, fill
 2033 dirt, or similar materials from a location that he or she owns
 2034 or leases and uses such materials to fulfill a real property
 2035 contract on the property of another person, the contractor is
 2036 the ultimate consumer of the ~~such~~ materials and is liable for
 2037 use tax thereon. This paragraph does not apply to a person or a
 2038 corporation or affiliated group as defined by s. 220.03(1)(b) or
 2039 (e) who ~~that~~ secures such materials from a location that he,
 2040 she, or it owns for use on his, her, or its own property. The
 2041 basis upon which the contractor shall remit the tax is the fair
 2042 retail market value determined by establishing ~~either~~ the price
 2043 he or she would have to pay for it on the open market or the
 2044 price he or she would regularly charge if he or she sold it to
 2045 other contractors or users.

2046 (b) If ~~When~~ a contractor does not own or lease the land
 2047 but has entered into an agreement to purchase fill dirt, rock,
 2048 shell, or similar materials for his or her own use and ~~wherein~~
 2049 the contractor will excavate and remove the material, the
 2050 taxable basis includes ~~shall include~~ the cost of the material
 2051 plus all costs of clearing, excavating, and removing, including
 2052 labor and all other costs incurred by the contractor.

2053 (c) In lieu of the method described in paragraph (a) for
 2054 determining the taxable basis on rock, shell, fill dirt, and
 2055 similar materials a contractor uses in performing a contract for
 2056 the improvement of real property, the taxable basis may be
 2057 calculated as the land cost plus all costs of clearing,
 2058 excavating, and loading, including labor, power, blasting, and
 2059 similar costs.

2060 (d) A tax may not be imposed if ~~No tax is applicable when~~
 2061 the Department of Transportation furnishes without charge the
 2062 borrow materials or the pits where materials are ~~to be~~ extracted
 2063 for use on a road contract.

2064 (15) ~~(16)~~ (a) Notwithstanding other provisions of this
 2065 chapter, the use by the publisher of a newspaper, magazine, or
 2066 periodical of copies for his or her own consumption or to be
 2067 given away is taxable at the usual retail price ~~thereof~~, if any,
 2068 or at the "cost price."

2069 (b) For the purposes of this subsection, the term "cost
 2070 price" means the actual cost of printing ~~of~~ newspapers,
 2071 magazines, and other publications, without any deductions for
 2072 ~~therefrom on account of~~ the cost of materials used, labor or
 2073 services cost, transportation charges, or other direct or
 2074 indirect overhead costs that are a part of the printing costs of
 2075 the property. However, the cost of labor to manufacture,
 2076 produce, compound, process, or fabricate expendable items of
 2077 tangible personal property which are directly used by such
 2078 person in printing other tangible personal property for sale or
 2079 for his or her own use is exempt. Authors' royalties, fees, ~~or~~
 2080 salaries, general overhead, and other costs not directly related

2081 to printing are ~~shall be~~ deemed to be labor associated with
 2082 manufacturing, producing, compounding, processing, or
 2083 fabricating expendable items.

2084 Section 9. Subsections (1) and (2) and paragraphs (b) and
 2085 (c) of subsection (17) of section 212.08, Florida Statutes, are
 2086 amended to read:

2087 212.08 Sales, rental, use, consumption, distribution, and
 2088 storage tax; specified exemptions.--The sale at retail, the
 2089 rental, the use, the consumption, the distribution, and the
 2090 storage to be used or consumed in this state of the following
 2091 are ~~hereby~~ specifically exempt from the tax imposed by this
 2092 chapter.

2093 (1) EXEMPTIONS; GENERAL GROCERIES.--

2094 (a) Food and food ingredients ~~products~~ for human
 2095 consumption are exempt from the tax imposed by this chapter.

2096 (b) For the purpose of this chapter, ~~as used in this~~
 2097 ~~subsection,~~ the term "food and food ingredients" mean
 2098 substances, whether in liquid, concentrated, solid, frozen,
 2099 dried, or dehydrated form, which are sold for ingestion or
 2100 chewing by humans and are consumed for their taste or
 2101 nutritional value ~~products" means edible commodities, whether~~
 2102 ~~processed, cooked, raw, canned, or in any other form, which are~~
 2103 ~~generally regarded as food.~~ This includes, but is not limited
 2104 to, all of the following:

- 2105 1. ~~Cereals and cereal products, baked goods,~~
 2106 ~~oleomargarine, meat and meat products, fish and seafood~~
 2107 ~~products, frozen foods and dinners, poultry, eggs and egg~~
 2108 ~~products, vegetables and vegetable products, fruit and fruit~~

2109 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
 2110 ~~products, and products intended to be mixed with milk.~~

2111 ~~2. Natural fruit or vegetable juices or their concentrates~~
 2112 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
 2113 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
 2114 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
 2115 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
 2116 ~~unless it is sold in a liquid form.~~

2117 1.3. Bakery products sold by bakeries, pastry shops, or
 2118 like establishments, if sold without eating utensils. The term
 2119 "bakery products" includes bread, rolls, buns, biscuits, bagels,
 2120 croissants, pastries, doughnuts, danish, cakes, tortes, pies,
 2121 tarts, muffins, bars, cookies, and tortillas ~~that do not have~~
 2122 ~~eating facilities.~~

2123 2. Dietary supplements. The term "dietary supplements"
 2124 means any product, other than tobacco, intended to supplement
 2125 the diet which contains one or more of the following dietary
 2126 ingredients: a vitamin; a mineral; an herb or other botanical;
 2127 an amino acid; a dietary substance for use by humans to
 2128 supplement the diet by increasing the total dietary intake; or a
 2129 concentrate, metabolite, constituent, extract, or combination of
 2130 any ingredient described in this subparagraph which is intended
 2131 for ingestion in tablet, capsule, powder, softgel, gelcap, or
 2132 liquid form or, if not intended for ingestion in such form, is
 2133 not represented as conventional food and is not represented for
 2134 use as a sole item of a meal or of the diet, and which is
 2135 required to be labeled as a dietary supplement, identifiable by

2136 the "supplemental facts" box found on the label and as required
 2137 pursuant to 21 C.F.R. s. 101.36.

2138 (c) The exemption provided by this subsection does not
 2139 apply:

2140 ~~1. When the food products are sold as meals for~~
 2141 ~~consumption on or off the premises of the dealer.~~

2142 ~~2. When the food products are furnished, prepared, or~~
 2143 ~~served for consumption at tables, chairs, or counters or from~~
 2144 ~~trays, glasses, dishes, or other tableware, whether provided by~~
 2145 ~~the dealer or by a person with whom the dealer contracts to~~
 2146 ~~furnish, prepare, or serve food products to others.~~

2147 ~~3. When the food products are ordinarily sold for~~
 2148 ~~immediate consumption on the seller's premises or near a~~
 2149 ~~location at which parking facilities are provided primarily for~~
 2150 ~~the use of patrons in consuming the products purchased at the~~
 2151 ~~location, even though such products are sold on a "take out" or~~
 2152 ~~"to go" order and are actually packaged or wrapped and taken~~
 2153 ~~from the premises of the dealer.~~

2154 ~~4. To sandwiches sold ready for immediate consumption on~~
 2155 ~~or off the seller's premises.~~

2156 ~~5. When the food products are sold ready for immediate~~
 2157 ~~consumption within a place, the entrance to which is subject to~~
 2158 ~~an admission charge.~~

2159 ~~1.6.~~ If ~~When~~ the food and food ingredients ~~products~~ are
 2160 sold as ~~hot~~ prepared food ~~products~~. The term "prepared food"
 2161 means food sold in a heated state or heated by the seller; two
 2162 or more food ingredients mixed or combined by the seller for
 2163 sale as a single item; or food sold with eating utensils

2164 provided by the seller including plates, knives, forks, spoons,
 2165 glasses, cups, napkins, or straws. A plate does not include a
 2166 container or packaging used to transport the food. Prepared food
 2167 does not include food that is only cut, repackaged, or
 2168 pasteurized by the seller and eggs, fish, meat, poultry, and
 2169 foods containing these raw animal foods requiring cooking by the
 2170 consumer as recommended by the Food and Drug Administration in
 2171 chapter 3, part 401.11 of its food code so as to prevent food-
 2172 borne illnesses. Prepared food includes sandwiches sold for
 2173 immediate consumption and a combination of hot and cold food
 2174 items or components if a single price has been established for
 2175 the combination and the food products are sold in such
 2176 combination, such as a meal; a specialty dish or serving; a
 2177 sandwich or pizza; an ice cream cone, sundae, or banana split;
 2178 or food sold in an unheated state by weight or volume as a
 2179 single item, including cold components or side items.

2180 ~~2.7. To soft drinks, which include, but are not limited~~
 2181 ~~to, any nonalcoholic beverage, any preparation or beverage~~
 2182 ~~commonly referred to as a "soft drink," or any noncarbonated~~
 2183 ~~drink made from milk derivatives or tea, when sold in cans or~~
 2184 ~~similar containers. The term "soft drinks" means nonalcoholic~~
 2185 ~~beverages that contain natural or artificial sweeteners. Soft~~
 2186 ~~drinks do not include beverages that contain milk or milk~~
 2187 ~~products, soy, rice, or similar milk substitutes, or greater~~
 2188 ~~than 50 percent of vegetable or fruit juice by volume.~~

2189 ~~8. To ice cream, frozen yogurt, and similar frozen dairy~~
 2190 ~~or nondairy products in cones, small cups, or pints, popsicles,~~

2191 ~~frozen fruit bars, or other novelty items, whether or not sold~~
 2192 ~~separately.~~

2193 ~~9. To food prepared, whether on or off the premises, and~~
 2194 ~~sold for immediate consumption. This does not apply to food~~
 2195 ~~prepared off the premises and sold in the original sealed~~
 2196 ~~container, or the slicing of products into smaller portions.~~

2197 ~~3.10. If When the food and food ingredients ~~products~~ are~~
 2198 ~~sold through a vending machine, pushcart, motor vehicle, or any~~
 2199 ~~other form of vehicle.~~

2200 ~~4.11. To candy and any similar product regarded as candy~~
 2201 ~~or confection, based on its normal use, as indicated on the~~
 2202 ~~label or advertising thereof. The term "candy" means a~~
 2203 ~~preparation of sugar, honey, or other natural or artificial~~
 2204 ~~sweeteners in combination with chocolate, fruits, nuts, or other~~
 2205 ~~ingredients or flavorings in the form of bars, drops, or pieces.~~
 2206 ~~Candy does not include any preparation that contains flour and~~
 2207 ~~does not require refrigeration.~~

2208 ~~5. To tobacco or tobacco products.~~

2209 ~~12. To bakery products sold by bakeries, pastry shops, or~~
 2210 ~~like establishments that have eating facilities, except when~~
 2211 ~~sold for consumption off the seller's premises.~~

2212 ~~13. When food products are served, prepared, or sold in or~~
 2213 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~
 2214 ~~other like places of business.~~

2215 ~~(d) As used in this subsection, the term:~~

2216 ~~1. "For consumption off the seller's premises" means that~~
 2217 ~~the food or drink is intended by the customer to be consumed at~~
 2218 ~~a place away from the dealer's premises.~~

2219 2. ~~"For consumption on the seller's premises" means that~~
 2220 ~~the food or drink sold may be immediately consumed on the~~
 2221 ~~premises where the dealer conducts his or her business. In~~
 2222 ~~determining whether an item of food is sold for immediate~~
 2223 ~~consumption, there shall be considered the customary consumption~~
 2224 ~~practices prevailing at the selling facility.~~

2225 3. ~~"Premises" shall be construed broadly, and means, but~~
 2226 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
 2227 ~~the seating, aisle, or parking area of an arena, rink, or~~
 2228 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
 2229 ~~The premises of a caterer with respect to catered meals or~~
 2230 ~~beverages shall be the place where such meals or beverages are~~
 2231 ~~served.~~

2232 4. ~~"Hot prepared food products" means those products,~~
 2233 ~~items, or components which have been prepared for sale in a~~
 2234 ~~heated condition and which are sold at any temperature that is~~
 2235 ~~higher than the air temperature of the room or place where they~~
 2236 ~~are sold. "Hot prepared food products," for the purposes of this~~
 2237 ~~subsection, includes a combination of hot and cold food items or~~
 2238 ~~components where a single price has been established for the~~
 2239 ~~combination and the food products are sold in such combination,~~
 2240 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
 2241 ~~sandwich or hot pizza, including cold components or side items.~~

2242 (d) ~~(e)1.~~ Food or drinks not exempt under paragraph
 2243 paragraphs (a), paragraph (b), or paragraph (c) are, and ~~(d)~~
 2244 ~~shall be exempt if, notwithstanding those paragraphs, when~~
 2245 ~~purchased with food coupons or Special Supplemental Food Program~~

2246 for Women, Infants, and Children vouchers issued under authority
 2247 of federal law.

2248 1.2. This paragraph is effective only if ~~while~~ federal law
 2249 prohibits a state's participation in the federal food coupon
 2250 program or Special Supplemental Food Program for Women, Infants,
 2251 and Children if there is an official determination that state or
 2252 local sales taxes are collected within that state on purchases
 2253 of food or drinks with such coupons.

2254 2.3. This paragraph does ~~shall~~ not apply to any food or
 2255 drinks on which federal law allows ~~shall permit~~ sales taxes
 2256 without penalty, such as termination of the state's
 2257 participation.

2258 (e) Dietary supplements that are sold as prepared food are
 2259 not exempt.

2260 (2) EXEMPTIONS; MEDICAL.--

2261 (a) The following are ~~There shall be~~ exempt from the tax
 2262 imposed by this chapter:

2263 1. Any drug. The term "drug" under this subsection means a
 2264 compound, substance, or preparation, and any component of a
 2265 compound, substance, or preparation, other than food and food
 2266 ingredients, dietary supplements, and alcoholic beverages, which
 2267 is:

2268 a. Recognized in the official United States Pharmacopoeia,
 2269 official Homeopathic Pharmacopoeia of the United States, or
 2270 official National Formulary, or the supplement to any of them;

2271 b. Intended for use in the diagnosis, cure, mitigation,
 2272 treatment, or prevention of disease; or

2273 c. Intended to affect the structure or any function of the
 2274 body.

2275 2. Durable medical equipment, mobility-enhancing
 2276 equipment, or prosthetic device ~~any medical products and~~
 2277 ~~supplies or medicine~~ dispensed according to an individual
 2278 prescription or prescriptions.

2279 a. The term "durable medical equipment" under this
 2280 subsection means equipment, including repair and replacement
 2281 parts to such equipment, but excluding mobility-enhancing
 2282 equipment, which can withstand repeated use, is primarily and
 2283 customarily used to serve a medical purpose, generally is not
 2284 useful to a person in the absence of illness or injury, and is
 2285 not worn on or in the body. ~~written by a prescriber authorized~~
 2286 ~~by law to prescribe medicinal drugs;~~

2287 b. The term "mobility-enhancing equipment" under this
 2288 subsection means equipment, including repair and replacement
 2289 parts to such equipment, but excluding durable medical
 2290 equipment, which is primarily and customarily used to provide or
 2291 increase the ability to move from one place to another and which
 2292 is appropriate for use in a home or a motor vehicle; is not
 2293 generally used by persons having normal mobility; and does not
 2294 include any motor vehicle or any equipment on a motor vehicle
 2295 normally provided by a motor vehicle manufacturer.

2296 c. The term "prosthetic device" under this subsection
 2297 means a replacement, corrective, or supportive device, including
 2298 repair or replacement parts to such equipment, other than a
 2299 hearing aid or a dental prosthesis, which is worn on or in the
 2300 body to artificially replace a missing portion of the body;

2301 prevent or correct physical deformity or malfunction; or support
 2302 a weak or deformed portion of the body.

2303 d. The term "prescription" under this subsection means an
 2304 order, formula, or recipe issued in any form of oral, written,
 2305 electronic, or other means of transmission by a duly licensed
 2306 practitioner authorized by chapter 458, chapter 459, chapter
 2307 460, chapter 461, or chapter 466. The term also includes an
 2308 orally transmitted order by the lawfully designated agent of a
 2309 practitioner. The term also includes an order written or
 2310 transmitted by a practitioner licensed to practice in a
 2311 jurisdiction other than this state, but only if the pharmacist
 2312 called upon to dispense the order determines, in the exercise of
 2313 his or her professional judgment, that the order is valid and
 2314 necessary for the treatment of a chronic or recurrent illness.

2315 3. Hypodermic needles. ~~hypodermic syringes;~~

2316 4. Chemical compounds and test kits used for the diagnosis
 2317 or treatment of human disease, illness, or injury and intended
 2318 for one-time use.

2319 5. Over-the-counter drugs and common household remedies
 2320 recommended and generally sold for internal or external use in
 2321 the cure, mitigation, treatment, or prevention of illness or
 2322 disease in human beings, but not including grooming and hygiene
 2323 products. The term "over-the-counter drug" under this subsection
 2324 means a drug the packaging for which contains a label that
 2325 identifies the product as a drug as required by 21 C.F.R. s.
 2326 201.66. The over-the-counter drug label includes a drug facts
 2327 panel or a statement of the active ingredients, with a list of
 2328 those ingredients contained in the compound, substance, or

2329 preparation. The term "grooming and hygiene products" under this
 2330 subsection means soaps and cleaning solutions, shampoo,
 2331 toothpaste, mouthwash, antiperspirants, and suntan lotions and
 2332 screens, regardless of whether the items meet the definition of
 2333 an over-the-counter drug.

2334 6. Band-aids, gauze, bandages, adhesive tape.

2335 7. Hearing aids.

2336 8. Dental prosthesis.

2337 9. Funerals. Funeral directors must pay tax on all
 2338 tangible personal property used by them in their business.

2339 ~~cosmetics or toilet articles, notwithstanding the presence of~~
 2340 ~~medicinal ingredients therein, according to a list prescribed~~
 2341 ~~and approved by the Department of Health, which list shall be~~
 2342 ~~certified to the Department of Revenue from time to time and~~
 2343 ~~included in the rules promulgated by the Department of Revenue.~~
 2344 ~~There shall also be exempt from the tax imposed by this chapter~~
 2345 ~~artificial eyes and limbs; orthopedic shoes; prescription~~
 2346 ~~eyeglasses and items incidental thereto or which become a part~~
 2347 ~~thereof; dentures; hearing aids; crutches; prosthetic and~~
 2348 ~~orthopedic appliances; and funerals. In addition, any~~

2349
 2350 Items intended for one-time use which transfer essential optical
 2351 characteristics to contact lenses are ~~shall be~~ exempt from the
 2352 tax imposed by this chapter; however, this exemption ~~shall apply~~
 2353 applies only after \$100,000 of the tax imposed by this chapter
 2354 on the ~~such~~ items has been paid in any calendar year by a
 2355 taxpayer who claims the exemption in that ~~such~~ year. ~~Funeral~~

2356 ~~directors shall pay tax on all tangible personal property used~~
 2357 ~~by them in their business.~~

2358 ~~(b) For the purposes of this subsection:~~

2359 ~~1. "Prosthetic and orthopedic appliances" means any~~
 2360 ~~apparatus, instrument, device, or equipment used to replace or~~
 2361 ~~substitute for any missing part of the body, to alleviate the~~
 2362 ~~malfunction of any part of the body, or to assist any disabled~~
 2363 ~~person in leading a normal life by facilitating such person's~~
 2364 ~~mobility. Such apparatus, instrument, device, or equipment shall~~
 2365 ~~be exempted according to an individual prescription or~~
 2366 ~~prescriptions written by a physician licensed under chapter 458,~~
 2367 ~~chapter 459, chapter 460, chapter 461, or chapter 466, or~~
 2368 ~~according to a list prescribed and approved by the Department of~~
 2369 ~~Health, which list shall be certified to the Department of~~
 2370 ~~Revenue from time to time and included in the rules promulgated~~
 2371 ~~by the Department of Revenue.~~

2372 ~~2. "Cosmetics" means articles intended to be rubbed,~~
 2373 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
 2374 ~~applied to the human body for cleansing, beautifying, promoting~~
 2375 ~~attractiveness, or altering the appearance and also means~~
 2376 ~~articles intended for use as a compound of any such articles,~~
 2377 ~~including, but not limited to, cold creams, suntan lotions,~~
 2378 ~~makeup, and body lotions.~~

2379 ~~3. "Toilet articles" means any article advertised or held~~
 2380 ~~out for sale for grooming purposes and those articles that are~~
 2381 ~~customarily used for grooming purposes, regardless of the name~~
 2382 ~~by which they may be known, including, but not limited to, soap,~~

2383 toothpaste, hair spray, shaving products, colognes, perfumes,
 2384 shampoo, deodorant, and mouthwash.

2385 4. ~~"Prescription" includes any order for drugs or~~
 2386 ~~medicinal supplies written or transmitted by any means of~~
 2387 ~~communication by a duly licensed practitioner authorized by the~~
 2388 ~~laws of the state to prescribe such drugs or medicinal supplies~~
 2389 ~~and intended to be dispensed by a pharmacist. The term also~~
 2390 ~~includes an orally transmitted order by the lawfully designated~~
 2391 ~~agent of such practitioner. The term also includes an order~~
 2392 ~~written or transmitted by a practitioner licensed to practice in~~
 2393 ~~a jurisdiction other than this state, but only if the pharmacist~~
 2394 ~~called upon to dispense such order determines, in the exercise~~
 2395 ~~of his or her professional judgment, that the order is valid and~~
 2396 ~~necessary for the treatment of a chronic or recurrent illness.~~
 2397 ~~The term also includes a pharmacist's order for a product~~
 2398 ~~selected from the formulary created pursuant to s. 465.186. A~~
 2399 ~~prescription may be retained in written form, or the pharmacist~~
 2400 ~~may cause it to be recorded in a data processing system,~~
 2401 ~~provided that such order can be produced in printed form upon~~
 2402 ~~lawful request.~~

2403 ~~(b)(e)~~ Chlorine is ~~shall~~ not be exempt from the tax
 2404 imposed by this chapter if ~~when~~ used for the treatment of water
 2405 in swimming pools.

2406 ~~(d)~~ Lithotripters are exempt.

2407 ~~(c)(e)~~ Human organs are exempt from the tax imposed by
 2408 this chapter.

2409 ~~(f) Sales of drugs to or by physicians, dentists,~~
 2410 ~~veterinarians, and hospitals in connection with medical~~
 2411 ~~treatment are exempt.~~

2412 ~~(g) Medical products and supplies used in the cure,~~
 2413 ~~mitigation, alleviation, prevention, or treatment of injury,~~
 2414 ~~disease, or incapacity which are temporarily or permanently~~
 2415 ~~incorporated into a patient or client by a practitioner of the~~
 2416 ~~healing arts licensed in the state are exempt.~~

2417 ~~(h) The purchase by a veterinarian of commonly recognized~~
 2418 ~~substances possessing curative or remedial properties which are~~
 2419 ~~ordered and dispensed as treatment for a diagnosed health~~
 2420 ~~disorder by or on the prescription of a duly licensed~~
 2421 ~~veterinarian, and which are applied to or consumed by animals~~
 2422 ~~for alleviation of pain or the cure or prevention of sickness,~~
 2423 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 2424 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 2425 ~~bandages, lotions, vitamins, and worm remedies.~~

2426 ~~(i) X-ray opaques, also known as opaque drugs and~~
 2427 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 2428 ~~when used in connection with medical X rays for treatment of~~
 2429 ~~bodies of humans and animals, are exempt.~~

2430 ~~(d)~~(j) Parts, special attachments, special lettering, and
 2431 other like items that are added to or attached to tangible
 2432 personal property so that a ~~handicapped~~ person with a disability
 2433 can use them are exempt from the tax imposed under this chapter
 2434 if the ~~when such~~ items are purchased by a person pursuant to an
 2435 individual prescription.

2436 (e)~~(k)~~ This subsection shall be strictly construed and
 2437 enforced.

2438 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.--

2439 (b) As used in this subsection, the term "overhead
 2440 materials" means all tangible personal property, other than
 2441 qualifying property as defined in s. 212.02(29)(a) ~~s.~~
 2442 ~~212.02(14)(a)~~ and electricity, which is used or consumed in the
 2443 performance of a qualifying contract, title to which property
 2444 vests in or passes to the government under the contract.

2445 (c) As used in this subsection and in s. 212.02(29)(a) ~~s.~~
 2446 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract
 2447 with the United States Department of Defense or the National
 2448 Aeronautics and Space Administration, or a subcontract
 2449 thereunder, but does not include a contract or subcontract for
 2450 the repair, alteration, improvement, or construction of real
 2451 property, except to the extent that purchases under such a
 2452 contract would otherwise be exempt from the tax imposed by this
 2453 chapter.

2454 Section 10. Section 212.094, Florida Statutes, is created
 2455 to read:

2456 212.094 Purchaser requests for tax refunds from dealers.--

2457 (1) If a purchaser seeks a refund or credit from a dealer
 2458 for a tax collected under this chapter by that dealer, the
 2459 purchaser must submit a written request for the refund or credit
 2460 to the dealer in accordance with this section. The request must
 2461 contain all the information necessary for the dealer to
 2462 determine the validity of the purchaser's request.

2463 (2) The purchaser may not take any other action against
 2464 the dealer with respect to the requested refund or credit until
 2465 the dealer has had 60 days following receipt of a completed
 2466 request to respond.

2467 (3) This section does not change the law regarding
 2468 standing to claim a refund.

2469 Section 11. Section 212.12, Florida Statutes, is amended
 2470 to read:

2471 212.12 Dealer's credit for collecting tax; delinquent
 2472 payments; penalties for noncompliance; powers of department of
 2473 Revenue in dealing with delinquents; computing tax due brackets
 2474 applicable to taxable transactions; records required.--

2475 (1) Notwithstanding any other provision of law and for the
 2476 purpose of compensating persons granting licenses for and the
 2477 lessors of real and personal property taxed under this chapter
 2478 ~~hereunder, for the purpose of~~ compensating dealers in tangible
 2479 personal property, ~~for the purpose of~~ compensating dealers
 2480 providing communication services and taxable services, ~~for the~~
 2481 ~~purpose of~~ compensating owners of places where admissions are
 2482 collected, and ~~for the purpose of~~ compensating remitters of any
 2483 taxes or fees reported on the same documents used ~~utilized~~ for
 2484 the sales and use tax, as compensation for the keeping of
 2485 prescribed records, filing timely tax returns, and the proper
 2486 accounting and remitting of taxes by them, such seller, person,
 2487 lessor, dealer, owner, and remitter, except ~~(except~~ dealers who
 2488 make mail order sales, sales) shall be allowed 2.5 percent of
 2489 the amount of the tax due and accounted for and remitted to the
 2490 department, in the form of a deduction when ~~in~~ submitting his or

2491 her report and paying the amount due. ~~by him or her;~~ The
 2492 department shall allow the ~~such~~ deduction ~~of 2.5 percent of the~~
 2493 ~~amount of the tax to the person paying the same~~ for remitting
 2494 the tax and making of tax returns in the manner herein provided,
 2495 for paying the amount due to be paid ~~by him or her,~~ and as
 2496 further compensation to dealers in tangible personal property
 2497 for the keeping of prescribed records and for collection of
 2498 taxes and remitting the same. However, an ~~if the amount of the~~
 2499 ~~tax due and remitted to the department for the reporting period~~
 2500 ~~exceeds \$1,200,~~ no allowance is not ~~shall be~~ allowed for all
 2501 amounts in excess of \$1,200.

2502 (a) The executive director of the department may ~~is~~
 2503 ~~authorized to~~ negotiate a collection allowance, pursuant to
 2504 rules adopted ~~promulgated~~ by the department, with a dealer who
 2505 makes mail order sales. The rules ~~of the department~~ shall
 2506 provide guidelines for establishing a ~~the~~ collection allowance
 2507 based upon the dealer's estimated costs of collecting the tax,
 2508 the volume and value of the dealer's mail order sales to
 2509 purchasers in this state, and the administrative and legal costs
 2510 and likelihood of achieving collection of the tax absent the
 2511 cooperation of the dealer. However, ~~in no event shall~~ the
 2512 collection allowance negotiated by the executive director may
 2513 not exceed 10 percent of the tax remitted for a reporting
 2514 period.

2515 1.(a) The department ~~of Revenue~~ may deny the collection
 2516 allowance if a taxpayer files an incomplete return or if the
 2517 required tax return or tax is delinquent at the time of payment.

2518 ~~1.~~ For the purposes of this subsection, an "incomplete
 2519 return" is, ~~for purposes of this chapter,~~ a return that ~~which~~ is
 2520 lacking such uniformity, completeness, and arrangement so that
 2521 the physical handling, verification, review of the return, or
 2522 determination of other taxes and fees reported on the return
 2523 cannot ~~may not~~ be readily accomplished.

2524 2. The department shall adopt rules specifying the
 2525 ~~requiring such~~ information ~~as it may deem~~ necessary to ensure
 2526 that the tax levied ~~hereunder~~ is properly collected, reviewed,
 2527 compiled, reported, and enforced, including, but not limited to:
 2528 the amount of gross sales; the amount of taxable sales; the
 2529 amount of tax collected or due; the amount of lawful refunds,
 2530 deductions, or credits claimed; the amount claimed as the
 2531 dealer's collection allowance; the amount of penalty and
 2532 interest; and the amount due with the return; ~~and such other~~
 2533 ~~information as the department of Revenue may specify.~~ The
 2534 department shall require that transient rentals and agricultural
 2535 equipment transactions be separately shown. Sales made through
 2536 vending machines, as defined in s. 212.0515, must be separately
 2537 shown on the return. Sales made through coin-operated amusement
 2538 machines ~~as defined by s. 212.02~~ and the number of machines
 2539 operated must be separately shown on the return or on a form
 2540 prescribed by the department. If a separate form is required,
 2541 the same penalties for late filing, incomplete filing, or
 2542 failure to file as provided for the sales tax return ~~shall~~ apply
 2543 to the ~~said~~ form.

2544 (b) The collection allowance and other credits or
 2545 deductions provided in this chapter shall be applied

2546 | proportionally to any taxes or fees reported on the same
 2547 | documents used for the sales and use tax.

2548 | (c)~~1.~~ A dealer entitled to the collection allowance
 2549 | provided in this section may elect to forego the collection
 2550 | allowance and direct that the ~~said~~ amount be transferred into
 2551 | the Educational Enhancement Trust Fund. Such ~~an~~ election must be
 2552 | made with the timely filing of a return and may not be rescinded
 2553 | once made. If a dealer who makes the ~~such an~~ election files a
 2554 | delinquent return, underpays the tax, or files an incomplete
 2555 | return, the amount transferred into the Educational Enhancement
 2556 | Trust Fund shall be the amount of the collection allowance
 2557 | remaining after resolution of liability for all of the tax,
 2558 | interest, and penalty due on that return or underpayment of tax.
 2559 | The Department of Education shall distribute the remaining
 2560 | amount from the trust fund to ~~the~~ school districts that have
 2561 | adopted resolutions stating that those funds are to ~~will~~ be used
 2562 | to ensure that up-to-date technology is purchased for the
 2563 | classrooms in the district and that teachers are trained in the
 2564 | use of that technology. Revenues collected in districts that do
 2565 | not adopt ~~such~~ a resolution shall be equally distributed to
 2566 | districts that have adopted such resolutions.

2567 | 1.2. This paragraph applies to all taxes, surtaxes, and
 2568 | any local option taxes administered under this chapter and
 2569 | remitted directly to the department. It ~~This paragraph~~ does not
 2570 | apply to any locally imposed and self-administered convention
 2571 | development tax, tourist development tax, or tourist impact tax
 2572 | administered under this chapter.

2573 ~~2.3.~~ Revenues from the dealer-collection allowances shall
2574 be transferred quarterly from the General Revenue Fund to the
2575 Educational Enhancement Trust Fund. The department ~~of Revenue~~
2576 shall provide to the Department of Education quarterly
2577 information about such revenues by county to which the
2578 collection allowance was attributed.

2579
2580 Notwithstanding any provision of chapter 120 ~~to the contrary,~~
2581 the department ~~of Revenue~~ may adopt rules to carry out the
2582 amendment made by chapter 2006-52, Laws of Florida, to this
2583 section.

2584 (d) A Model 1 seller as defined in s. 213.256, under the
2585 Streamlined Sales and Use Tax Agreement, is not entitled to a
2586 collection allowance as described in this subsection. However,
2587 the department may provide the monetary allowance required to be
2588 provided by the state to certified service providers and
2589 voluntary sellers under the agreement.

2590 1. The monetary allowances must be in a form that
2591 certified service providers or voluntary sellers are permitted
2592 to retain from the tax revenue collected on remote sales to be
2593 remitted to this state pursuant to this chapter.

2594 2. For purposes of this paragraph, "voluntary seller"
2595 means a seller that is not required to register in this state to
2596 collect sales tax under this chapter and "remote sales" means
2597 sales revenue generated by a seller for this state for which the
2598 seller does not have to register to collect sales tax under this
2599 chapter.

2600 (2) (a) If ~~When~~ any person required ~~hereunder~~ to make a ~~any~~
 2601 return or to pay any tax or fee imposed by this chapter ~~either~~
 2602 fails to timely file such return or fails to pay the tax or fee
 2603 shown due on the return within the time required ~~hereunder~~, in
 2604 addition to all other penalties provided ~~herein~~ and by law ~~the~~
 2605 ~~laws of this state in respect to such taxes or fees~~, a specific
 2606 penalty shall be added to the tax or fee in the amount of 10
 2607 percent of ~~either~~ the tax or fee shown on the return that is not
 2608 timely filed or any tax or fee not paid timely. The penalty ~~may~~
 2609 ~~not be less than \$50~~ for failure to timely file a tax return
 2610 required by s. 212.11(1) or timely pay the tax or fee shown due
 2611 on the return, except as provided in s. 213.21(10), must be at
 2612 least \$50. If a person fails to timely file a tax return
 2613 required by s. 212.11(1) and to timely pay the tax or fee shown
 2614 due on the return, only one penalty of 10 percent, which is at
 2615 least ~~may not be less than~~ \$50, shall be imposed.

2616 (b) If ~~When~~ any person required under this section to make
 2617 a return or to pay a tax or fee imposed by this chapter fails to
 2618 disclose the tax or fee on the return within the time required,
 2619 excluding a noncompliant filing event ~~generated by situations~~
 2620 covered in paragraph (a), in addition to all other penalties
 2621 provided ~~in this section~~ and by law ~~the laws of this state in~~
 2622 ~~respect to such taxes or fees~~, a specific penalty shall be added
 2623 to the additional tax or fee owed in the amount of 10 percent of
 2624 any ~~such~~ unpaid tax or fee not paid timely if the failure is for
 2625 up to not more than 30 days, with an additional 10 percent of
 2626 any ~~such~~ unpaid tax or fee for each additional 30 days, or
 2627 fraction thereof, that ~~while~~ the failure continues, not to

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2628 exceed a total penalty of 50 percent, in the aggregate, of any
2629 unpaid tax or fee.

2630 (c) Any person who knowingly and with a willful intent to
2631 evade any tax imposed under this chapter fails to file six
2632 consecutive returns as required by law commits a felony of the
2633 third degree, punishable as provided in s. 775.082 or s.
2634 775.083.

2635 (d) Any person who makes a false or fraudulent return with
2636 a willful intent to evade payment of any tax or fee imposed
2637 under this chapter; any person who, after the department's
2638 delivery of a written notice to the person's last known address
2639 specifically alerting the person of the requirement to register
2640 the person's business as a dealer, intentionally fails to
2641 register the business; and any person who, after the
2642 department's delivery of a written notice to the person's last
2643 known address specifically alerting the person of the
2644 requirement to collect tax on specific transactions,
2645 intentionally fails to collect such tax, shall, in addition to
2646 the other penalties provided by law, be liable for a specific
2647 penalty of 100 percent of any unreported or any uncollected tax
2648 or fee and, upon conviction, for fine and punishment as provided
2649 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
2650 notice may be made by certified mail, or by the use of such
2651 other method as is documented as being necessary and reasonable
2652 under the circumstances. The civil and criminal penalties
2653 imposed ~~herein~~ for failure to comply with a written notice
2654 alerting the person of the requirement to register the person's
2655 business as a dealer or to collect tax on specific transactions

2656 does ~~shall~~ not apply if the person timely files a written
 2657 challenge to such notice in accordance with procedures
 2658 established by the department by rule or the notice fails to
 2659 clearly advise that failure to comply with or timely challenge
 2660 the notice will result in the imposition of ~~the~~ civil and
 2661 criminal penalties ~~imposed herein~~.

2662 1. If the total amount of unreported or uncollected taxes
 2663 or fees is less than \$300, the first offense ~~resulting in~~
 2664 ~~conviction~~ is a misdemeanor of the second degree, the second
 2665 offense ~~resulting in conviction~~ is a misdemeanor of the first
 2666 degree, and the third and all subsequent offenses are
 2667 misdemeanors ~~resulting in conviction is a misdemeanor~~ of the
 2668 first degree, and the third and all subsequent offenses
 2669 ~~resulting in conviction~~ are felonies of the third degree.

2670 2. If the total amount of unreported or uncollected taxes
 2671 or fees is \$300 or more but less than \$20,000, the offense is a
 2672 felony of the third degree.

2673 3. If the total amount of unreported or uncollected taxes
 2674 or fees is \$20,000 or more but less than \$100,000, the offense
 2675 is a felony of the second degree.

2676 4. If the total amount of unreported or uncollected taxes
 2677 or fees is \$100,000 or more, the offense is a felony of the
 2678 first degree.

2679 (e) A person who willfully attempts in any manner to evade
 2680 any tax, surcharge, or fee imposed under this chapter or the
 2681 payment thereof is, in addition to any other penalties provided
 2682 by law, liable for a specific penalty in the amount of 100
 2683 percent of the tax, surcharge, or fee, and commits a felony of

2684 the third degree, punishable as provided in s. 775.082, s.
 2685 775.083, or s. 775.084.

2686 (f) If ~~When~~ any person, firm, or corporation fails to
 2687 timely remit the ~~proper~~ estimated payment required under s.
 2688 212.11, a specific penalty shall be added in an amount equal to
 2689 10 percent of the ~~any~~ unpaid estimated tax. ~~Beginning with~~
 2690 ~~January 1, 1985, returns,~~ The department, upon a showing of
 2691 reasonable cause, may ~~is authorized to~~ waive or compromise
 2692 penalties imposed by this paragraph. However, other penalties
 2693 and interest shall be due and payable if the return on which the
 2694 estimated payment is ~~was~~ due is ~~was~~ not timely or properly
 2695 filed.

2696 (g) A dealer who files a consolidated return pursuant to
 2697 s. 212.11(1)(e) is subject to the penalty established in
 2698 paragraph (e) unless the dealer ~~has~~ paid the required estimated
 2699 tax ~~for his or her consolidated return~~ as a whole without regard
 2700 to each location. If the dealer fails to pay the required
 2701 estimated tax ~~for his or her consolidated return~~ as a whole,
 2702 each filing location shall stand on its own with respect to
 2703 calculating penalties pursuant to paragraph (f).

2704 (3) If ~~When~~ any dealer, or other person charged ~~herein,~~
 2705 fails to remit the tax, or any portion thereof, on or before the
 2706 day when the ~~such~~ tax is required by law to be paid, ~~there shall~~
 2707 ~~be added to the amount due~~ interest at the rate of 1 percent per
 2708 month of the amount due from the date due until paid shall be
 2709 added to the amount due. Interest on the delinquent tax shall be
 2710 calculated beginning on the 21st day of the month following the

2711 month for which the tax is due, except as otherwise provided in
 2712 this chapter.

2713 (4) All penalties and interest imposed by this chapter
 2714 shall be payable to and collectible by the department in the
 2715 same manner as if they were a part of the tax imposed. The
 2716 department may settle or compromise ~~any~~ such interest or
 2717 penalties pursuant to s. 213.21.

2718 (5) (a) The department is authorized to audit or inspect
 2719 the records and accounts of dealers ~~defined herein~~, including
 2720 audits or inspections of dealers who make mail order sales to
 2721 the extent permitted by another state, and to correct by credit
 2722 any overpayment of tax, and, in the event of a deficiency, an
 2723 assessment shall be made and collected. An ~~No~~ administrative
 2724 finding of fact is not necessary prior to the assessment of a
 2725 ~~any~~ tax deficiency.

2726 (b) If ~~In the event~~ any dealer or other person charged
 2727 ~~herein~~ fails or refuses to make his or her records available for
 2728 inspection so that no audit or examination is ~~has been~~ made of
 2729 the books and records ~~of such dealer or person~~, fails or refuses
 2730 to register as a dealer, fails to make a report and pay the tax
 2731 as provided by this chapter, makes a grossly incorrect report or
 2732 makes a report that is false or fraudulent, ~~then, in such event,~~
 2733 ~~it shall be the duty of~~ the department shall ~~to~~ make an
 2734 assessment from an estimate based upon the best information ~~then~~
 2735 available to it for the taxable period of retail sales of the
 2736 ~~such~~ dealer, the gross proceeds from rentals, the total
 2737 admissions received, amounts received from leases of tangible
 2738 personal property by the ~~such~~ dealer, or ~~of~~ the cost price of

2739 all articles of tangible personal property imported by the
 2740 dealer for use or consumption or distribution or storage to be
 2741 used or consumed in this state, or ~~of~~ the sales or cost price of
 2742 all services the sale or use of which is taxable under this
 2743 chapter, together with interest, plus penalty, if such have
 2744 accrued, ~~as the case may be. Then~~ The department shall proceed
 2745 to collect such taxes, interest, and penalty on the basis of the
 2746 ~~such~~ assessment, which shall be considered prima facie correct,
 2747 and the burden to show the contrary shall rest upon the dealer,
 2748 seller, owner, or lessor, ~~as the case may be.~~

2749 (6) (a) The department may ~~is given the power to~~ prescribe
 2750 the records to be kept by all persons subject to taxes imposed
 2751 by this chapter. ~~It shall be the duty of~~ Every person required
 2752 to make a report and pay any tax under this chapter, every
 2753 person receiving rentals or license fees, and owners of places
 2754 of admission shall, ~~to~~ keep and preserve suitable records of the
 2755 sales, leases, rentals, license fees, admissions, or purchases,
 2756 ~~as the case may be,~~ taxable under this chapter; such other books
 2757 of account as may be necessary to determine the amount of the
 2758 tax due ~~hereunder~~; and other information as may be required by
 2759 the department. ~~It shall be the duty of~~ Every such person shall
 2760 also ~~so charged with such duty, moreover, to~~ keep and preserve,
 2761 as long as required by s. 213.35, all invoices and other records
 2762 of goods, wares, and merchandise; records of admissions, leases,
 2763 license fees and rentals; and records of all other subjects of
 2764 taxation under this chapter. All such books, invoices, and other
 2765 records must ~~shall~~ be open to examination at all reasonable
 2766 hours to the department or ~~any of its~~ duly authorized agents.

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2767 (b) For the purpose of this subsection, if a dealer does
2768 not have adequate records of his or her retail sales or
2769 purchases, the department may, upon the basis of a test or
2770 sampling of the dealer's available records or other information
2771 relating to the sales or purchases made by the ~~such~~ dealer for a
2772 representative period, determine the proportion that taxable
2773 retail sales bear to total retail sales or the proportion that
2774 taxable purchases bear to total purchases. This subsection does
2775 not affect the duty of the dealer to collect, or the liability
2776 of any consumer to pay, any tax imposed by or pursuant to this
2777 chapter.

2778 (c) ~~1.~~ If the records of a dealer are adequate but
2779 voluminous in nature and substance, the department may sample
2780 the ~~such~~ records and project the audit findings derived
2781 therefrom over the entire audit period to determine the
2782 proportion that taxable retail sales bear to total retail sales
2783 or the proportion that taxable purchases bear to total
2784 purchases.

2785 1. In order to conduct ~~such~~ a sample, the department must
2786 first make a good faith effort to reach an agreement with the
2787 dealer, ~~which agreement provides for~~ the means and methods to be
2788 used in the sampling process. If an ~~In the event that no~~
2789 agreement is not reached, the dealer is entitled to a review by
2790 the executive director. For ~~In the case of~~ fixed assets, a
2791 dealer may agree in writing with the department for adequate but
2792 voluminous records to be statistically sampled. The ~~Such an~~
2793 agreement must ~~shall~~ provide ~~for~~ the methodology to be used in
2794 the statistical sampling process. The audit findings derived

2795 | therefrom shall be projected over the period represented by the
 2796 | sample in order to determine the proportion that taxable
 2797 | purchases bear to total purchases. Once an agreement has been
 2798 | signed, it is final and conclusive with respect to the method of
 2799 | sampling fixed assets, and the department may not conduct a
 2800 | detailed audit of fixed assets, and the taxpayer may not request
 2801 | a detailed audit after the agreement is reached.

2802 | 2. For the purposes of sampling ~~pursuant to subparagraph~~
 2803 | ~~1.~~, the department shall project any deficiencies and
 2804 | overpayments derived therefrom over the entire audit period. In
 2805 | determining the dealer's compliance, the department shall reduce
 2806 | any tax deficiency ~~as~~ derived from the sample by the amount of
 2807 | any overpayment derived from the sample. If ~~In the event~~ the
 2808 | department determines from the sample ~~results~~ that the dealer
 2809 | has a net tax overpayment, the department shall provide the
 2810 | findings of this overpayment to the Chief Financial Officer for
 2811 | repayment of funds paid into the State Treasury through error
 2812 | pursuant to s. 215.26.

2813 | 3.a. A taxpayer is entitled, both in connection with an
 2814 | audit and in connection with an application for refund filed
 2815 | independently of any audit, to establish the amount of any
 2816 | refund or deficiency through statistical sampling if ~~when~~ the
 2817 | taxpayer's records are adequate but voluminous. For ~~In the case~~
 2818 | ~~of~~ fixed assets, the ~~a~~ dealer may agree in writing with the
 2819 | department for adequate but voluminous records to be
 2820 | statistically sampled. The ~~Such an~~ agreement must ~~shall~~ provide
 2821 | ~~for~~ the methodology to be used in the statistical sampling
 2822 | process. The audit findings derived therefrom shall be projected

2823 over the period represented by the sample in order to determine
 2824 the proportion that taxable purchases bear to total purchases.
 2825 Once an agreement has been signed, it is final and conclusive
 2826 with respect to the method of sampling fixed assets, ~~and~~ the
 2827 department may not conduct a detailed audit of fixed assets, and
 2828 the taxpayer may not request a detailed audit after the
 2829 agreement is reached.

2830 b. Alternatively, a taxpayer is entitled to establish any
 2831 refund or deficiency through any other sampling method agreed to
 2832 ~~upon~~ by the taxpayer and the department if ~~when~~ the taxpayer's
 2833 records, other than those regarding fixed assets, are adequate
 2834 but voluminous. Whether done through statistical sampling or any
 2835 other sampling method agreed upon ~~by the taxpayer and the~~
 2836 ~~department~~, the completed sample must reflect both overpayments
 2837 and underpayments of taxes due. The sample shall be conducted
 2838 through:

2839 (I) A taxpayer request to perform the sampling through the
 2840 certified audit program pursuant to s. 213.285;

2841 (II) Attestation by a certified public accountant as to
 2842 the adequacy of the sampling method used ~~utilized~~ and the
 2843 results reached using the ~~such~~ sampling method; or

2844 (III) A sampling method that has been submitted by the
 2845 taxpayer and approved by the department before a refund claim is
 2846 submitted. This sub-sub-subparagraph does not prohibit a
 2847 taxpayer from filing a refund claim prior to approval by the
 2848 department of the sampling method; however, a refund claim
 2849 submitted before the sampling method has been approved is not ~~by~~
 2850 ~~the department cannot be~~ a complete refund application pursuant

2851 to s. 213.255 until the sampling method has been approved by the
 2852 department.

2853 c. The department shall prescribe by rule the procedures
 2854 to be followed under each method of sampling. The ~~Such~~
 2855 procedures must ~~shall~~ follow generally accepted auditing
 2856 procedures for sampling. The rule must ~~shall~~ also set forth
 2857 other criteria regarding the use of sampling, including, but not
 2858 limited to, training requirements that must be met before a
 2859 sampling method may be used ~~utilized~~ and the steps necessary for
 2860 the department and the taxpayer to reach agreement on a sampling
 2861 method submitted by the taxpayer for approval by the department.

2862 (7) ~~If In the event~~ the dealer has imported tangible
 2863 personal property and ~~he or she~~ fails to produce an invoice
 2864 showing the cost price of the articles, ~~as defined in this~~
 2865 ~~chapter,~~ which are subject to tax, or the invoice does not
 2866 reflect the true or actual cost price ~~as defined herein,~~ then
 2867 the department shall ascertain, in any manner feasible, the true
 2868 cost price, and assess and collect the tax thereon with interest
 2869 plus penalties, if such have accrued ~~on the true cost price as~~
 2870 ~~assessed by it.~~ The assessment so made shall be considered prima
 2871 facie correct, and the burden ~~duty~~ shall be on the dealer to
 2872 show to the contrary.

2873 (8) ~~For In the case of~~ the lease or rental of tangible
 2874 personal property, or other rentals or license fees ~~as herein~~
 2875 ~~defined and taxed,~~ if the consideration given or reported by the
 2876 lessor, person receiving rental or license fee, or dealer does
 2877 not, in the judgment of the department, represent the true or
 2878 actual consideration, ~~then~~ the department is authorized to

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2879 ascertain ~~the same~~ and assess and collect the tax ~~thereon~~ in the
 2880 same manner as ~~above~~ provided in subsection (7), ~~with respect to~~
 2881 ~~imported tangible property~~, together with interest, plus
 2882 penalties, if such have accrued.

2883 (9) Taxes imposed by this chapter upon the privilege of
 2884 the use, consumption, storage for consumption, or sale of
 2885 tangible personal property, admissions, license fees, rentals,
 2886 communication services, and upon the sale or use of services ~~as~~
 2887 ~~herein taxed~~ shall be collected by the ~~upon the basis of an~~
 2888 addition of the tax imposed ~~by this chapter~~ to the total price
 2889 of such admissions, license fees, rentals, communication or
 2890 other services, or sale price of such article or articles that
 2891 are purchased, sold, or leased at any one time by or to a
 2892 customer or buyer. ~~The dealer, or person charged herein, is~~
 2893 required to pay a privilege tax in the amount of the tax imposed
 2894 by this chapter on the total of his or her gross sales of
 2895 tangible personal property, admissions, license fees, rentals,
 2896 and communication services or to collect a tax upon the sale or
 2897 use of services, and such person or dealer shall add the tax
 2898 imposed ~~by this chapter~~ to the price, license fee, rental, or
 2899 admissions, and communication or other services and collect the
 2900 total sum from the purchaser, admittee, licensee, lessee, or
 2901 consumer. In computing the tax due or to be collected, the
 2902 seller may elect to compute the tax on an item basis or an
 2903 invoice basis. The tax rate shall be the sum of the applicable
 2904 state and local rate, if any, and the tax computation must be
 2905 carried to the third decimal place. If the third decimal place
 2906 is greater than four, the tax shall be rounded to the next whole

2907 cent. ~~The department shall make available in an electronic~~
 2908 ~~format or otherwise the tax amounts and the following brackets~~
 2909 ~~applicable to all transactions taxable at the rate of 6 percent:~~

2910 ~~(a) On single sales of less than 10 cents, no tax shall be~~
 2911 ~~added.~~

2912 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
 2913 ~~both inclusive, 1 cent shall be added for taxes.~~

2914 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
 2915 ~~inclusive, 2 cents shall be added for taxes.~~

2916 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
 2917 ~~inclusive, 3 cents shall be added for taxes.~~

2918 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
 2919 ~~inclusive, 4 cents shall be added for taxes.~~

2920 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
 2921 ~~inclusive, 5 cents shall be added for taxes.~~

2922 ~~(g) On sales in amounts from 84 cents to \$1, both~~
 2923 ~~inclusive, 6 cents shall be added for taxes.~~

2924 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~
 2925 ~~be charged upon each dollar of price, plus the appropriate~~
 2926 ~~bracket charge upon any fractional part of a dollar.~~

2927 ~~(10) In counties which have adopted a discretionary sales~~
 2928 ~~surtax at the rate of 1 percent, the department shall make~~
 2929 ~~available in an electronic format or otherwise the tax amounts~~
 2930 ~~and the following brackets applicable to all taxable~~
 2931 ~~transactions that would otherwise have been transactions taxable~~
 2932 ~~at the rate of 6 percent:~~

2933 ~~(a) On single sales of less than 10 cents, no tax shall be~~
 2934 ~~added.~~

2935 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
 2936 ~~both inclusive, 1 cent shall be added for taxes.~~

2937 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
 2938 ~~inclusive, 2 cents shall be added for taxes.~~

2939 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
 2940 ~~inclusive, 3 cents shall be added for taxes.~~

2941 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
 2942 ~~inclusive, 4 cents shall be added for taxes.~~

2943 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
 2944 ~~inclusive, 5 cents shall be added for taxes.~~

2945 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
 2946 ~~inclusive, 6 cents shall be added for taxes.~~

2947 ~~(h) On sales in amounts from 86 cents to \$1, both~~
 2948 ~~inclusive, 7 cents shall be added for taxes.~~

2949 ~~(i) On sales in amounts from \$1 up to, and including, the~~
 2950 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
 2951 ~~dollar of price, plus the appropriate bracket charge upon any~~
 2952 ~~fractional part of a dollar.~~

2953 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
 2954 ~~percent shall be added upon the first \$5,000 in price, and 6~~
 2955 ~~percent shall be added upon each dollar of price in excess of~~
 2956 ~~the first \$5,000 in price, plus the bracket charges upon any~~
 2957 ~~fractional part of a dollar as provided for in subsection (9).~~

2958 ~~(11) The department shall make available in an electronic~~
 2959 ~~format or otherwise the tax amounts and brackets applicable to~~
 2960 ~~all taxable transactions that occur in counties that have a~~
 2961 ~~surtax at a rate other than 1 percent which transactions would~~
 2962 ~~otherwise have been transactions taxable at the rate of 6~~

2963 ~~percent. Likewise, the department shall make available in an~~
 2964 ~~electronic format or otherwise the tax amounts and brackets~~
 2965 ~~applicable to transactions taxable at 7 percent pursuant to s.~~
 2966 ~~212.05(1)(c) and on transactions which would otherwise have been~~
 2967 ~~so taxable in counties which have adopted a discretionary sales~~
 2968 ~~surtax.~~

2969 (10)~~(12)~~ It is hereby declared to be the legislative
 2970 intent that if, ~~whenever~~ in the construction, administration, or
 2971 enforcement of this chapter, there is ~~may be~~ any question
 2972 respecting a duplication of the tax, the end consumer, or last
 2973 retail sale is, ~~be~~ the sale intended to be taxed and that, as
 2974 far insofar as ~~may be~~ practicable, there may not be ~~no~~
 2975 duplication or pyramiding of the tax.

2976 (11)~~(13)~~ In order to aid the administration and
 2977 enforcement of ~~the provisions of~~ this chapter with respect to
 2978 ~~the~~ rentals and license fees, each lessor or person granting the
 2979 use of any hotel, apartment house, roominghouse, tourist or
 2980 trailer camp, mobile home or recreational vehicle parks, real
 2981 property, or any interest therein, or any portion thereof,
 2982 inclusive of owners; property managers; lessors; landlords;
 2983 hotel, apartment house, and roominghouse operators; and all
 2984 licensed real estate agents within the state leasing, granting
 2985 the use of, or renting such property, ~~be required to~~ keep
 2986 a record of each ~~and every~~ such lease, license, or rental
 2987 transaction that ~~which~~ is taxable under this chapter, in ~~such a~~
 2988 manner and upon such forms as the department may prescribe, ~~and~~
 2989 ~~to~~ report such transaction to the department or its designated
 2990 agents, and ~~to~~ maintain such records as long as required by s.

2991 213.35, subject to the inspection of the department and its
 2992 agents. Upon the failure by the ~~such~~ owner; property manager;
 2993 lessor; landlord; hotel, apartment house, roominghouse, tourist
 2994 or trailer camp operator, or mobile home or recreational vehicle
 2995 park; or real estate agent to keep and maintain such records and
 2996 to make ~~such~~ reports upon the forms and in the manner
 2997 prescribed, the ~~such~~ owner; property manager; lessor; landlord;
 2998 hotel, apartment house, roominghouse, tourist or trailer camp
 2999 operator, or mobile home or recreational vehicle park; receiver
 3000 of rent or license fees; or real estate agent commits ~~is guilty~~
 3001 ~~of~~ a misdemeanor of the second degree, punishable as provided in
 3002 s. 775.082 or s. 775.083, for the first offense; and for
 3003 subsequent offenses commits, ~~they are each guilty of~~ a
 3004 misdemeanor of the first degree, punishable as provided in s.
 3005 775.082 or s. 775.083. If, however, any subsequent offense
 3006 involves intentional destruction of ~~such~~ records with an intent
 3007 to evade payment of or deprive the state of any tax revenues, a
 3008 ~~such~~ subsequent offense is ~~shall be~~ a felony of the third
 3009 degree, punishable as provided in s. 775.082 or s. 775.083.

3010 (12) ~~(14)~~ If it is determined upon audit that a dealer has
 3011 collected and remitted taxes by applying the applicable tax rate
 3012 to each transaction as described in subsection (9) and rounding
 3013 the tax due to the nearest whole cent rather than to the third
 3014 decimal place ~~applying the appropriate bracket system provided~~
 3015 ~~by law or department rule~~, the dealer is ~~shall not be held~~
 3016 liable for additional tax, penalty, and interest resulting from
 3017 such failure if:

3018 (a) The dealer acted in a good faith belief that rounding
 3019 to the nearest whole cent was the proper method of determining
 3020 the amount of tax due on each taxable transaction.

3021 (b) The dealer timely reported and remitted all taxes
 3022 collected on each taxable transaction.

3023 (c) The dealer agrees in writing to future compliance with
 3024 the laws and rules ~~concerning brackets~~ applicable to the
 3025 dealer's transactions.

3026 Section 12. Subsection (3) of section 212.17, Florida
 3027 Statutes, is amended to read:

3028 212.17 Credits for returned goods, rentals, or admissions;
 3029 goods acquired for dealer's own use and subsequently resold;
 3030 additional powers of department.--

3031 (3) A dealer who has paid the tax imposed by this chapter
 3032 on tangible personal property or services may take a credit or
 3033 obtain a refund for any tax paid by the dealer on the unpaid
 3034 balance due on worthless accounts within 12 months following the
 3035 month in which the bad debt has been written ~~charged~~ off for
 3036 federal income tax purposes. A dealer who is not required to
 3037 file a federal income tax return may take a credit or obtain a
 3038 refund for any tax paid by the dealer on the unpaid balance due
 3039 on worthless accounts within 12 months following the month in
 3040 which the bad debt is written off as uncollectible in the
 3041 dealer's books and records and would be eligible for a bad-debt
 3042 deduction for federal income tax purposes if the dealer was
 3043 required to file a federal income tax return.

3044 (a) A dealer who is taking a credit or obtaining a refund
 3045 on worthless accounts shall base the bad-debt-recovery
 3046 calculation in accordance with 26 U.S.C. s. 166.

3047 (b) Notwithstanding paragraph (a), the amount calculated
 3048 pursuant to 26 U.S.C. s. 166 must be adjusted to exclude
 3049 financing charges or interest, sales or use taxes charged on the
 3050 purchase price, uncollectible amounts on property that remains
 3051 in the possession of the seller until the full purchase price is
 3052 paid, expenses incurred in attempting to collect any debt, and
 3053 repossessed property.

3054 (c) Notwithstanding s. 215.26(2), if the amount of bad
 3055 debt exceeds the amount of taxable sales for the period during
 3056 which the bad debt is written off, a refund claim must be filed
 3057 within 3 years after the due date of the return on which the bad
 3058 debt could first be claimed.

3059 (d) If any accounts ~~written so charged~~ off for which a
 3060 credit or refund has been obtained are thereafter in whole or in
 3061 part paid to the dealer, the amount ~~so paid~~ must ~~shall~~ be
 3062 included in the first return filed after such collection and the
 3063 tax paid accordingly.

3064 (e) If filing responsibilities have been assumed by a
 3065 certified service provider, the service provider shall claim, on
 3066 behalf of the seller, any bad-debt allowance provided by this
 3067 section. The certified service provider must credit or refund to
 3068 the seller the full amount of any bad-debt allowance or refund
 3069 received.

3070 (f) For the purposes of reporting a payment received on a
 3071 previously claimed bad debt, payments made on a debt or account

3072 shall be applied proportionally first to the taxable price of
 3073 the property or service and the sales tax thereon, and secondly
 3074 to interest, service charges, and any other charges.

3075 (g) If the books and records of the party claiming the
 3076 bad-debt allowance support an allocation of the bad debt among
 3077 states that are members of the Streamlined Sales and Use Tax
 3078 Agreement, the allocation is authorized among those states.

3079 Section 13. Section 213.052, Florida Statutes, is created
 3080 to read:

3081 213.052 Notice of state tax rate change.--

3082 (1) A sales or use tax rate change imposed under chapter
 3083 212 is effective on January 1, April 1, July 1, or October 1.
 3084 The Department of Revenue shall provide notice of the rate
 3085 change to all affected sellers 90 days before the effective date
 3086 of the rate change.

3087 (2) Failure of a seller to receive notice does not relieve
 3088 the seller of its obligation to collect the sales or use tax.

3089 Section 14. Section 213.0521, Florida Statutes, is created
 3090 to read:

3091 213.0521 Effective date of state tax rate changes applied
 3092 to services.--A tax rate change for taxing services covering a
 3093 period starting before and ending after the effective date of
 3094 the tax is applied as follows:

3095 (1) For a tax rate increase, the new rate applies to the
 3096 first billing period starting on or after the effective date.

3097 (2) For a tax rate decrease, the new rate applies to bills
 3098 rendered on or after the effective date.

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3099 Section 15. Subsection (11) is added to section 213.21,
3100 Florida Statutes, to read:

3101 213.21 Informal conferences; compromises.--

3102 (11) Amnesty shall be provided for uncollected or unpaid
3103 sales or use taxes to a seller who registers to pay or to
3104 collect and remit applicable sales or use taxes in accordance
3105 with the terms of the Streamlined Sales and Use Tax Agreement
3106 authorized under s. 213.256 if the seller was not registered
3107 with the Department of Revenue in the 12-month period preceding
3108 the effective date of participation in the agreement by this
3109 state.

3110 (a) The amnesty precludes assessment for uncollected or
3111 unpaid sales or use taxes, together with penalty or interest for
3112 sales made during the period the seller was not registered with
3113 the Department of Revenue, if registration occurs within 12
3114 months after the effective date of this state's participation in
3115 the agreement.

3116 (b) The amnesty is not available to a seller for any
3117 matter for which the seller received notice of the commencement
3118 of an audit if the audit is not yet finally resolved, including
3119 any related administrative and judicial processes.

3120 (c) The amnesty is not available for sales or use taxes
3121 already paid or remitted to the state or to taxes collected by
3122 the seller.

3123 (d) Absent the seller's fraud or intentional
3124 misrepresentation of a material fact, the amnesty is fully
3125 effective as long as the seller continues registration and

3126 payment or collection and remittance of applicable sales or use
 3127 taxes for at least 36 months.

3128 (e) The amnesty applies only to sales or use taxes due
 3129 from a seller in its capacity as a seller and not to sales or
 3130 use taxes due from a seller in its capacity as a buyer.

3131 Section 16. Section 213.256, Florida Statutes, is amended
 3132 to read:

3133 213.256 Simplified Sales and Use Tax Administration Act.--

3134 (1) As used in this section and s. 213.2565, the term:

3135 (a) "Agent" means a person appointed by a seller to
 3136 represent the seller before the member states.

3137 ~~(a) "Department" means the Department of Revenue.~~

3138 (b) "Agreement" means the Streamlined Sales and Use Tax
 3139 Agreement, as amended and adopted on January 27, 2001, by the
 3140 Executive Committee of the National Conference of State
 3141 Legislatures.

3142 (c) "Certified automated system" means software certified
 3143 jointly by member ~~the states that are signatories to the~~
 3144 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a
 3145 transaction, determine the amount of tax to remit to the
 3146 appropriate state, and maintain a record of the transaction.

3147 (d) "Certified service provider" means an agent certified
 3148 under jointly by the states that are signatories to the
 3149 agreement to perform all of the seller's sales tax functions
 3150 other than the obligation to remit tax on the seller's own
 3151 purchases.

3152 (e) "Department" means the Department of Revenue.

3153 (f) "Governing board" means the Streamlined Sales Tax
 3154 Governing Board, Inc., composed of member states and responsible
 3155 for administering and operating the agreement.

3156 (g) "Member states" means states that are signatories to
 3157 the agreement.

3158 (h) "Model 1 seller" means a seller that has selected a
 3159 certified service provider as its agent to perform all the
 3160 seller's sales and use tax functions other than the obligation
 3161 to remit tax on the seller's own purchases.

3162 (i) "Model 2 seller" means a seller that has selected a
 3163 certified automated system to perform part of its sales and use
 3164 tax functions, but that retains responsibility for remitting the
 3165 tax.

3166 (j) "Model 3 seller" means a seller that has sales in at
 3167 least five member states, has total annual sales revenue of at
 3168 least \$500 million, has a proprietary system that calculates the
 3169 amount of tax due in each jurisdiction, and has entered into a
 3170 performance agreement with the member states which establishes a
 3171 tax performance standard for the seller. As used in this
 3172 paragraph, a "seller" includes an affiliated group of sellers
 3173 using the same proprietary system.

3174 (k)~~(e)~~ "Person" means an individual, trust, estate,
 3175 fiduciary, partnership, limited liability company, limited
 3176 liability partnership, corporation, or any other legal entity.

3177 (l)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

3178 (m)~~(g)~~ "Seller" means any person making sales, leases, or
 3179 rentals of personal property or services.

3180 (n) ~~(h)~~ "State" means any state of the United States and
 3181 the District of Columbia.

3182 (o) ~~(i)~~ "Use tax" means the tax levied under chapter 212.

3183 (2) ~~(a)~~ The executive director of the department shall
 3184 enter into the Streamlined Sales and Use Tax Agreement with one
 3185 or more member states to simplify and modernize sales and use
 3186 tax administration in order to substantially reduce the burden
 3187 of tax compliance for all sellers and for all types of commerce.

3188 (a) ~~In furtherance of the agreement,~~ The executive
 3189 director of the department or his or her designee shall act
 3190 jointly with other member states ~~that are members of the~~
 3191 ~~agreement~~ to establish standards for certification of a
 3192 certified service provider and certified automated system and
 3193 establish performance standards for multistate sellers.

3194 (b) The executive director of the department or his or her
 3195 designee shall take other actions reasonably required to
 3196 administer this section. Other actions authorized by this
 3197 section include, but are not limited to, the adoption of rules
 3198 and the joint procurement, with other member states, of goods
 3199 and services in furtherance of the cooperative agreement.

3200 (c) The executive director of the department or his or her
 3201 designee may represent this state before ~~the~~ other member states
 3202 ~~that are signatories to the agreement.~~

3203 (3) The executive director of the department may not enter
 3204 into the ~~Streamlined Sales and Use Tax~~ agreement unless the
 3205 agreement requires each state to abide by the following
 3206 requirements:

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3207 (a) The agreement must set restrictions to limit, over
 3208 time, the number of state tax rates.

3209 (b) The agreement must establish uniform standards for:

3210 1. The sourcing of transactions to taxing jurisdictions.

3211 2. The administration of exempt sales.

3212 3. Sales and use tax returns and remittances.

3213 (c) The agreement must provide a central electronic
 3214 registration system that allows a seller to register to collect
 3215 and remit sales and use taxes for all member ~~signatory~~ states.

3216 (d) The agreement must provide that registration with the
 3217 central registration system and the collection of sales and use
 3218 taxes in the signatory state is ~~will~~ not ~~be~~ used as a factor in
 3219 determining whether the seller has nexus with a state for any
 3220 tax.

3221 (e) The agreement must provide for reduction of the
 3222 burdens of complying with local sales and use taxes through:

3223 1. Restricting variances between the state and local tax
 3224 bases.

3225 2. Requiring states to administer ~~any~~ sales and use taxes
 3226 levied by local jurisdictions within the state so that sellers
 3227 who collect and remit these taxes do ~~will~~ not have to register
 3228 or file returns with, remit funds to, or be subject to
 3229 independent audits from local taxing jurisdictions.

3230 3. Restricting the frequency of changes in the local sales
 3231 and use tax rates and setting effective dates for the
 3232 application of local jurisdictional boundary changes to local
 3233 sales and use taxes.

3234 4. Providing notice of changes in local sales and use tax
 3235 rates and of local changes in the boundaries of local taxing
 3236 jurisdictions.

3237 (f) The agreement must outline any monetary allowances
 3238 that are to be provided by the states to sellers or certified
 3239 service providers. ~~The agreement must allow for a joint study by~~
 3240 ~~the public and private sectors, which must be completed by July~~
 3241 ~~1, 2002, of the compliance cost to sellers and certified service~~
 3242 ~~providers of collecting sales and use taxes for state and local~~
 3243 ~~governments under various levels of complexity.~~

3244 (g) The agreement must require each state to certify
 3245 compliance with the terms of the agreement before joining and to
 3246 maintain compliance, under the laws of the member state, with
 3247 all provisions of the agreement while a member.

3248 (h) The agreement must require each state to adopt a
 3249 uniform policy for certified service providers which protects
 3250 the privacy of consumers and maintains the confidentiality of
 3251 tax information.

3252 (i) The agreement must provide for the appointment of an
 3253 advisory council of private sector representatives and an
 3254 advisory council of nonmember state representatives to consult
 3255 within the administration of the agreement.

3256 (4) For the purposes of reviewing or amending the
 3257 agreement to embody the simplification requirements ~~as~~ set forth
 3258 in subsection (3), this state shall enter into multistate
 3259 discussions. For purposes of such discussions, this state shall
 3260 be represented by three delegates, one appointed by the
 3261 President of the Senate, one appointed by the Speaker of the

3262 House of Representatives, and the executive director of the
 3263 department or his or her designee.

3264 (5) No provision of the agreement authorized by this
 3265 section in whole or in part invalidates or amends any provision
 3266 of the laws of this state. Adoption of the agreement by this
 3267 state does not amend or modify any law of the state.
 3268 Implementation of any condition of the agreement ~~in this state,~~
 3269 whether adopted before, at, or after membership of this state in
 3270 the agreement, must be by the action of the state.

3271 (6) The agreement ~~authorized by this section~~ is an accord
 3272 among individual cooperating sovereigns in furtherance of their
 3273 governmental functions and. ~~The agreement~~ provides a mechanism
 3274 among the member states to establish and maintain a cooperative,
 3275 simplified system for the application and administration of
 3276 sales and use taxes under the duly adopted law of each member
 3277 state.

3278 (7) ~~(a)~~ The agreement ~~authorized by this act~~ binds and
 3279 inures only to the benefit of this state and the other member
 3280 states. No person, other than a member state, is an intended
 3281 beneficiary of the agreement. Any benefit to a person other than
 3282 a state is established by the laws of this state and of other
 3283 member states and not by the terms of the agreement.

3284 ~~(a)(b)~~ ~~Consistent with paragraph (a),~~ No person has any
 3285 cause of action or defense under the agreement or by virtue of
 3286 this state's approval of the agreement. No person may challenge,
 3287 in any action brought under any provision of law, any action or
 3288 inaction by any department, agency, or other instrumentality of
 3289 this state, or of any political subdivision of this state, on

3290 the ground that the action or inaction is inconsistent with the
 3291 agreement.

3292 (b) ~~(e)~~ No law of this state, or the application thereof,
 3293 may be declared invalid as to any person or circumstance on the
 3294 ground that the provision or application is inconsistent with
 3295 the agreement.

3296 (c) Determinations pertaining to the agreement which are
 3297 made by the member states are final when rendered and are not
 3298 subject to protest, appeal, or review.

3299 (8) Authority to administer the agreement rests with the
 3300 governing board comprised of representatives of each member
 3301 state. This state shall be represented by three delegates, one
 3302 appointed by the President of the Senate, one appointed by the
 3303 Speaker of the House of Representatives, and the executive
 3304 director of the department or his or her designee.

3305 (9) The agreement shall continue in full force and effect
 3306 in this state until this state withdraws its membership or is
 3307 expelled. The withdrawal by or expulsion of another state does
 3308 not affect the validity of the agreement among this state and
 3309 other member states. The state shall submit notice of its intent
 3310 to withdraw from the agreement to the governing board and the
 3311 chief executive of each member state's tax agency. The state
 3312 shall provide public notice of its intent to withdraw and post
 3313 its notice on the department's Internet website. The state's
 3314 withdrawal or expulsion is not effective until the first day of
 3315 a calendar quarter after at least 60 days' notice. The state
 3316 remains liable for its share of any financial or contractual
 3317 obligations that were incurred by the governing board before the

3318 effective date of that state's withdrawal or expulsion. The
 3319 appropriate share of any financial or contractual obligation
 3320 shall be determined by the state and the governing board in good
 3321 faith based on the relative benefits received and burdens
 3322 incurred by the parties.

3323 (10) As a member state, this state agrees to be subject to
 3324 sanctions that may be imposed upon a member state that is found
 3325 to be out of compliance with the agreement, which include
 3326 expulsion or other penalties as determined by the governing
 3327 board.

3328 ~~(8) (a) A certified service provider is the agent of a~~
 3329 ~~seller with whom the certified service provider has contracted~~
 3330 ~~for the collection and remittance of sales and use taxes. As the~~
 3331 ~~seller's agent, the certified service provider is liable for~~
 3332 ~~sales and use tax due each member state on all sales~~
 3333 ~~transactions it processes for the seller except as set out in~~
 3334 ~~this subsection.~~

3335 ~~(b) A seller that contracts with a certified service~~
 3336 ~~provider is not liable to the state for sales or use tax due on~~
 3337 ~~transactions processed by the certified service provider unless~~
 3338 ~~the seller has misrepresented the type of items it sells or has~~
 3339 ~~committed fraud. In the absence of probable cause to believe~~
 3340 ~~that the seller has committed fraud or made a material~~
 3341 ~~misrepresentation, the seller is not subject to audit on the~~
 3342 ~~transactions processed by the certified service provider. A~~
 3343 ~~seller is subject to audit for transactions that have not been~~
 3344 ~~processed by the certified service provider. The member states~~
 3345 ~~acting jointly may perform a system check of the seller and~~

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3346 ~~review the seller's procedures to determine if the certified~~
3347 ~~service provider's system is functioning properly and to~~
3348 ~~determine the extent to which the seller's transactions are~~
3349 ~~being processed by the certified service provider.~~

3350 ~~(c) A person that provides a certified automated system is~~
3351 ~~responsible for the proper functioning of that system and is~~
3352 ~~liable to the state for underpayments of tax attributable to~~
3353 ~~errors in the functioning of the certified automated system. A~~
3354 ~~seller that uses a certified automated system remains~~
3355 ~~responsible and is liable to the state for reporting and~~
3356 ~~remitting tax.~~

3357 ~~(d) A seller that has a proprietary system for determining~~
3358 ~~the amount of tax due on transactions and has signed an~~
3359 ~~agreement establishing a performance standard for that system is~~
3360 ~~liable for the failure of the system to meet the performance~~
3361 ~~standard.~~

3362 ~~(9) Disclosure of information necessary under this section~~
3363 ~~must be pursuant to a written agreement between the executive~~
3364 ~~director of the department or his or her designee and the~~
3365 ~~certified service provider. The certified service provider is~~
3366 ~~bound by the same requirements of confidentiality as the~~
3367 ~~department. Breach of confidentiality is a misdemeanor of the~~
3368 ~~first degree, punishable as provided in s. 775.082 or s.~~
3369 ~~775.083.~~

3370 ~~(11)~~(10) On or before January 1 annually, the department
3371 shall provide recommendations to the President of the Senate,
3372 the Senate Minority Leader, the Speaker of the House of
3373 Representatives, and the Minority Leader of the House of

3374 ~~Representatives for provisions to be adopted for inclusion~~
 3375 ~~within the system~~ which are necessary to bring the system ~~it~~
 3376 into compliance with the Streamlined Sales and Use Tax
 3377 Agreement.

3378 (12) The state shall annually recertify to the governing
 3379 board that it is in compliance with the agreement on or before
 3380 August 1 after the year of the state's entry. In its annual
 3381 recertification, the state shall include any changes in its laws
 3382 or rules or other authorities which may affect its compliance
 3383 with the terms of the agreement. The recertification shall be
 3384 signed by the executive director of the department. If the state
 3385 cannot recertify its compliance with the agreement, it must
 3386 submit a statement of noncompliance to the governing board. The
 3387 statement of noncompliance must include any action or decision
 3388 that takes the state out of compliance with the agreement and
 3389 the steps it will take to return to compliance. The state shall
 3390 post its annual recertification or statement of noncompliance on
 3391 the department's Internet website.

3392 Section 17. Section 213.2565, Florida Statutes, is created
 3393 to read:

3394 213.2565 Simplified Sales and Use Tax central
 3395 registration; certified service providers; model sellers.--

3396 (1) A seller that registers with the central registration
 3397 system agrees to collect and remit sales and use taxes for all
 3398 taxable sales into member states, including member states
 3399 joining after the seller's registration. Withdrawal or
 3400 revocation of a member state does not relieve a seller of its

3401 responsibility to remit taxes previously or subsequently
 3402 collected on behalf of the state.

3403 (a) When registering, the seller may select a model 1,
 3404 model 2, or model 3 method of remittance or other method allowed
 3405 by state law to remit the taxes collected.

3406 (b) A seller may be registered by an agent. Appointment of
 3407 the agent must be in writing and a copy submitted to a member
 3408 state.

3409 (2) The governing board may certify a person as a
 3410 certified service provider if the person meets all of the
 3411 following requirements:

3412 (a) Uses a certified automated system.

3413 (b) Integrates its certified automated system with the
 3414 system of a seller for whom the person collects tax so that the
 3415 tax due on a sale is determined at the time of the sale.

3416 (c) Agrees to remit the taxes it collects at the time and
 3417 in the manner specified by the member states.

3418 (d) Agrees to file returns on behalf of the sellers for
 3419 whom it collects tax.

3420 (e) Agrees to protect the privacy of tax information it
 3421 obtains in accordance with s. 213.053.

3422 (f) Enters into a contract with the member states and
 3423 agrees to comply with the terms of the contract.

3424 (3) The governing board may certify a software program as
 3425 a certified automated system if the governing board determines
 3426 that the program meets all of the following requirements:

3427 (a) Determines the applicable state and local sales and
 3428 use tax rate for a transaction in accordance with s. 212.06(2)
 3429 and (3).

3430 (b) Determines whether or not an item is exempt from tax.

3431 (c) Determines the amount of tax to be remitted for each
 3432 taxpayer for a reporting period.

3433 (d) Is able to generate reports and returns as required by
 3434 the governing board.

3435 (e) Meets any other requirement set by the governing
 3436 board.

3437 (4) A certified service provider is liable for all sales
 3438 and use tax due each member state on all sales transactions it
 3439 processes for a model 1 seller unless the model 1 seller has
 3440 misrepresented the type of items it sells or has committed
 3441 fraud. In the absence of probable cause to believe that the
 3442 seller has committed fraud or made a material misrepresentation,
 3443 the model 1 seller is not subject to audit on the transactions
 3444 processed by the certified service provider. A model 1 seller is
 3445 subject to audit for transactions that have not been processed
 3446 by the certified service provider. The member states acting
 3447 jointly may perform a system check of the model 1 seller and
 3448 review the seller's procedures to determine if the certified
 3449 service provider's system is functioning properly and to
 3450 determine the extent to which the model 1 seller's transactions
 3451 are being processed by the certified service provider.

3452 (5) A person who provides a certified automated system is
 3453 responsible for the proper functioning of that system and is
 3454 liable to the state for underpayments of tax attributable to

3455 errors in the functioning of the certified automated system. A
 3456 model 2 seller who uses a certified automated system remains
 3457 responsible and is liable to the state for reporting and
 3458 remitting tax.

3459 (6) A model 3 seller is liable for the failure of its
 3460 proprietary system to meet performance standards. The governing
 3461 board may establish one or more sales tax performance standards
 3462 for model 3 sellers who meet the eligibility criteria set by the
 3463 governing board and who have developed a proprietary system to
 3464 determine the amount of sales and use tax due on transactions.

3465 (7) Disclosure of information necessary under this section
 3466 must be made according to a written agreement between the
 3467 executive director of the department or his or her designee and
 3468 the certified service provider. The certified service provider
 3469 is bound by the same requirements of confidentiality as the
 3470 department. Breach of confidentiality is a misdemeanor of the
 3471 first degree, punishable as provided in s. 775.082 or s.
 3472 775.083.

3473 Section 18. Subsection (6) of section 196.012, Florida
 3474 Statutes, is amended to read:

3475 196.012 Definitions.--For the purpose of this chapter, the
 3476 following terms are defined as follows, except where the context
 3477 clearly indicates otherwise:

3478 (6) Governmental, municipal, or public purpose or function
 3479 shall be deemed to be served or performed if ~~when~~ the lessee
 3480 under a ~~any~~ leasehold interest created in property of the United
 3481 States, the state or ~~any of~~ its political subdivisions, ~~or any~~
 3482 ~~municipality, agency, special district, authority, or other~~

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3483 public body corporate of the state is demonstrated to perform a
 3484 function or serve a governmental purpose that ~~which~~ could
 3485 properly be performed or served by an appropriate governmental
 3486 unit or ~~which is demonstrated to perform a function or serve a~~
 3487 ~~purpose which~~ would otherwise be a valid subject for the
 3488 allocation of public funds. For purposes of this subsection ~~the~~
 3489 ~~preceding sentence~~, an activity undertaken by a lessee which is
 3490 authorized ~~permitted~~ under the terms of its lease of real
 3491 property designated as an aviation area on an airport layout
 3492 plan that ~~which~~ has been approved by the Federal Aviation
 3493 Administration and which ~~real property~~ is used for the
 3494 administration, operation, business offices and activities
 3495 related to ~~specifically thereto in connection with~~ the conduct
 3496 of an aircraft full service fixed base operation that ~~which~~
 3497 provides goods and services to the general aviation public in
 3498 the promotion of air commerce, shall be deemed an activity that
 3499 ~~which~~ serves a governmental, municipal, or public purpose or
 3500 function. Any activity undertaken by a lessee which is
 3501 authorized ~~permitted~~ under the terms of its lease of real
 3502 property designated as a public airport as defined in s.
 3503 332.004(14) by the state or a political subdivision
 3504 ~~municipalities, agencies, special districts, authorities, or~~
 3505 ~~other public bodies corporate and public bodies politic of the~~
 3506 ~~state, or~~ a spaceport as defined in s. 331.303, or which is
 3507 located in a deepwater port identified in s. 403.021(9)(b) and
 3508 owned by one of the foregoing governmental units, subject to a
 3509 leasehold or other possessory interest of a nongovernmental
 3510 lessee that is deemed to perform an aviation, airport,

3511 aerospace, maritime, or port purpose or operation shall be
 3512 deemed an activity that serves a governmental, municipal, or
 3513 public purpose or function. The use by a lessee, licensee, or
 3514 management company of real property or a portion thereof as a
 3515 convention center, visitor center, sports facility with
 3516 permanent seating, concert hall, arena, stadium, park, or beach
 3517 is deemed a use that serves a governmental, municipal, or public
 3518 purpose or function if ~~when~~ access to the property is open to
 3519 the general public with or without a charge for admission. If
 3520 property deeded to a municipality by the United States is
 3521 subject to a requirement that the Federal Government, through a
 3522 schedule established by the Secretary of the Interior, determine
 3523 that the property is being maintained for public historic
 3524 preservation, park, or recreational purposes and if those
 3525 conditions are not met the property will revert back to the
 3526 Federal Government, the ~~then such~~ property shall be deemed to
 3527 serve a municipal or public purpose. The term "governmental
 3528 purpose" also includes a direct use of property on federal lands
 3529 in connection with the Federal Government's Space Exploration
 3530 Program or spaceport activities as defined in s. 212.02 ~~s.~~
 3531 ~~212.02(22)~~. Real property and tangible personal property owned
 3532 by the Federal Government or Space Florida and used for defense
 3533 and space exploration purposes or which is put to a use in
 3534 support thereof shall be deemed to perform an essential national
 3535 governmental purpose and shall be exempt. "Owned by the lessee"
 3536 as used in this chapter does not include personal property,
 3537 buildings, or other real property improvements used for the
 3538 administration, operation, business offices and activities

3539 related specifically to ~~thereto in connection with~~ the conduct
 3540 of an aircraft full service fixed based operation that ~~which~~
 3541 provides goods and services to the general aviation public in
 3542 the promotion of air commerce if ~~provided that~~ the real property
 3543 is designated as an aviation area on an airport layout plan
 3544 approved by the Federal Aviation Administration. For purposes of
 3545 determining ownership, ~~determination of "ownership,"~~ buildings
 3546 and other real property improvements that ~~which~~ will revert to
 3547 the airport authority or other governmental unit upon expiration
 3548 of the ~~term of the~~ lease shall be deemed "owned" by the
 3549 governmental unit and not the lessee. Providing two-way
 3550 telecommunications services to the public for hire by the use of
 3551 a telecommunications facility, as defined in s. 364.02(15), and
 3552 for which a certificate is required under chapter 364 does not
 3553 constitute an exempt use for purposes of s. 196.199, unless the
 3554 telecommunications services are provided by the operator of a
 3555 public-use airport, as defined in s. 332.004, for the ~~operator's~~
 3556 provision of telecommunications services for the airport or its
 3557 tenants, concessionaires, or licensees, or unless the
 3558 telecommunications services are provided by a public hospital.

3559 Section 19. Paragraphs (f), (g), (h), and (i) of
 3560 subsection (1) of section 203.01, Florida Statutes, are amended
 3561 to read:

3562 203.01 Tax on gross receipts for utility and
 3563 communications services.--

3564 (1)

3565 (f) Any person who imports into this state electricity,
 3566 natural gas, or manufactured gas, or severs natural gas, for

3567 that person's own use or consumption as a substitute for
 3568 purchasing utility, transportation, or delivery services taxable
 3569 under this chapter and who cannot demonstrate payment of the tax
 3570 imposed by this chapter must register with the Department of
 3571 Revenue and pay into the State Treasury each month an amount
 3572 equal to the cost price of the ~~such~~ electricity, natural gas, or
 3573 manufactured gas times the rate set forth in paragraph (b),
 3574 reduced by the amount of any like tax lawfully imposed ~~on~~ and
 3575 paid by the person from whom the electricity, natural gas, or
 3576 manufactured gas was purchased or any person who provided
 3577 delivery service or transportation service in connection with
 3578 the electricity, natural gas, or manufactured gas. For purposes
 3579 of this subsection ~~paragraph~~, the term "cost price" has the
 3580 meaning provided in s. 212.02 ~~ascribed in s. 212.02(4)~~. The
 3581 methods of demonstrating proof of payment and the amount of ~~such~~
 3582 reductions in tax shall be made according to rules of the
 3583 Department of Revenue.

3584 (g) Electricity produced by cogeneration or by small power
 3585 producers which is transmitted and distributed by a public
 3586 utility between two locations of a customer of the utility
 3587 pursuant to s. 366.051 is subject to the tax imposed by this
 3588 section. The tax shall be applied to the cost price of the ~~such~~
 3589 electricity ~~as provided in s. 212.02(4)~~ and ~~shall~~ be paid each
 3590 month by the producer of such electricity.

3591 (h) Electricity produced by cogeneration or by small power
 3592 producers during the 12-month period ending June 30 ~~of each year~~
 3593 which is in excess of nontaxable electricity produced during the
 3594 12-month period ending June 30, 1990, is subject to the tax

3595 imposed by this section. The tax shall be applied to the cost
 3596 price of the ~~such~~ electricity ~~as provided in s. 212.02(4)~~ and
 3597 ~~shall~~ be paid each month, beginning with the month in which
 3598 total production exceeds the production of nontaxable
 3599 electricity for the 12-month period ending June 30, 1990. For
 3600 purposes of this paragraph, "nontaxable electricity" means
 3601 electricity produced by cogeneration or by small power producers
 3602 which is not subject to tax under paragraph (g). Taxes paid
 3603 pursuant to paragraph (g) may be credited against taxes due
 3604 under this paragraph. Electricity generated as part of an
 3605 industrial manufacturing process that ~~which~~ manufactures
 3606 products from phosphate rock, raw wood fiber, paper, citrus, or
 3607 any agricultural product is ~~shall~~ not be subject to the tax
 3608 imposed by this paragraph. "Industrial manufacturing process"
 3609 means the entire process conducted at the location where the
 3610 process takes place.

3611 (i) Any person other than a cogenerator or small power
 3612 producer described in paragraph (h) who produces for his or her
 3613 own use electrical energy, which is a substitute for electrical
 3614 energy produced by an electric utility as defined in s. 366.02,
 3615 is subject to the tax imposed by this section. The tax shall be
 3616 applied to the cost price of the ~~such~~ electrical energy ~~as~~
 3617 ~~provided in s. 212.02(4)~~ and ~~shall~~ be paid each month. The
 3618 provisions of this paragraph do not apply to ~~any~~ electrical
 3619 energy produced and used by an electric utility.

3620 Section 20. Paragraph (c) of subsection (7) of section
 3621 212.03, Florida Statutes, is amended to read:

3622 212.03 Transient rentals tax; rate, procedure,
 3623 enforcement, exemptions.--
 3624 (7)
 3625 (c) The rental of facilities in a trailer camp, mobile
 3626 home park, or recreational vehicle park, ~~as defined in s.~~
 3627 ~~212.02(10)(f)~~, which are intended primarily for rental as a
 3628 principal or permanent place of residence, is exempt from the
 3629 tax imposed by this chapter. The rental of such facilities that
 3630 primarily serve transient guests is not exempt by this
 3631 subsection. In the application of this law, or in making a ~~any~~
 3632 determination against the exemption, the department shall
 3633 consider the facility as primarily serving transient guests
 3634 unless the facility owner makes a verified declaration on a form
 3635 prescribed by the department that more than half of the total
 3636 rental units available are occupied by tenants who have a
 3637 continuous residence in excess of 3 months. The owner of a
 3638 facility declared to be exempt by this paragraph must make a
 3639 determination of the taxable status of the facility at the end
 3640 of the owner's accounting year using any consecutive 3-month
 3641 period at least one month of which is in the accounting year.
 3642 The owner must use a selected consecutive 3-month period during
 3643 each annual redetermination. If ~~In the event that~~ an exempt
 3644 facility no longer qualifies for the exemption ~~by this~~
 3645 ~~paragraph~~, the owner must notify the department on a form
 3646 prescribed by the department by the 20th day of the first month
 3647 of the owner's next succeeding accounting year that the facility
 3648 no longer qualifies for the ~~such~~ exemption. The tax levied by
 3649 this section applies ~~shall apply~~ to the rental of facilities

3650 that no longer qualify for the exemption ~~under this paragraph~~
 3651 beginning the first day of the owner's next succeeding
 3652 accounting year. The provisions of this paragraph do not apply
 3653 to mobile home lots regulated under chapter 723.

3654 Section 21. Paragraph (a) of subsection (1) of section
 3655 212.031, Florida Statutes, is amended to read:

3656 212.031 Tax on rental or license fee for use of real
 3657 property.--

3658 (1) (a) It is ~~declared to be~~ the legislative intent that
 3659 every person is exercising a taxable privilege who engages in
 3660 the business of renting, leasing, letting, or granting a license
 3661 for the use of ~~any~~ real property unless the ~~such~~ property is:

- 3662 1. Assessed as agricultural property under s. 193.461.
- 3663 2. Used exclusively as dwelling units.
- 3664 3. Property subject to tax on parking, docking, or storage
 3665 spaces under s. 212.03(6).

3666 4. Recreational property or the common elements of a
 3667 condominium ~~when~~ subject to a lease between the developer or
 3668 owner ~~thereof~~ and the condominium association in its own right
 3669 or as agent for the owners of individual condominium units or
 3670 the owners of individual condominium units. However, only the
 3671 lease payments on such property are ~~shall be~~ exempt from the tax
 3672 imposed by this chapter, and any other use made by the owner or
 3673 the condominium association is ~~shall be~~ fully taxable under this
 3674 chapter.

3675 5. A public or private street or right-of-way and poles,
 3676 conduits, fixtures, and similar improvements located on such
 3677 streets or rights-of-way, occupied or used by a utility or

3678 provider of communications services, as defined by s. 202.11,
 3679 for utility or communications or television purposes. For
 3680 purposes of this subparagraph, the term "utility" means any
 3681 person providing utility services as defined in s. 203.012. This
 3682 exception also applies to property, wherever located, on which
 3683 the following are placed: towers, antennas, cables, accessory
 3684 structures, or equipment, not including switching equipment,
 3685 used in the provision of mobile communications services as
 3686 defined in s. 202.11. For purposes of this chapter, towers used
 3687 in the provision of mobile communications services, as defined
 3688 in s. 202.11, are considered to be fixtures.

3689 6. A public street or road that ~~which~~ is used for
 3690 transportation purposes.

3691 7. Property used at an airport exclusively for the purpose
 3692 of aircraft landing or aircraft taxiing or property used by an
 3693 airline for the purpose of loading or unloading passengers or
 3694 property onto or from aircraft or for fueling aircraft.

3695 8.a. Property used at a port authority, as defined in s.
 3696 315.02(2), exclusively for the purpose of oceangoing vessels or
 3697 tugs docking, or such vessels mooring on property used by a port
 3698 authority for the purpose of loading or unloading passengers or
 3699 cargo onto or from such vessels ~~a vessel~~, or property used at a
 3700 port authority for fueling such vessels, or to the extent that
 3701 the amount paid for the use of ~~any~~ property at the port is based
 3702 on the charge for the amount of tonnage actually imported or
 3703 exported through the port by a tenant.

3704 b. The amount charged for the use of ~~any~~ property at the
 3705 port in excess of the amount charged for tonnage actually

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3706 imported or exported remains ~~shall remain~~ subject to tax except
3707 as provided in sub-subparagraph a.

3708 9. Property used as an integral part of the performance of
3709 qualified production services. As used in this subparagraph, the
3710 term "qualified production services" means any activity or
3711 service performed directly in connection with the production of
3712 a qualified motion picture, as defined in s. 212.06(1)(b), and
3713 includes:

3714 a. Photography, sound and recording, casting, location
3715 managing and scouting, shooting, creation of special and optical
3716 effects, animation, adaptation (language, media, electronic, or
3717 otherwise), technological modifications, computer graphics, set
3718 and stage support (such as electricians, lighting designers and
3719 operators, greensmen, prop managers and assistants, and grips),
3720 wardrobe (design, preparation, and management), hair and makeup
3721 (design, production, and application), performing (such as
3722 acting, dancing, and playing), designing and executing stunts,
3723 coaching, consulting, writing, scoring, composing,
3724 choreographing, script supervising, directing, producing,
3725 transmitting dailies, dubbing, mixing, editing, cutting,
3726 looping, printing, processing, duplicating, storing, and
3727 distributing;

3728 b. The design, planning, engineering, construction,
3729 alteration, repair, and maintenance of real or personal property
3730 including stages, sets, props, models, paintings, and facilities
3731 principally required for the performance of those services
3732 listed in sub-subparagraph a.; and

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3733 c. Property management services directly related to
3734 property used in connection with the services described in sub-
3735 subparagraphs a. and b.

3736

3737 This exemption inures ~~will inure~~ to the taxpayer upon
3738 presentation of the certificate of exemption issued to the
3739 taxpayer under ~~the provisions of~~ s. 288.1258.

3740 10. Leased, subleased, licensed, or rented to a person
3741 providing food and drink concessionaire services within the
3742 premises of a convention hall, exhibition hall, auditorium,
3743 stadium, theater, arena, civic center, performing arts center,
3744 publicly owned recreational facility, or any business operated
3745 under a permit issued pursuant to chapter 550. A person
3746 providing retail concessionaire services involving the sale of
3747 food and drink or other tangible personal property within the
3748 premises of an airport is ~~shall be~~ subject to tax on the rental
3749 of real property used for that purpose, but is ~~shall~~ not be
3750 subject to the tax on any license to use the property. For
3751 purposes of this subparagraph, the term "sale" does ~~shall~~ not
3752 include the leasing of tangible personal property.

3753 11. Property occupied pursuant to an instrument calling
3754 for payments which the department has declared, in a Technical
3755 Assistance Advisement issued on or before March 15, 1993, to be
3756 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
3757 Administrative Code; however, ~~provided that~~ this subparagraph
3758 applies ~~shall~~ only ~~apply~~ to property occupied by the same person
3759 before and after the execution of the subject instrument and
3760 only to those payments made pursuant to the ~~such~~ instrument,

3761 exclusive of renewals and extensions ~~thereof~~ occurring after
 3762 March 15, 1993.

3763 12. Rented, leased, subleased, or licensed to a
 3764 concessionaire by a convention hall, exhibition hall,
 3765 auditorium, stadium, theater, arena, civic center, performing
 3766 arts center, or publicly owned recreational facility, during an
 3767 event at the facility, to be used by the concessionaire to sell
 3768 souvenirs, novelties, or other event-related products. This
 3769 subparagraph applies only to that portion of the rental, lease,
 3770 or license payment which is based on a percentage of sales and
 3771 not based on a fixed price. This subparagraph is repealed July
 3772 1, 2009.

3773 13. Property used or occupied predominantly for space
 3774 flight business purposes. As used in this subparagraph, "space
 3775 flight business" means the manufacturing, processing, or
 3776 assembly of a space facility, space propulsion system, space
 3777 vehicle, satellite, or station of any kind possessing the
 3778 capacity for space flight, as defined in s. 212.02 ~~by s.~~
 3779 ~~212.02(23)~~, or components thereof, and also means the following
 3780 activities supporting space flight: vehicle launch activities,
 3781 flight operations, ground control or ground support, and all
 3782 administrative activities directly related thereto. Property
 3783 shall be deemed to be used or occupied predominantly for space
 3784 flight business purposes if more than 50 percent of the
 3785 property, or improvements thereon, is used for one or more space
 3786 flight business purposes. Possession by a landlord, lessor, or
 3787 licensor of a signed written statement from the tenant, lessee,
 3788 or licensee claiming the exemption shall relieve the landlord,

3789 lessor, or licensor from the responsibility of collecting the
 3790 tax, and the department shall look solely to the tenant, lessee,
 3791 or licensee for recovery of the ~~such~~ tax if it determines that
 3792 the exemption was not applicable.

3793 Section 22. Paragraph (b) of subsection (1) of section
 3794 212.052, Florida Statutes, is amended to read:

3795 212.052 Research or development costs; exemption.--

3796 (1) For the purposes of the exemption provided in this
 3797 section:

3798 (b) The term "costs" means cost price as defined in s.
 3799 212.02 ~~s. 212.02(4)~~.

3800 Section 23. Subsections (2), (6), and (7) of section
 3801 212.0596, Florida Statutes, are amended to read:

3802 212.0596 Taxation of mail order sales.--

3803 (2) Every dealer ~~as defined in s. 212.06(2)(c)~~ who makes a
 3804 mail order sale is subject to the power of this state to levy
 3805 and collect the tax imposed by this chapter if ~~when~~:

3806 (a) The dealer is a corporation doing business under the
 3807 laws of this state or a person domiciled in, ~~a resident of, or a~~
 3808 ~~citizen of,~~ this state;

3809 (b) The dealer maintains retail establishments or offices
 3810 in this state, whether the mail order sales ~~thus~~ subject to
 3811 taxation by this state result from or are related in any ~~other~~
 3812 way to the activities of the ~~such~~ establishments or offices;

3813 (c) The dealer has agents in this state who solicit
 3814 business or transact business on behalf of the dealer, whether
 3815 the mail order sales ~~thus~~ subject to taxation by this state
 3816 result from or are related in any ~~other~~ way to the ~~such~~

3817 solicitation or transaction of business, except that a printer
 3818 who mails or delivers for an out-of-state print purchaser
 3819 material the printer printed for it is ~~shall not be deemed to be~~
 3820 the print purchaser's agent for purposes of this paragraph;

3821 (d) The property was delivered in this state in
 3822 fulfillment of a sales contract that was entered into in this
 3823 state, in accordance with applicable conflict of laws rules, if
 3824 ~~when~~ a person in this state accepted an offer by ordering the
 3825 property;

3826 (e) The dealer, by purposefully or systematically
 3827 exploiting the market provided by this state by any media-
 3828 assisted, media-facilitated, or media-solicited means,
 3829 including, but not limited to, direct mail advertising,
 3830 unsolicited distribution of catalogs, computer-assisted
 3831 shopping, television, radio, or other electronic media, or
 3832 magazine or newspaper advertisements or other media, creates
 3833 nexus with this state;

3834 (f) Through compact or reciprocity with another
 3835 jurisdiction of the United States, that jurisdiction uses its
 3836 taxing power and its jurisdiction over the retailer in support
 3837 of this state's taxing power;

3838 (g) The dealer consents, expressly or by implication, to
 3839 the imposition of the tax imposed by this chapter;

3840 (h) The dealer is subject to service of process under s.
 3841 48.181;

3842 (i) The dealer's mail order sales are subject to the power
 3843 of this state to tax sales or to require the dealer to collect

3844 use taxes under a federal statute ~~or statutes of the United~~
 3845 ~~States;~~

3846 (j) The dealer owns real property or tangible personal
 3847 property that is physically in this state, except that a dealer
 3848 whose only property in this state, including ~~(including~~ property
 3849 owned by an affiliate, affiliate) ~~in this state~~ is located at
 3850 the premises of a printer with which the vendor has contracted
 3851 for printing, and is ~~either~~ a final printed product, ~~or~~ property
 3852 that ~~which~~ becomes a part of the final printed product, or
 3853 property from which the printed product is produced, is not
 3854 deemed to own such property for purposes of this paragraph;

3855 (k) The dealer, while not having nexus with this state on
 3856 any of the bases described in paragraphs (a)-(j) or paragraph
 3857 (l), is a corporation that is a member of an affiliated group of
 3858 corporations, as defined in s. 1504(a) of the Internal Revenue
 3859 Code, whose members are includable under s. 1504(b) of the
 3860 Internal Revenue Code and whose members are eligible to file a
 3861 consolidated tax return for federal corporate income tax
 3862 purposes and any parent or subsidiary corporation in the
 3863 affiliated group has nexus with this state on one or more of the
 3864 bases described in paragraphs (a)-(j) or paragraph (l); or

3865 (l) The dealer or the dealer's activities have sufficient
 3866 connection with or relationship to this state or its residents
 3867 of some type other than those described in paragraphs (a)-(k) to
 3868 create nexus empowering this state to tax its mail order sales
 3869 or to require the dealer to collect sales tax or accrue use tax.

3870 ~~(6) Notwithstanding other provisions of law, a dealer who~~
 3871 ~~makes a mail order sale in this state is exempt from collecting~~

3872 and ~~remitting any local option surtax on the sale, unless the~~
 3873 ~~dealer is located in a county that imposes a surtax within the~~
 3874 ~~meaning of s. 212.054(3) (a), the order is placed through the~~
 3875 ~~dealer's location in such county, and the property purchased is~~
 3876 ~~delivered into such county or into another county in this state~~
 3877 ~~that levies the surtax, in which case the provisions of s.~~
 3878 ~~212.054(3) (a) are applicable.~~

3879 (6)~~(7)~~ The department may establish by rule procedures for
 3880 collecting the use tax from unregistered persons who but for
 3881 their mail order purchases would not be required to remit sales
 3882 or use tax directly to the department. The procedures may
 3883 provide for waiver of registration and registration fees,
 3884 provisions for irregular remittance of tax, elimination of the
 3885 collection allowance, and nonapplication of local option
 3886 surtaxes.

3887 Section 24. Section 212.081, Florida Statutes, is amended
 3888 to read:

3889 212.081 Legislative intent.--It is ~~hereby declared to be~~
 3890 the legislative intent of the amendments to ss. 212.11(1),
 3891 212.12(9) ~~212.12(10)~~, and 212.20 by chapter 57-398, Laws of
 3892 Florida:

3893 (1) To aid in the enforcement of this chapter by
 3894 recognizing the effect of court rulings involving ~~such~~
 3895 enforcement and to incorporate herein substantial rulings of the
 3896 department which have been recognized as necessary to supplement
 3897 the interpretation of some of the terms used in this section.

3898 (2) To arrange the exemptions allowed in this section in
 3899 more orderly categories thereby eliminating some of the

3900 confusion attendant upon the present arrangement where cross-
 3901 exemptions frequently occur.

3902 (a) It is ~~further declared to be~~ the legislative intent
 3903 that the tax levied by this chapter and imposed by this section
 3904 is not a tax on motor vehicles as property but a tax on the
 3905 privilege to sell, ~~to~~ rent, ~~to~~ use or ~~to~~ store for use in this
 3906 state motor vehicles; that such tax is separate from and in
 3907 addition to any license tax imposed on motor vehicles; and that
 3908 such tax is not intended as an ad valorem tax on motor vehicles
 3909 as prohibited by the Constitution.

3910 (b) It is also the legislative intent that there ~~shall~~ be
 3911 no pyramiding or duplication of excise taxes levied by the state
 3912 under this chapter and no municipality shall levy any excise tax
 3913 upon any privilege, admission, lease, rental, sale, use or
 3914 storage for use or consumption which is subject to a tax under
 3915 this chapter unless permitted by general law; ~~provided,~~ however,
 3916 ~~that~~ this provision does ~~shall~~ not impair valid municipal
 3917 ordinances that ~~which~~ are in effect and under which a municipal
 3918 tax is being levied and collected on July 1, 1957.

3919 (3) It is ~~hereby declared to be~~ the legislative intent
 3920 that all purchases made by banks are subject to state sales tax
 3921 in the same manner as is provided by law for all other
 3922 purchasers. It is also ~~further declared to be~~ the legislative
 3923 intent that if ~~for any reason~~ the sales tax on federal banks is
 3924 declared invalid, that sales tax does ~~shall~~ not apply or be
 3925 applicable to purchases made by state banks.

3926 Section 25. Subsection (3) of section 212.13, Florida
 3927 Statutes, is amended to read:

3928 212.13 Records required to be kept; power to inspect;
 3929 audit procedure.--
 3930 (3) For the purpose of enforcement of this chapter, every
 3931 manufacturer and seller of tangible personal property or
 3932 services licensed within this state must allow ~~is required to~~
 3933 ~~permit~~ the department to examine his or her books and records at
 3934 all reasonable hours, and, upon ~~his or her~~ refusal, the
 3935 department may require him or her to allow ~~permit~~ such
 3936 examination by resort to the circuit courts of this state,
 3937 subject however to the ~~right of~~ removal of the cause to the
 3938 judicial circuit where the ~~wherein such~~ person's business is
 3939 located or ~~wherein such person's~~ books and records are kept, if
 3940 the ~~provided further that such~~ person's books and records are
 3941 kept within the state. If ~~When~~ the dealer has made an allocation
 3942 or attribution pursuant to the definition of sales price in s.
 3943 212.02 ~~s. 212.02(16)~~, the department may prescribe by rule the
 3944 books and records that must be made available during an audit ~~of~~
 3945 ~~the dealer's books and records~~ and examples of methods for
 3946 determining the reasonableness thereof. Books and records kept
 3947 in the regular course of business include, but are not limited
 3948 to, general ledgers, price lists, cost records, customer
 3949 billings, billing system reports, tariffs, and other regulatory
 3950 filings and rules of regulatory authorities. The records ~~Such~~
 3951 ~~record~~ may be ~~required to be~~ made available to the department in
 3952 an electronic format if ~~when~~ so kept by the dealer. The dealer
 3953 may support the allocation of charges with books and records
 3954 kept in the regular course of business covering the dealer's
 3955 entire service area, including territories outside this state.

3956 | During an audit, the department may reasonably require
 3957 | production of any additional books and records found necessary
 3958 | to assist in its determination.

3959 | Section 26. Subsection (3) of section 213.015, Florida
 3960 | Statutes, is amended to read:

3961 | 213.015 Taxpayer rights.--There is created a Florida
 3962 | Taxpayer's Bill of Rights to guarantee that the rights, privacy,
 3963 | and property of Florida taxpayers are adequately safeguarded and
 3964 | protected during tax assessment, collection, and enforcement
 3965 | processes administered under the revenue laws of this state. The
 3966 | Taxpayer's Bill of Rights compiles, in one document, brief but
 3967 | comprehensive statements which explain, in simple, nontechnical
 3968 | terms, the rights and obligations of the Department of Revenue
 3969 | and taxpayers. Section 192.0105 provides additional rights
 3970 | afforded to payors of property taxes and assessments. The rights
 3971 | afforded taxpayers to ensure that their privacy and property are
 3972 | safeguarded and protected during tax assessment and collection
 3973 | are available only insofar as they are implemented in other
 3974 | parts of the Florida Statutes or rules of the Department of
 3975 | Revenue. The rights so guaranteed Florida taxpayers in the
 3976 | Florida Statutes and the departmental rules are:

3977 | (3) The right to be represented or advised by counsel or
 3978 | other qualified representatives at any time in administrative
 3979 | interactions with the department, the right to procedural
 3980 | safeguards with respect to recording of interviews during tax
 3981 | determination or collection processes conducted by the
 3982 | department, the right to be treated in a professional manner by
 3983 | department personnel, and the right to have audits, inspections

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3984 of records, and interviews conducted at a reasonable time and
 3985 place except in criminal and internal investigations (see ss.
 3986 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),
 3987 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,
 3988 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

3989 Section 27. Paragraph (s) of subsection (1) of section
 3990 288.1045, Florida Statutes, is amended to read:

3991 288.1045 Qualified defense contractor and space flight
 3992 business tax refund program.--

3993 (1) DEFINITIONS.--As used in this section:

3994 (s) "Space flight business" means the manufacturing,
 3995 processing, or assembly of space flight technology products,
 3996 space flight facilities, space flight propulsion systems, or
 3997 space vehicles, satellites, or stations of any kind possessing
 3998 the capability for space flight, as defined in s. 212.02 ~~by s.~~
 3999 ~~212.02(23)~~, or components thereof, and includes, in supporting
 4000 space flight, vehicle launch activities, flight operations,
 4001 ground control or ground support, and all administrative
 4002 activities directly related to such activities. The term does
 4003 not include products that are designed or manufactured for
 4004 general commercial aviation or other uses even if those products
 4005 may also serve an incidental use in space flight applications.

4006 Section 28. Subsection (8) of section 551.102, Florida
 4007 Statutes, is amended to read:

4008 551.102 Definitions.--As used in this chapter, the term:

4009 (8) "Slot machine" means any mechanical or electrical
 4010 contrivance, terminal that may or may not be capable of
 4011 downloading slot games from a central server system, machine, or

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4012 other device that, upon insertion of a coin, bill, ticket,
 4013 token, or similar object or upon payment of any consideration
 4014 ~~whatsoever~~, including the use of an any electronic payment
 4015 system except a credit card or debit card, is available to play
 4016 or operate, the play or operation of which, whether by reason of
 4017 skill or application of the element of chance, or both, may
 4018 deliver or entitle the person or persons playing or operating
 4019 the contrivance, terminal, machine, or other device to receive
 4020 cash, billets, tickets, tokens, or electronic credits to be
 4021 exchanged for cash or to receive merchandise or anything of
 4022 value whatsoever, whether the payoff is made automatically from
 4023 the machine or manually. The term includes associated equipment
 4024 necessary to operate ~~conduct the operation of~~ the contrivance,
 4025 terminal, machine, or other device. Slot machines may use
 4026 spinning reels, video displays, or both. A slot machine is not a
 4027 "coin-operated amusement machine" as defined in s. 212.02 ~~s.~~
 4028 ~~212.02(24)~~ or an amusement game or machine as described in s.
 4029 849.161, and slot machines are not subject to the tax imposed by
 4030 s. 212.05(1) (h).

4031 Section 29. Paragraph (a) of subsection (1) of section
 4032 790.0655, Florida Statutes, is amended to read:

4033 790.0655 Purchase and delivery of handguns; mandatory
 4034 waiting period; exceptions; penalties.--

4035 (1) (a) There shall be a mandatory 3-day waiting period,
 4036 which shall be 3 days, excluding weekends and legal holidays,
 4037 between the purchase and the delivery at retail of any handgun.
 4038 "Purchase" means the transfer of money or other valuable
 4039 consideration to the retailer. "Handgun" means a firearm capable

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4040 of being carried and used by one hand, such as a pistol or
 4041 revolver. "Retailer" has the same meaning as in s. 212.02 ~~means~~
 4042 ~~and includes every person engaged in the business of making~~
 4043 ~~sales at retail or for distribution, or use, or consumption, or~~
 4044 ~~storage to be used or consumed in this state, as defined in s.~~
 4045 ~~212.02(13).~~

4046 Section 30. It is the intent of the Legislature to urge
 4047 the United States Congress to consider providing adequate
 4048 protections to small businesses engaging in both offline and
 4049 online transactions from added costs, administrative burdens,
 4050 and requirements imposed on intermediaries relating to the
 4051 collection and remittance of sales and use tax.

4052 Section 31. Emergency rules.--The executive director of
 4053 the Department of Revenue is authorized, and all conditions are
 4054 deemed met, to adopt emergency rules, under ss. 120.536(1) and
 4055 120.54(4), Florida Statutes, to implement this act.
 4056 Notwithstanding any other law, the emergency rules shall remain
 4057 effective for 6 months after the date of adoption and may be
 4058 renewed during the pendency of procedures to adopt rules
 4059 addressing the subject of the emergency rules.

4060 Section 32. This act shall take effect July 1, 2009.