By Senator Lynn

7-00012A-11 20111548__

A bill to be entitled

An act relating to the Streamlined Sales and Use Tax Agreement; amending s. 212.02, F.S.; revising definitions; amending s. 212.03, F.S.; specifying certain facilities that are exempt from the transient rentals tax; amending s. 212.0306, F.S.; eliminating the use of brackets in the calculation of sales and use taxes; amending s. 212.031, F.S.; providing that an exception relating to food and drink concessionaire services from the tax on the license or rental fee for the use of real property is limited to the space used exclusively for selling and distributing food and drinks; providing that the amendment to the exception from the tax on the license or rental fee for the use of real property is retroactive and remedial in nature; amending s. 212.04, F.S.; eliminating the use of brackets in the calculation of sales and use taxes; limiting the application of an exemption from the admissions tax to certain events sponsored by certain educational institutions; amending s. 212.05, F.S.; deleting a reference to mail-order sales to conform to changes made by the act; deleting criteria establishing circumstances under which taxes on the lease or rental of a motor vehicle are due; revising criteria establishing circumstances under which taxes on the sale of a prepaid calling arrangement are due; increasing the tax rate applicable to coin-operated amusement machines; eliminating the use of brackets in the calculation of sales and use taxes; amending s.

212.0506, F.S.; eliminating the use of brackets in the calculation of the tax on service warranties; amending s. 212.054, F.S.; limiting the $5,000 cap on discretionary sales surtax to the sale of motor vehicles, aircraft, boats, motor homes, manufactured homes, modular homes, and mobile homes; specifying the time at which changes in surtaxes may take effect; providing criteria to determine the situs of certain sales; requiring the Department of Revenue to notify dealers of changes in surtax rates; providing for databases to identify taxing jurisdictions; providing criteria for holding purchasers harmless for failure to pay the correct amount of tax; holding sellers harmless for failing to collect a tax at a new rate under certain circumstances; amending s. 212.055, F.S.; deleting a provision providing for the emergency fire rescue services and facilities surtax to be initiated on a certain date after the approval of the tax in a referendum; amending s. 212.06, F.S.; deleting a reference to mail-order sales to conform to changes made by the act; specifying procedures for the sourcing of advertising and promotional direct mail; specifying procedures for sourcing other direct mail; providing definitions; providing that sales and use taxes do not apply to transactions involving tangible personal property that is exported from this state under certain circumstances; amending s. 212.07, F.S.; authorizing the Department of Revenue to use electronic means to notify dealers of changes in the

sales and use tax rates; authorizing the Department of Revenue to create and maintain a taxability matrix; providing immunity from liability for acts in reliance on the taxability matrix; amending s. 212.08, F.S.; revising exemptions from the sales and use tax for food and medical products; limiting the exemption for building materials used in the rehabilitation of real property located in an enterprise zone to one exemption per building; defining terms relating to the exemption for building materials used in the rehabilitation of real property located in an enterprise zone; exemption certain charges relating to railroad cars which are subject to the jurisdiction of the United States Interstate Commerce Commission from sales and use taxes; exempting certain payments relating to a high-voltage bulk transmission facility from sales and use taxes; deleting references to "qualifying property" to conform to changes made by the act; creating s. 212.094, F.S.; providing a procedure for a purchaser to obtain a refund of tax collected by a dealer; amending s. 212.12, F.S.; authorizing the Department of Revenue to establish collection allowances for certified service providers; deleting a reference to mail-order sales to conform to changes made by the act; providing for the computation of taxes based on rounding instead of brackets; amending s. 212.15, F.S.; deleting a cross-reference relating to a provision providing for the state to hold certain tax revenues for the benefit of another

state, to conform to changes made by the act; amending s. 212.17, F.S.; providing additional criteria for a dealer to claim a credit or refund for taxes paid relating to bad debts; amending s. 212.18, F.S.; authorizing the Department of Revenue to waive the dealer registration fee for applications submitted through a multistate electronic registration system; deleting a reference to mail-order sales to conform to changes made by the act; amending s. 212.20, F.S.; deleting procedures for refunds of tax paid on mail order sales; creating s. 213.052, F.S.; requiring the Department of Revenue to notify dealers of changes in a sales and use tax rate; specifying dates on which changes in sales and use tax rates may take effect; creating s. 213.0521, F.S.; providing the effective date for changes in the rate of state sales and use taxes applying to services; creating s. 213.215, F.S.; providing amnesty for uncollected or unpaid sales and use taxes for sellers who register under the Streamlined Sales and Use Tax Agreement; providing exceptions to the amnesty; amending s. 213.256, F.S.; defining terms; authorizing the Department of Revenue to enter into agreements with other states to simplify and facilitate compliance with sales tax laws; creating s. 213.2562, F.S.; requiring the Department of Revenue to review software submitted to the governing board for certification as a certified automated system; creating s. 213.2567, F.S.; providing for the registration of sellers, the

certification of a person as a certified service provider, and the certification of a software program as a certified automated system by the governing board under the Streamlined Sales and Use Tax Agreement; authorizing the Department of Revenue to adopt emergency rules; requiring the President of the Senate and Speaker of the House of Representatives to create a joint select committee to study certain matters related to state taxation; amending ss. 11.45, 196.012, 202.18, 203.01, 212.052, 212.081, 212.13, 218.245, 218.65, 288.1045, 288.11621, 288.1169, 551.102, and 790.0655, F.S.; conforming cross-references to changes made by the act; repealing s. 212.0596, F.S., relating to provisions pertaining to the taxation of mail-order sales; providing an effective date.

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

Section 1. Section 212.02, Florida Statutes, is reordered and amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The term or terms:

(1) ~~The term~~ "Admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any

place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities, except physical fitness facilities owned or operated by any hospital licensed under chapter 395.

(2) "Agricultural commodity" means horticultural and aquacultural products, poultry and farm products, and livestock and livestock products.

(4) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, in which the products are otherwise distinct and identifiable and the products are sold for one non-itemized price. A bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(a) As used in this subsection, the term:

1. "Distinct and identifiable products" does not include:

a. Packaging, such as containers, boxes, sacks, bags, and bottles or other materials, such as wrapping, labels, tags, and

instruction guides, which accompany the retail sale of the products and are incidental or immaterial to the retail sale of the products. Examples of packing that is incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags, and express delivery envelopes and boxes.

b. A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge.

c. An item provided free of charge.

2. "One non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

3. "De minimis" means that the dealer's purchase price or sales price of the taxable products is 10 percent or less of the total purchase price or sales price of the bundled products.

a. Dealers must use the purchase price or sales price of the products to determine if the taxable products are de minimis. Dealers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis.

b. Dealers shall use the full term of a service contract to determine if the taxable products are de minimis.

(b) A transaction that otherwise satisfies the definition

of a bundled transaction, as defined in this subsection, is not a bundled transaction if it is:

1. The retail sale of tangible personal property and a service in which the tangible personal property is essential to the use of the service, is provided exclusively in connection with the service, and the true object of the transaction is the service;

2. The retail sale of services in which one service is provided which is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

3. A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis; or

4. The retail sale of exempt tangible personal property and taxable personal property in which:

a. The transaction includes food and food ingredients, drugs, durable medical equipment, mobility-enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies; and

b. The dealer's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Dealers may not use a combination of the purchase price and sales price of the tangible personal property to make the determination required in this paragraph.

(5) ~~(2)~~ "Business" means any activity engaged in by any person, or caused to be engaged in by him or her, with the

object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself or herself out as engaged in business or sales of unclaimed tangible personal property under s. 717.122, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this chapter, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. The term "business" shall not be construed in this chapter to include the leasing, subleasing, or licensing of real property by one corporation to another if all of the stock of both such corporations is owned, directly or through one or more wholly owned subsidiaries, by a common parent corporation; the property was in use prior to July 1, 1989, title to the property was transferred after July 1, 1988, and before July 1, 1989, between members of an affiliated group, as defined in s. 1504(a) of the Internal Revenue Code of 1986, which group included both such corporations and there is no substantial change in the use

of the property following the transfer of title; the leasing, subleasing, or licensing of the property was required by an unrelated lender as a condition of providing financing to one or more members of the affiliated group; and the corporation to which the property is leased, subleased, or licensed had sales subject to the tax imposed by this chapter of not less than $667 million during the most recent 12-month period ended June 30. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

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

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

(9) "Computer" means an electronic device that accepts information in digital or similar form and manipulates such information for a result based on a sequence of instructions.

(10) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(11)~~(4)~~ "Cost price" means the actual cost of articles of tangible personal property without any deductions whatsoever, including, but not limited to, deductions for ~~therefrom on account of~~ the cost of materials used, labor or service costs,

transportation charges, or other ~~any~~ expenses ~~whatsoever~~.

(12) "Delivery charges" means charges by the dealer of personal property or services for preparation and delivery to a location designated by the purchaser of such property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. The term does not include the charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. If a shipment includes exempt property and taxable property, the dealer shall tax only the percentage of the delivery charge allocated to the taxable property. The dealer may allocate the delivery charge by using:

(a) A percentage based on the total sales price of the taxable property compared to the sales price of all property in the shipment; or

(b) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

(13)~~(5)~~ ~~The term~~ "Department" means the Department of Revenue.

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

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

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

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

(24)(a)~~(10)~~ "Lease," "let," or "rental" means the leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

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

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

3.~~(c)~~ Every house, boat, vehicle, motor court, trailer

court, or other structure or any place or location kept, used, maintained, or advertised as, or held out to the public to be, a place where living quarters or sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings, shall for the purpose of this chapter be deemed a roominghouse.

4.~~(d)~~ In all hotels, apartment houses, and roominghouses within the meaning of this chapter, the parlor, dining room, sleeping porches, kitchen, office, and sample rooms shall be construed to mean "rooms."

(b)~~(c)~~ The term or terms:

1. ~~A~~ "Tourist camp" means ~~is~~ a place where two or more tents, tent houses, or camp cottages are located and offered by a person or municipality for sleeping or eating accommodations, most generally to the transient public for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business.

2.~~(f)~~ ~~A~~ "Trailer camp," "mobile home park," or "recreational vehicle park" means ~~is~~ a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers, mobile homes, or recreational vehicles that ~~which~~ are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

~~(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use~~

~~thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "Lease," "let," or "rental" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements. The term "Lease," "let," "rental," or "license" does not include payments made to an owner of high-voltage bulk transmission facilities in connection with the possession or control of such facilities by a regional transmission organization, independent system operator, or similar entity under the jurisdiction of the Federal Energy Regulatory Commission. However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.~~

3.~~(h)~~ "Real property" means the surface land, improvements thereto, and fixtures, and is synonymous with "realty" and "real estate."

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

(c)~~(j)~~ Privilege, franchise, or concession fees, or fees for a license to do business, paid to an airport are not payments for leasing, letting, renting, or granting a license

for the use of real property.

(d) Any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A clause for a future option to purchase or to extend an agreement does not preclude an agreement from being a lease or rental. This definition shall be used for purposes of the sales and use tax regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or any other provisions of federal, state, or local law. These terms include agreements covering motor vehicles and trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as provided in 26 U.S.C. s. 7701(h)(1). These terms do not include:

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

2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of $100 or 1 percent of the total required payments; or

3. The provision of tangible personal property along with an operator for a fixed or indeterminate period of time. As a condition of this exclusion, the operator must be necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

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

(27)~~(12)~~ "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

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

(34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and includes all such transactions that may be made in lieu of retail sales or sales at retail. A sale for resale includes a sale of qualifying property. As used in this paragraph, the term "qualifying property" means tangible personal property, other than electricity, which is used or consumed by a government contractor in the performance of a qualifying contract as defined in s. 212.08(17)(c), to the extent that the cost of the property is allocated or charged as a direct item of cost to such contract, title to which property vests in or passes to the government under the contract. The term "government contractor" includes prime contractors and subcontractors. As used in this paragraph, a cost is a "direct

item of cost" if it is a "direct cost" as defined in 48 C.F.R. s. 9904.418-30(a)(2), or similar successor provisions, including costs identified specifically with a particular contract.

(b) ~~The terms~~ "Retail sales," "sales at retail," "use," "storage," and "consumption" include the sale, use, storage, or consumption of all tangible advertising materials imported or caused to be imported into this state. Tangible advertising material includes displays, display containers, brochures, catalogs, price lists, point-of-sale advertising, and technical manuals or any tangible personal property that ~~which~~ does not accompany the product to the ultimate consumer.

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, bags, or similar items intended to accompany a product sold to a customer without which delivery of the product would be impracticable because of the character of the contents and be used one time only for packaging tangible personal property for sale or for the convenience of the customer or for packaging in the process of providing a service taxable under this chapter. When a separate charge for packaging materials is made, the charge shall be considered part of the sales price or rental charge for purposes of determining the applicability of tax. The terms do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product. However, the terms include

the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when such items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means. The terms do not include the sale of materials to a registered repair facility for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into and sold as part of the repair. Such a sale shall be deemed a purchase for resale by the repair facility, even though every material is not separately stated or separately priced on the repair invoice.

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

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

(35)~~(15)~~ "Sale" means and includes:

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

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

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

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

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

(36)(a) ~~(16)~~ "Sales price" applies to the amount subject to the tax imposed by this chapter and means the total consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The dealer's cost of the property sold;

2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the dealer, all taxes imposed on the dealer, and any other expense of the dealer;

3. Charges by the dealer for any services necessary to complete the sale, other than delivery and installation charges;

4. Delivery charges;

5. Installation charges; or

6. Charges by a dealer for a bundled transaction, which includes a sale or use of a product that is taxable under this chapter, unless otherwise provided in this chapter.

(b) "Sales price" does not include:

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

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

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

4. Any taxes legally imposed directly on the consumer which are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or ~~means the total amount paid for tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. "Sales price" also includes the full face value~~

~~of any coupon used by a purchaser to reduce the price paid to a retailer for an item of tangible personal property; where the retailer will be reimbursed for such coupon, in whole or in part, by the manufacturer of the item of tangible personal property; or whenever it is not practicable for the retailer to determine, at the time of sale, the extent to which reimbursement for the coupon will be made. The term "sales price" does not include federal excise taxes imposed upon the retailer on the sale of tangible personal property. The term "sales price" does include federal manufacturers' excise taxes, even if the federal tax is listed as a separate item on the invoice. To the extent required by federal law, the term "sales price" does not include~~

5. Charges for Internet access services that ~~which~~ are sold separately or that are not itemized on the customer's bill, but that ~~which~~ can be reasonably identified from the selling dealer's books and records kept in the regular course of business. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state.

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

natural gas.

(15) "Direct mail" means printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the direct-mail dealer for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

(16) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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

(43)~~(20)~~ "Use" means and includes the exercise of any right

or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. The term "use" does not include:

(a) The loan of an automobile by a motor vehicle dealer to a high school for use in its driver education and safety program~~. The term "use" does not include~~; or

(b) A contractor's use of "qualifying property" as defined by paragraph (32)(a) ~~paragraph (14)(a)~~.

(44)~~(21)~~ ~~The term~~ "Use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined.

(45) "Voluntary seller" or "volunteer seller" means a dealer who is not required to register in this state to collect the tax imposed by this chapter.

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

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

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

(37)~~(25)~~ "Sea trial" means a voyage for the purpose of

testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, on ~~in~~ a form required by the department, the ~~what~~ repairs that have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.

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

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

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

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

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

(29) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions of such programs does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when such software is sold to a person other than the specific purchaser. Where a person modifies or enhances computer software that he or she did not author or create, the person shall be deemed to be the author or creator only of his or her modifications or enhancements. Prewritten computer software or a prewritten portion of such software that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software. However, prewritten computer software does not include software that has been modified or enhanced for a particular purchaser if the charge for the enhancement is reasonable and separately stated on the invoice or other statement of price given to the purchaser.

(30) "Product" means tangible personal property, a digital good, or a service. The term does not include real property and

services to real property.

(31) "Purchase price" means the measure subject to use tax and has the same meaning as sales price.

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

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

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

(21)~~(34)~~ "Fractional aircraft ownership program" means a program that meets the requirements of 14 C.F.R. part 91, subpart K, relating to fractional ownership operations, except that the program must include a minimum of 25 aircraft owned or leased by the program manager and used in the program.

Section 2. Paragraph (c) of subsection (7) of section

212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(7)

(c) The rental of facilities in a trailer camp, mobile home park, or recreational vehicle park ~~facilities~~, as defined in s. 212.02(24) ~~s. 212.02(10)(f)~~, which are intended primarily for rental as a principal or permanent place of residence is exempt from the tax imposed by this chapter. The rental of such facilities that primarily serve transient guests is not exempt by this subsection. In the application of this law, or in making any determination against the exemption, the department shall consider the facility as primarily serving transient guests unless the facility owner makes a verified declaration on a form prescribed by the department that more than half of the total rental units available are occupied by tenants who have a continuous residence in excess of 3 months. The owner of a facility declared to be exempt by this paragraph must make a determination of the taxable status of the facility at the end of the owner's accounting year using any consecutive 3-month period, at least one month of which is in the accounting year. The owner must use a selected consecutive 3-month period during each annual redetermination. In the event that an exempt facility no longer qualifies for exemption by this paragraph, the owner must notify the department on a form prescribed by the department by the 20th day of the first month of the owner's next succeeding accounting year that the facility no longer qualifies for such exemption. The tax levied by this section shall apply to the rental of facilities that no longer qualify

for exemption under this paragraph beginning the first day of the owner's next succeeding accounting year. The provisions of this paragraph do not apply to mobile home lots regulated under chapter 723.

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

212.0306 Local option food and beverage tax; procedure for levying; authorized uses; administration.—

(6) Any county levying a tax authorized by this section must locally administer the tax using the powers and duties enumerated for local administration of the tourist development tax by s. 125.0104, 1992 Supplement to the Florida Statutes 1991. ~~The county's ordinance shall also provide for brackets applicable to taxable transactions.~~

Section 4. Subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Tax on rental or license fee for use of real property.—

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

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right

or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property are ~~shall be~~ exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association is ~~shall be~~ fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

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

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

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port

authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported remains ~~shall remain~~ subject to tax except as provided in sub-subparagraph a.

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

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

distributing;

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

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

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

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. This exception to the tax imposed by this section applies only to the space used exclusively for selling and distributing food and drinks. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport is ~~shall be~~ subject to tax on the rental of real property used for that purpose, but is ~~shall~~ not ~~be~~ subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" does ~~shall~~ not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for

payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02 ~~s. 212.02(23)~~, or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property is ~~shall be~~ deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption relieves ~~shall relieve~~ the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

13. Rented, leased, subleased, or licensed to a person

providing telecommunications, data systems management, or Internet services at a publicly or privately owned convention hall, civic center, or meeting space at a public lodging establishment as defined in s. 509.013. This subparagraph applies only to that portion of the rental, lease, or license payment that is based upon a percentage of sales, revenue sharing, or royalty payments and not based upon a fixed price. This subparagraph is intended to be clarifying and remedial in nature and shall apply retroactively. This subparagraph does not provide a basis for an assessment of any tax not paid, or create a right to a refund of any tax paid, pursuant to this section before July 1, 2010.

(b) <u>If</u> ~~When~~ a lease involves multiple use of real property wherein a part of the real property is subject to the tax herein, and a part of the property would be excluded from the tax under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., or subparagraph (a)5., the department shall determine, from the lease or license and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section. The portion of the premises leased or rented by a for-profit entity providing a residential facility for the aged will be exempt on the basis of a pro rata portion calculated by combining the square footage of the areas used for residential units by the aged and for the care of such residents and dividing the resultant sum by the total square footage of the rented premises. For purposes of this section, the term "residential facility for the aged" means a facility that is licensed or certified in whole or in part under chapter 400, chapter 429, or chapter 651; or that provides

residences to the elderly and is financed by a mortgage or loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act; or other such similar facility that provides residences primarily for the elderly.

(c) For the exercise of such privilege, a tax is levied in an amount equal to 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor’s or licensor’s property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and does ~~shall~~ not apply to that portion that ~~which~~ is for the nontaxable payments.

(d) If ~~When~~ the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax is ~~shall be~~ at the rate of 6 percent of the value of the property, goods, wares,

merchandise, services, or other thing of value.

Section 5. The amendment to subparagraph 10. of paragraph (a) of subsection (1) of section 212.031, Florida Statutes, made by this act operates retroactively. However, the retroactive operation of the amendment is remedial in nature and does not create the right to a refund or require a refund by any governmental entity of any tax, penalty, or interest remitted to the Department of Revenue before January 1, 2012.

Section 6. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 212.04, Florida Statutes, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 6 percent of sales price, or the actual value received from such admissions. The~~, which~~ 6 percent shall be added to and collected with all such admissions from the purchaser thereof, and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket must show on its face the actual sales price of the admission, or each dealer selling the admission must prominently display at the box office or other place where the admission charge is made a notice disclosing the price of the admission, and the tax shall be computed and collected on the basis of the actual price of the admission charged by the dealer. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon such admission.

The sale price or actual value does not include separately stated ticket service charges that are imposed by a facility ticket office or a ticketing service and added to a separately stated, established ticket price. ~~The rate of tax on each admission shall be according to the brackets established by s. 212.12(9).~~

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by a state university, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 1006.71(2)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

b. A tax may not be levied on admission charges to an event sponsored by a public college, university, or community college if the event is held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility if all of

the risk of success or failure lies with the sponsor of the event, all of the funds at risk for the event belong to the sponsor, and student or faculty talent are not exclusively used. ~~No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.~~

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game or Pro Bowl; on admissions to any semifinal game or championship game of a national collegiate tournament; on admissions to a Major League Baseball, National

Basketball Association, or National Hockey League all-star game; on admissions to the Major League Baseball Home Run Derby held before the Major League Baseball All-Star Game; or on admissions to the National Basketball Association Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, or Slam Dunk Challenge.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities ~~which~~ it serves, and will receive at least 20 percent of the net profits, if any, of the events sponsored by ~~which~~ the organization ~~sponsors~~ and will bear the risk of at

least 20 percent of the losses, if any, from the events ~~which~~ it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are

participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Section 7. Section 212.05, Florida Statutes, is amended to read:

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

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

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

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject

to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle that ~~which~~ is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price that ~~which~~ is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in

which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations;

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

c. The purchaser, within 10 days of removing the boat or

aircraft from Florida, shall furnish the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

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

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

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or, when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal that ~~which~~ authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark

and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

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

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

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

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to

evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

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

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

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(ggg), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

(b) At the rate of 6 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; however, for tangible property originally purchased exempt from tax for use exclusively for lease and which is converted to the owner's own use, tax may be paid on the fair market value of the property at the time of conversion. If the fair market value of the property cannot be determined, use tax at the time of conversion shall be based on the owner's acquisition cost. Under no circumstances may the aggregate amount of sales tax from leasing the property and use tax due at the time of conversion be less than the total sales tax that would have been due on the original acquisition cost paid by the owner.

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

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

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

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

~~2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no~~

~~tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.~~

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

(d) At the rate of 6 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

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

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

(I) "Prepaid calling arrangement" means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use

in a known amount.

(II) The sale or recharge of the prepaid calling arrangement is deemed to take place in accordance with s. 212.054. ~~If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.~~

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

b. The installation of telecommunication and telegraphic equipment.

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

2. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently charged off as uncollectible on the dealer's books and records ~~found to be worthless~~, apply ~~shall be equally applicable~~ to any tax paid under the provisions of this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase, sale, or recharge

of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

(f) At the rate of 6 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment, and parts and accessories therefor, used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g)1. At the rate of 6 percent on the retail price of newspapers and magazines sold or used in Florida.

2. Notwithstanding other provisions of this chapter, inserts of printed materials which are distributed with a newspaper or magazine are a component part of the newspaper or magazine, and neither the sale nor use of such inserts is subject to tax when:

a. Printed by a newspaper or magazine publisher or commercial printer and distributed as a component part of a newspaper or magazine, which means that the items after being printed are delivered directly to a newspaper or magazine publisher by the printer for inclusion in editions of the distributed newspaper or magazine;

b. Such publications are labeled as part of the designated newspaper or magazine publication into which they are to be inserted; and

c. The purchaser of the insert presents a resale certificate to the vendor stating that the inserts are to be distributed as a component part of a newspaper or magazine.

(h)1. A tax is imposed at the rate of 6 ~~4~~ percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For counties that do not impose a discretionary sales surtax, the divisor is equal to 1.06 ~~1.04~~; for counties that impose a 0.5 percent discretionary sales surtax, the divisor is equal to 1.065 ~~1.045~~; for counties that impose a 1 percent discretionary sales surtax, the divisor is equal to 1.07 ~~1.050~~; and for counties that impose a 2 percent sales surtax, the divisor is equal to 1.08 ~~1.060~~. If a county imposes a discretionary sales surtax that is not listed in this subparagraph, the department shall make the applicable divisor available in an electronic format or otherwise. Additional divisors shall bear the same mathematical relationship to the next higher and next lower divisors as the new surtax rate bears to the next higher and next lower surtax rates for which divisors have been established. When a machine is activated by a slug, token, coupon, or any similar device that ~~which~~ has been purchased, the tax is on the price paid by the user of the device for such device.

2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.

a. If the owner of the machine is also the operator of it, he or she shall be liable for payment of the tax without any

deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.

b. If the owner or lessee of the machine is also its operator, he or she shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax on sales generated through the machine.

c. If the proprietor of the business where the machine is located does not own the machine, he or she shall be deemed to be the lessee and operator of the machine and is responsible for the payment of the tax on sales, unless such responsibility is otherwise provided for in a written agreement between him or her and the machine owner.

3.a. An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and has conspicuously displayed an identifying certificate issued by the department. The identifying certificate shall be issued by the department upon application from the operator. The identifying certificate shall include a unique number, and the certificate shall be permanently marked with the operator's name, the operator's sales tax number, and the maximum number of machines to be operated under the certificate. An identifying certificate shall not be transferred from one operator to another. The identifying certificate must be conspicuously displayed on the premises where the coin-operated amusement machines are being operated.

b. The operator of the machine must obtain an identifying certificate before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each

certificate shall be based on the number of machines identified on the application times $30 and is due and payable upon application for the identifying device. The application shall contain the operator's name, sales tax number, business address where the machines are being operated, and the number of machines in operation at that place of business by the operator. No operator may operate more machines than are listed on the certificate. A new certificate is required if more machines are being operated at that location than are listed on the certificate. The fee for the new certificate shall be based on the number of additional machines identified on the application form times $30.

c. A penalty of $250 per machine is imposed on the operator for failing to properly obtain and display the required identifying certificate. A penalty of $250 is imposed on the lessee of any machine placed in a place of business without a proper current identifying certificate. Such penalties shall apply in addition to all other applicable taxes, interest, and penalties.

d. Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator's machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this chapter, a person who knowingly and willfully violates any

provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

(i)1. At the rate of 6 percent on charges for all:

a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621). Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law enforcement officer, and who is subject to the direct and immediate command of his or her law enforcement agency, and in the law enforcement officer's uniform as authorized by his or her law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his or her approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through the officer's agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b. Nonresidential cleaning, excluding cleaning of the

interiors of transportation equipment, and nonresidential building pest control services (NAICS National Numbers 561710 and 561720).

2. As used in this paragraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

3. Charges for detective, burglar protection, and other protection security services performed in this state but used outside this state are exempt from taxation. Charges for detective, burglar protection, and other protection security services performed outside this state and used in this state are subject to tax.

4. If a transaction involves both the sale or use of a service taxable under this paragraph and the sale or use of a service or any other item not taxable under this chapter, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be presumed taxable. The burden shall be on the seller of the service or the purchaser of the service, whichever applicable, to overcome this presumption by providing documentary evidence as to which portion of the transaction is exempt from tax. The department is authorized to adjust the amount of consideration identified as the taxable and exempt portions of the transaction; however, a determination that the taxable and exempt portions are inaccurately stated and that the adjustment is applicable must be supported by substantial competent evidence.

5. Each seller of services subject to sales tax pursuant to

this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of subparagraph 3. for out-of-state use. The log must identify the purchaser's name, location and mailing address, and federal employer identification number, if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale, the reason for the exemption, and the sales invoice number. The monthly log shall be maintained pursuant to the same requirements and subject to the same penalties imposed for the keeping of similar records pursuant to this chapter.

(j)1. Notwithstanding any other provision of this chapter, there is ~~hereby~~ levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency that ~~which~~ is legal tender of the United States and that ~~which~~ is sold, exchanged, or traded, such tax shall not be levied.

3. ~~There are exempt from this tax~~ Exchanges of coins or currency that ~~which~~ are in general circulation in, and legal tender of, one nation for coins or currency that ~~which~~ are in general circulation in, and legal tender of, another nation when

exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange are exempt from this tax.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed under this paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.

(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel.

(l) Florists located in this state are liable for sales tax on sales to retail customers regardless of where or by whom the items sold are to be delivered. Florists located in this state are not liable for sales tax on payments received from other florists for items delivered to customers in this state.

(m) Operators of game concessions or other concessionaires who customarily award tangible personal property as prizes may, in lieu of paying tax on the cost price of such property, pay tax on 25 percent of the gross receipts from such concession activity.

(2) The tax shall be collected by the dealer, as defined herein, and remitted by the dealer to the state at the time and in the manner as hereinafter provided.

(3) The tax so levied is in addition to all other taxes,

whether levied in the form of excise, license, or privilege taxes, and in addition to all other fees and taxes levied.

~~(4) The tax imposed pursuant to this chapter shall be due and payable according to the brackets set forth in s. 212.12.~~

(4)~~(5)~~ Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed $18,000.

Section 8. Subsections (6), (7), (8), (9), (10), and (11) of section 212.0506, Florida Statutes, are amended to read:

212.0506 Taxation of service warranties.—

~~(6) This tax shall be due and payable according to the brackets set forth in s. 212.12.~~

(6)~~(7)~~ This tax shall not apply to any portion of the consideration received by any person in connection with the issuance of any service warranty contract upon which such person is required to pay any premium tax imposed under the Florida Insurance Code or under s. 634.313(1).

(7)~~(8)~~ If a transaction involves both the issuance of a service warranty that is subject to such tax and the issuance of a warranty, guaranty, extended warranty or extended guaranty, contract, agreement, or other written promise that is not subject to such tax, the consideration shall be separately identified and stated with respect to the taxable and nontaxable portions of the transaction. If the consideration is separately apportioned and identified in good faith, such tax shall apply to the transaction to the extent that the consideration received or to be received in connection with the transaction is payment for a service warranty subject to such tax. If the consideration

is not apportioned in good faith, the department may reform the contract; such reformation by the department is to be considered prima facie correct, and the burden to show the contrary rests upon the dealer. If the consideration for such a transaction is not separately identified and stated, the entire transaction is taxable.

(8) ~~(9)~~ Any claim that ~~which~~ arises under a service warranty taxable under this section, which claim is paid directly by the person issuing such warranty, is not subject to any tax imposed under this chapter.

(9) ~~(10)~~ Materials and supplies used in the performance of a factory or manufacturer's warranty are exempt if the contract is furnished at no extra charge with the equipment guaranteed thereunder and such materials and supplies are paid for by the factory or manufacturer.

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

Section 9. Section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(1) A ~~No~~ general excise tax on sales may not ~~shall~~ be levied by the governing body of any county unless specifically authorized in s. 212.055. Any general excise tax on sales authorized pursuant to said section shall be administered and collected exclusively as provided in this section.

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter and communications services as defined for purposes of chapter 202. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

(b) However:

1. The sales amount above $5,000 on a motor vehicle, aircraft, boat, manufactured home, modular home, or mobile home is ~~any item of tangible personal property shall~~ not ~~be~~ subject to the surtax. ~~However, charges for prepaid calling arrangements, as defined in s. 212.05(1)(e)1.a., shall be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted~~

~~business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental.~~

2. In the case of utility services covering a period starting before and ending after the effective date of the surtax, the rate applies as follows:

a. In the case of a rate adoption or increase, the new rate applies to the first billing period starting on or after the effective date of the surtax adoption or increase.

b. In the case of a rate decrease or termination, the new rate applies to bills rendered on or after the effective date of the rate change ~~billed on or after the effective date of any such surtax, the entire amount of the charge for utility services shall be subject to the surtax~~. ~~In the case of utility services billed after the last day the surtax is in effect, the entire amount of the charge on said items shall not be subject to the surtax.~~ "Utility service," as used in this section, does not include any communications services as defined in chapter 202.

3. In the case of written contracts that ~~which~~ are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the

contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. In the case of any vessel, railroad, or motor vehicle common carrier entitled to partial exemption from tax imposed under this chapter pursuant to s. 212.08(4), (8), or (9), the basis for imposition of surtax shall be the same as provided in s. 212.08 and the ratio shall be applied each month to total purchases in this state of property qualified for proration which is delivered or sold in the taxing county to establish the portion used and consumed in intracounty movement and subject to surtax.

(3) For the purpose of this section, a transaction shall be

deemed to have occurred in a county imposing the surtax as follows ~~when~~:

(a)1. Except as otherwise provided in this section, a retail sale subject to tax under this section, excluding a lease or rental, shall be deemed to take place:

a. At the business location of the dealer, if the product is received by the purchaser at that business location;

b. At the location where the product is received by the purchaser or the purchaser's designated agent, including the location indicated by instructions for delivery to the purchaser or agent, known to the dealer, if the product is not received by the purchaser or designated agent at a business location of the dealer;

c. If sub-subparagraphs a. and b. do not apply, at the location identified as the address for the purchaser in the business records maintained by the dealer in the ordinary course of the dealer's business, if use of this address does not constitute bad faith;

d. If sub-subparagraphs a., b., and c. do not apply, at the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address on the purchaser's payment instrument, if no other address is available, if use of this address does not constitute bad faith; or

e. If sub-subparagraphs a., b., c., and d. do not apply, including instances in which the dealer does not have sufficient information to apply the previous paragraphs, the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically

was first available for transmission by the dealer, or from which the service was provided, disregarding any location that merely provided the digital transfer of the product sold.

2. As used in this paragraph, the terms "receive" and "receipt" mean:

a. Taking possession of tangible personal property;

b. Making first use of the services; or

c. Taking possession or making first use of digital goods, whichever occurs first.

The terms "receive" and "receipt" do not include possession by a shipping company on behalf of a purchaser.

(b) The lease or rental of tangible personal property, other than property identified in paragraphs (c) and (d), shall be deemed to have occurred as follows:

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

2. For a lease or rental that does not require recurring

periodic payments, the payment is deemed to take place in accordance with paragraph (a), notwithstanding the exclusion of a lease or rental in paragraph (a).

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

(c) The lease or rental of a motor vehicle or aircraft that does not qualify as transportation equipment, as defined in paragraph (d), shall be sourced as follows:

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

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

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

(d) The retail sale, including a lease or rental, of transportation equipment shall be deemed to take place in accordance with paragraph (a), notwithstanding the exclusion of

a lease or rental in paragraph (a). The term "transportation equipment" means:

1. Locomotives and rail cars that are used for the carriage of persons or property in interstate commerce;

2. Trucks and truck tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are registered through the International Registration Plan and operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

3. Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

4. Containers designed for use on and component parts attached or secured on the items set forth in subparagraphs 1.-3.

(e) ~~(a)1.~~ The retail sale of a modular or manufactured home, not including a mobile home, occurs in the county to which the house is delivered ~~includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county~~. ~~If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser~~

~~accepts the bill of sale.~~

(f)~~2.~~ The retail sale, excluding a lease or rental, of any motor vehicle that does not qualify as transportation equipment, as defined in paragraph (d), or the retail sale of a ~~of any motor vehicle or~~ mobile home of a class or type that ~~which~~ is required to be registered in this state or in any other state is ~~shall be~~ deemed to occur ~~have occurred only~~ in the county identified from ~~as~~ the ~~residence~~ address of the purchaser on the registration or title document for the ~~such~~ property.

(g)~~(b)~~ Admission charged for an event occurs ~~The event for which an admission is charged is located~~ in the county in which the event is held.

(h)~~(c)~~ A lease or rental of real property occurs in the county in which the real property is located. ~~The consumer of utility services is located in the county.~~

(i)~~(d)~~1. The retail sale, excluding a lease or rental, of any aircraft that does not qualify as transportation equipment, as defined in paragraph (d), or of any boat of a class or type that is required to be registered, licensed, titled, or documented in this state or by the United States Government occurs in the county to which the aircraft or boat is delivered.

2. The user of any aircraft or boat of a class or type that ~~which~~ is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed occurs in the county in which the user is located ~~in the county~~.

3.~~2.~~ However, it shall be presumed that such items used outside the county imposing the surtax for 6 months or longer

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

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

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

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

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

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

(l)~~(h)~~ A ~~The~~ transient rental transaction occurs in the county in which the rental property is located.

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

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

(m) ~~(j)~~ A transaction occurs in a county imposing the surtax if the dealer owing a use tax on purchases or leases is located in that ~~the~~ county.

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

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

(o) ~~(m)~~ An ~~The florist taking the~~ original order to sell tangible personal property taken by a florist occurs ~~is located~~ in the county in which the florist taking the order is located~~,~~ ~~notwithstanding any other provision of this section~~.

(4)(a) The department shall administer, collect, and enforce the tax authorized under s. 212.055 pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this chapter, except as provided in this section. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the surtax. Discretionary sales surtaxes shall not be included in the computation of estimated taxes pursuant to s. 212.11. Notwithstanding any other provision of law, a dealer need not separately state the amount of the surtax on the charge ticket, sales slip, invoice, or

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

(b) The proceeds of a discretionary sales surtax collected by the selling dealer located in a county imposing the surtax shall be returned, less the cost of administration, to the county where the selling dealer is located. The proceeds shall be transferred to the Discretionary Sales Surtax Clearing Trust Fund. A separate account shall be established in the trust fund for each county imposing a discretionary surtax. The amount deducted for the costs of administration may not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration may be used only for costs that are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. The department shall distribute the moneys in the trust fund to the appropriate counties each month, unless otherwise provided in s. 212.055.

(c)1. Any dealer located in a county that does not impose a discretionary sales surtax but who collects the surtax due to sales of tangible personal property or services delivered outside the county shall remit monthly the proceeds of the surtax to the department to be deposited into an account in the Discretionary Sales Surtax Clearing Trust Fund which is separate

from the county surtax collection accounts. The department shall distribute funds in this account using a distribution factor determined for each county that levies a surtax and multiplied by the amount of funds in the account and available for distribution. The distribution factor for each county equals the product of:

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

b. The county's rate of surtax; and

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

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

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

3. A county that fails to timely provide the information required by this section to the department authorizes the department, by such action, to use the best information available to it in distributing surtax revenues to the county. If this information is unavailable to the department, the department may partially or entirely disqualify the county from receiving surtax revenues under this paragraph. A county that fails to provide timely information waives its right to challenge the department's determination of the county's share, if any, of revenues provided under this paragraph.

~~(5) No discretionary sales surtax or increase or decrease in the rate of any discretionary sales surtax shall take effect~~

~~on a date other than January 1. No discretionary sales surtax shall terminate on a day other than December 31.~~

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

(6)~~(7)~~(a) Any adoption, repeal, or rate change of the surtax by the governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(6) is effective on April 1. A county or school board adopting, repealing, or changing the rate of such surtax shall notify the department within 10 days after final adoption by ordinance or referendum of an adoption, repeal, imposition, termination, or rate change of the surtax, but no later than October 20 immediately preceding the April 1 ~~November 16 prior to the~~ effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(6) shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is

scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(c) The department shall provide notice of the adoption, repeal, or rate change of the surtax to affected dealers by February 1 immediately preceding the April 1 effective date.

(d) Notwithstanding the date set in an ordinance for the termination of a surtax, a surtax terminates only on March 31. A surtax imposed before January 1, 2012, for which an ordinance provides a different termination date, also terminates on the March 31 following the termination date established in the ordinance.

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

(8) The department may certify vendor databases and purchase, or otherwise make available, a database, or databases, singly or in combination, which describe boundaries and boundary changes for all taxing jurisdictions, including a description and the effective date of a boundary change; provide all sales and use tax rates by jurisdiction; if the area includes more than one tax rate in any level of taxing jurisdiction, assign to each five-digit and nine-digit zip code the proper rate and jurisdiction and apply the lowest combined rate imposed in the

zip code area; and may include address-based boundary database records for assigning taxing jurisdictions and associated tax rates.

(a) A dealer or certified service provider that collects and remits the state tax and any local tax imposed by this chapter shall be held harmless from any tax, interest, and penalties due solely as a result of relying on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the state if the dealer or certified service provider exercises due diligence in applying one or more of the following methods to determine the taxing jurisdiction and tax rate for a transaction:

1. Employing an electronic database provided by the department under this subsection; or

2. Employing a state-certified database.

(b) If a dealer or certified service provider is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the dealer or certified service provider may apply the nine-digit zip code designation applicable to a purchaser.

(c) If a nine-digit zip code designation is not available for a street address or if a dealer or certified service provider is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the dealer or certified service provider may apply the rate for the five-digit zip code area.

(d) There is a rebuttable presumption that a dealer or certified service provider has exercised due diligence if the

dealer or certified service provider has attempted to determine the tax rate and jurisdiction by using state-certified software that makes this assignment from the address and zip code information applicable to the purchase.

(e) There is a rebuttable presumption that a dealer or certified service provider has exercised due diligence if the dealer has attempted to determine the nine-digit zip code designation by using state-certified software that makes this designation from the street address and the five-digit zip code applicable to a purchase.

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

(9) A purchaser shall be held harmless from tax, interest, and penalties for failing to pay the correct amount of sales or use tax due solely as a result of any of the following circumstances:

(a) The dealer or certified service provider relied on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the department;

(b) A purchaser holding a direct-pay permit relied on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the department; or

(c) A purchaser relied on erroneous data supplied in a database described in paragraph (a).

(10) A dealer is not liable for failing to collect tax at the new tax rate if:

(a) The new rate takes effect within 30 days after the new rate is enacted;

(b) The dealer collected the tax at the preceding rate;

(c) The dealer's failure to collect the tax at the new rate does not extend beyond 30 days after the enactment of the new rate; and

(d) The dealer did not fraudulently fail to collect at the new rate or solicit purchasers based on the preceding rate.

Section 10. Paragraphs (i) and (j) of subsection (8) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

~~(i) Surtax collections shall be initiated on January 1 of the year following a successful referendum in order to coincide with s. 212.054(5).~~

(i)~~(j)~~ Notwithstanding s. 212.054, if a multicounty independent special district created pursuant to chapter 67-764,

Laws of Florida, levies ad valorem taxes on district property to fund emergency fire rescue services within the district and is required by s. 2, Art. VII of the State Constitution to maintain a uniform ad valorem tax rate throughout the district, the county may not levy the discretionary sales surtax authorized by this subsection within the boundaries of the district.

Section 11. Paragraph (c) of subsection (2) and subsections (3) and (5) of section 212.06, Florida Statutes, are amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(2)

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

(3)(a) Except as provided in paragraph (b), every dealer making sales, whether within or outside the state, of tangible personal property for distribution, storage, or use or other consumption, in this state, shall, at the time of making sales, collect the tax imposed by this chapter from the purchaser.

(b)1. The following provisions apply to sales of advertising and promotional direct mail:

a. A purchaser of advertising and promotional direct mail may provide the seller with:

(I) A direct pay permit;

(II) A certificate of exemption claiming direct mail; or

(III) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

b. If the purchaser provides the permit or certificate referred to in sub-sub-subparagraph a.(I) or sub-sub-subparagraph a.(II), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate, or statement applies. The purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and shall report and pay any applicable tax due.

c. If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail if the seller has sourced the sale according to the delivery information provided by the purchaser.

d. If the purchaser does not provide the seller with any of the items listed in sub-sub-subparagraph a.(I), sub-sub-subparagraph a.(II), or sub-sub-subparagraph a.(III), the sale shall be sourced to the address from which the advertising and

promotional direct mail was shipped. The state to which the advertising and promotional direct mail is delivered may disallow credit for tax paid on sales sourced pursuant to this subparagraph.

2. The following provisions apply to sales of other direct mail.

a. Except as otherwise provided in this subparagraph, sales of other direct mail are sourced to the location indicated by an address for the purchaser which is available from the business records of the seller which are maintained in the ordinary course of the seller's business if use of this address does not constitute bad faith.

b. A purchaser of other direct mail may provide the seller with:

(I) A direct pay permit; or

(II) A certificate of exemption claiming direct mail.

c. If the purchaser provides the permit or certificate referred to in sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the permit, certificate, or statement applies. Notwithstanding sub-subparagraph a., the sale shall be sourced to the jurisdictions to which the other direct mail is to be delivered to the recipients and the purchaser shall report and pay applicable tax due.

3. As used in this paragraph, the term:

a. "Advertising and promotional direct mail" means printed material that meets the definition of direct mail in s. 212.02

and has the primary purpose of attracting public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this sub-subparagraph, the word "product" means tangible personal property, a product transferred electronically, or a service.

b. "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing. The term includes, but is not limited to:

(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account, and payroll advices;

(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports, and stockholder reports; or

(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

The term "other direct mail" does not include the development of billing information or the provision of any nonincidental data processing service.

4.a.(I) This section applies to a sale of services only if the service is an integral part of the production and distribution of printed material that meets the definition of direct mail.

(II) This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental regardless of whether advertising and promotional direct mail is included in the same mailing.

b. If a transaction is a bundled transaction that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

c. This section does not limit any purchaser's:

(I) Obligation for sales or use tax to any state to which the direct mail is delivered;

(II) Right under local, state, federal, or constitutional law to a credit for sales or use taxes legally due and paid to other jurisdictions; or

(III) Right to a refund of sales or use taxes overpaid to any jurisdiction.

d. This paragraph applies for purposes of uniformly sourcing direct mail transactions and does not impose requirements on states regarding the taxation of products that meet the definition of direct mail and does not apply to sales for resale or other exemptions. ~~A purchaser of printed materials shall have sole responsibility for the taxes imposed by this chapter on those materials when the printer of the materials delivers them to the United States Postal Service for mailing to persons other than the purchaser located within and outside this state. Printers of materials delivered by mail to persons other than the purchaser located within and outside this state shall~~

~~have no obligation or responsibility for the payment or collection of any taxes imposed under this chapter on those materials. However, printers are obligated to collect the taxes imposed by this chapter on printed materials when all, or substantially all, of the materials will be mailed to persons located within this state. For purposes of the printer's tax collection obligation, there is a rebuttable presumption that all materials printed at a facility are mailed to persons located within the same state as that in which the facility is located. A certificate provided by the purchaser to the printer concerning the delivery of the printed materials for that purchase or all purchases shall be sufficient for purposes of rebutting the presumption created herein.~~

5.~~2.~~ The Department of Revenue is authorized to adopt rules and forms to administer ~~implement~~ the provisions of this paragraph.

(5)(a)1. ~~Except as provided in subparagraph 2., It is not the intention of~~ This chapter does not ~~to~~ levy a tax upon tangible personal property imported, produced, or manufactured in this state for export if~~, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless~~ the importer, producer, or manufacturer:

a. Delivers the tangible personal property ~~same~~ to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; ~~or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by~~

~~submission~~

b. Submits to the department ~~of~~ a duly signed and validated United States customs declaration~~,~~ showing the departure of an ~~the~~ aircraft from the continental United States and~~; and further with respect to aircraft,~~ the canceled United States registry of the ~~said~~ aircraft if the aircraft is exported under its own power to a destination outside the continental United States; or ~~in the case of~~

c. Submits documentation as required by rule to the department showing the departure of an aircraft of foreign registry from the continental United States on which parts and equipment have been installed. ~~on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which~~

2. This chapter does not levy a tax on the sale or use of tangible personal property that the state is prohibited from taxing under the Constitution or laws of the United States.

Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

~~2.a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. However, a Florida dealer will be relieved from the requirements of collecting taxes pursuant to this subparagraph if the Florida dealer obtains from the~~

~~purchaser an affidavit setting forth the purchaser's name, address, state taxpayer identification number, and a statement that the purchaser is aware of his or her state's use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay the tax on the transaction. The department may, by rule, provide a form to be used for the purposes set forth herein.~~

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

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

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

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

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

~~(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing~~

~~delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.~~

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

~~d. The tax levied by sub-subparagraph a. shall be at the rate at which such a sale would have been taxed pursuant to the cooperating state's tax laws if consummated in the cooperating state by a dealer and a purchaser, both of whom were physically present in that state at the time of the sale.~~

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

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

~~g. In furtherance of this act, dealers selling tangible personal property for delivery in another state shall make~~

~~available to the department, upon request of the department, records of all tangible personal property so sold. Such records shall include a description of the property, the name and address of the purchaser, the name and address of the person to whom the property was sent, the purchase price of the property, information regarding whether sales tax was paid in this state on the purchase price, and such other information as the department may by rule prescribe.~~

(b)1. Notwithstanding the provisions of paragraph (a), it is not the intention of this chapter to levy a tax on the sale of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration, provided such nonresident dealer furnishes the seller a statement declaring that the tangible personal property will be transported outside this state by the nonresident dealer for resale and for no other purpose. The statement shall include, but not be limited to, the nonresident dealer's name, address, applicable passport or visa number, arrival-departure card number, and evidence of authority to do business in the nonresident dealer's home state or country, such as his or her business name and address, occupational license number, if applicable, or any other suitable requirement. The statement shall be signed by the nonresident dealer and shall include the following sentence: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief."

2. The burden of proof of subparagraph 1. rests with the seller, who must retain the proper documentation to support the exempt sale. The exempt transaction is subject to verification

by the department.

(c) Notwithstanding the provisions of paragraph (a), it is not the intention of this chapter to levy a tax on the sale by a printer to a nonresident print purchaser of material printed by that printer for that nonresident print purchaser when the print purchaser does not furnish the printer a resale certificate containing a sales tax registration number but does furnish to the printer a statement declaring that such material will be resold by the nonresident print purchaser.

Section 12. Paragraph (c) of subsection (1) and subsection (2) of section 212.07, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(1)

(c) Unless the purchaser of tangible personal property that is incorporated into tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use and subject to the tax imposed under s. 212.06(1)(b) or is purchased for export under s. 212.06(5)(a) ~~s. 212.06(5)(a)1.~~ extends a certificate in compliance with the rules of the department, the dealer shall himself or herself be liable for and pay the tax.

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax constitutes ~~shall constitute~~ a part

of the ~~such~~ price, charge, or proof of sale and is ~~which shall be~~ a debt from the purchaser or consumer to the dealer, until paid. This debt is~~, and shall be~~ recoverable at law in the same manner as other debts. If ~~Where~~ it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish by rule a remittance ~~an effective~~ tax rate for such industry. The department may also amend this ~~effective tax~~ rate as the industry's pricing or practices change. In addition to other methods, the department may use telephone, electronic mail, facsimile, or other electronic means to provide notice of such rate and any change. Except as otherwise specifically provided, any dealer who neglects, fails, or refuses to collect the tax herein provided upon a ~~any, every, and all~~ retail sale of tangible personal property ~~sales~~ made by the dealer or the dealer's agent ~~agents~~ or employee is ~~employees of tangible personal property or services which are subject to the tax imposed by this chapter shall be~~ liable for and shall pay the tax himself or herself.

(10)(a) The executive director is authorized to maintain and publish a taxability matrix in a downloadable format.

(b) The state shall provide notice of changes to the taxability of the products or services listed in the taxability matrix. In addition to other methods, the department may use telephone, electronic mail, facsimile, or other electronic means to provide notice of such changes.

(c) A dealer or certified service provider who collects and remits the state and local tax imposed by this chapter shall be

held harmless from tax, interest, and penalties for having charged and collected the incorrect amount of sales or use tax due solely as a result of relying on erroneous data provided by the state in the taxability matrix.

(d) A purchaser shall be held harmless from penalties for having failed to pay the correct amount of sales or use tax due solely as a result of any of the following circumstances:

1. The dealer or certified service provider relied on erroneous data provided by the state in the taxability matrix completed by the state;

2. A purchaser relied on erroneous data provided by the state in the taxability matrix completed by the state; or

3. A purchaser holding a direct-pay permit relied on erroneous data provided by the state in the taxability matrix completed by the state.

(e) A purchaser shall be held harmless from tax and interest for having failed to pay the correct amount of sales or use tax due solely as a result of the state's erroneous classification in the taxability matrix of terms included in the library of definitions as "taxable" or "exempt," "included in sales price" or "excluded from sales price," or "included in the definition" or "excluded from the definition."

Section 13. Subsections (1) and (2), paragraph (g) of subsection (5), subsection (14), and paragraphs (b) and (c) of subsection (17) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the

storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

~~1. Cereals and cereal products, baked goods, oleomargarine, meat and meat products, fish and seafood products, frozen foods and dinners, poultry, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices, salt, sugar and sugar products, milk and dairy products, and products intended to be mixed with milk.~~

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

1.~~3.~~ Bakery products sold by bakeries, pastry shops, or like establishments, if sold without eating utensils. For

purposes of this subparagraph, bakery products include bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish pastries, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas ~~that do not have eating facilities~~.

2. Dietary supplements. The term "dietary supplements" means any nontobacco product intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or a concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subparagraph which is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet, and which is required to be labeled as a dietary supplement, identifiable by the supplemental facts panel found on the label and as required pursuant to 21 C.F.R. s. 101.36.

3. Bottled water. As used in this subparagraph, the term "bottled water" means water that is placed in a safety-sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives, except that it may contain:

a. Antimicrobial agents;

b. Fluoride;

c. Carbonation;

d. Vitamins, minerals, and electrolytes;

e. Oxygen;

f. Preservatives; and

g. Only those flavors, extracts, or essences derived from a spice or fruit.

The term "bottled water" includes water that is delivered to the purchaser in a reusable container that is not sold with the water.

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

~~1. Food products sold as meals for consumption on or off the premises of the dealer.~~

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

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

~~4. Sandwiches sold ready for immediate consumption on or off the seller's premises.~~

~~5. Food products sold ready for immediate consumption within a place, the entrance to which is subject to an admission charge.~~

1.~~6.~~ Food and food ingredients sold as prepared food. The

term "prepared food" means:

a. Food sold in a heated state or heated by the dealer;

b. Two or more food ingredients mixed or combined by the dealer for sale as a single item; or

c. Food sold with eating utensils provided by the dealer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport food. Prepared food does not include food that is only cut, repackaged, or pasteurized by the dealer, eggs, fish, meat, poultry, and foods that contain these raw animal foods and require cooking by the consumer, as recommended by the Food and Drug Administration in chapter 3, part 4011 of its food code, to prevent food-borne illness. ~~Food products sold as hot prepared food products.~~

2.~~7.~~ Soft drinks~~, including, but not limited to, any nonalcoholic beverage, any preparation or beverage commonly referred to as a "soft drink," or any noncarbonated drink made from milk derivatives or tea, if sold in cans or similar containers~~. The term "soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

~~8. Ice cream, frozen yogurt, and similar frozen dairy or nondairy products in cones, small cups, or pints, popsicles, frozen fruit bars, or other novelty items, whether or not sold separately.~~

~~9. Food that is prepared, whether on or off the premises, and sold for immediate consumption. This does not apply to food~~

~~prepared off the premises and sold in the original sealed container, or the slicing of products into smaller portions.~~

3.~~10.~~ Food and food ingredients ~~products~~ sold through a vending machine~~, pushcart, motor vehicle, or any other form of vehicle~~.

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

5. Tobacco.

~~12. Bakery products sold by bakeries, pastry shops, or like establishments having eating facilities, except when sold for consumption off the seller's premises.~~

~~13. Food products served, prepared, or sold in or by restaurants, lunch counters, cafeterias, hotels, taverns, or other like places of business.~~

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

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

~~2. "For consumption on the seller's premises" means that the food or drink sold may be immediately consumed on the premises where the dealer conducts his or her business. In determining whether an item of food is sold for immediate consumption, the customary consumption practices prevailing at~~

~~the selling facility shall be considered.~~

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

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

(d) ~~(c)~~ 1. Food or drinks not exempt under paragraphs (a), (b), and (c) ~~, and (d)~~ are exempt, notwithstanding those paragraphs, when purchased with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

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

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

(e)~~(f)~~ The application of the tax on a package that contains exempt food products and taxable nonfood products depends upon the essential character of the complete package.

1. If the taxable items represent more than 25 percent of the cost of the complete package and a single charge is made, the entire sales price of the package is taxable. If the taxable items are separately stated, the separate charge for the taxable items is subject to tax.

2. If the taxable items represent 25 percent or less of the cost of the complete package and a single charge is made, the entire sales price of the package is exempt from tax. The person preparing the package is liable for the tax on the cost of the taxable items going into the complete package. If the taxable items are separately stated, the separate charge is subject to tax.

(f) Dietary supplements that are sold as prepared food are not exempt.

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter:

1. Drugs dispensed according to an individual prescription or prescriptions.

2. Mobility-enhancing equipment or prosthetic devices ~~any medical products and supplies or medicine~~ dispensed according to an individual prescription or prescriptions or durable medical

equipment. ~~written by a prescriber authorized by law to prescribe medicinal drugs;~~

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

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

5. Over-the-counter drugs ~~and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings~~, but not including grooming and hygiene products.

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

7. Funerals. However, tangible personal property used by funeral directors in their business is taxable. ~~cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. In addition, any~~

8. Items intended for one-time use which transfer essential optical characteristics to contact lenses. ~~shall be exempt from the tax imposed by this chapter;~~ However, this exemption applies ~~shall apply only~~ after $100,000 of the tax imposed by this chapter on such items has been paid in any calendar year by a

taxpayer who claims the exemption in such year. ~~Funeral directors shall pay tax on all tangible personal property used by them in their business.~~

(b) For the purposes of this subsection, the term:

1. "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, and alcoholic beverages, which is:

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

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

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

2. "Durable medical equipment" means equipment, including repair and replacement parts to such equipment, but excluding mobility-enhancing equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn on or in the body.

3. "Mobility-enhancing equipment" means equipment, including repair and replacement parts to such equipment, but excluding durable medical equipment, which:

a. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use in a home or a motor vehicle.

b. Is not generally used by persons with normal mobility.

c. Does not include any motor vehicle or any equipment on a

motor vehicle normally provided by a motor vehicle manufacturer.

4. "Prosthetic device" means a replacement, corrective, or supportive device, including repair or replacement parts to such equipment, which is worn on or in the body to:

a. Artificially replace a missing portion of the body;

b. Prevent or correct physical deformity or malfunction; or

c. Support a weak or deformed portion of the body.

5. "Grooming and hygiene products" mean soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of an over-the-counter drug.

6. "Over-the-counter drug" means a drug provided in packaging that contains a label that identifies the product as a drug as required by 21 C.F.R. s. 201.66. An over-the-counter drug label includes a drug-facts panel or a statement of the active ingredients and a list of the ingredients contained in the compound, substance, or preparation. ~~"Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, or according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.~~

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

~~3. "Toilet articles" means any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.~~

7.~~4.~~ "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466. The term includes an orally transmitted order by the lawfully designated agent of the practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense the order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. ~~includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order~~

~~by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term also includes a pharmacist's order for a product selected from the formulary created pursuant to s. 465.186. A prescription may be retained in written form, or the pharmacist may cause it to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.~~

(c) Chlorine is ~~shall~~ not ~~be~~ exempt from the tax imposed by this chapter when used for the treatment of water in swimming pools.

~~(d) Lithotripters are exempt.~~

(d) ~~(e)~~ Human organs are exempt.

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

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

~~(h) The purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed~~

~~veterinarian, and which are applied to or consumed by animals for alleviation of pain or the cure or prevention of sickness, disease, or suffering are exempt. Also exempt are the purchase by a veterinarian of antiseptics, absorbent cotton, gauze for bandages, lotions, vitamins, and worm remedies.~~

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

(e) ~~(j)~~ Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property so that a handicapped person can use them are exempt when such items are purchased by a person pursuant to an individual prescription.

(f) ~~(k)~~ This subsection shall be strictly construed and enforced.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) *Building materials used in the rehabilitation of real property located in an enterprise zone.*—

1. Building materials used in the rehabilitation of real property located in an enterprise zone are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor at the time the real property is rehabilitated, but only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated

real property must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable. A single application for a refund may be submitted for multiple, contiguous parcels that were part of a single parcel that was divided as part of the rehabilitation of the property. All other requirements of this paragraph apply to each parcel on an individual basis. The application must include:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of a valid building permit issued by the county or municipal building department for the rehabilitation of the real property.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to rehabilitate the real property, which lists the building materials used to rehabilitate the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. If a general contractor was not used, the applicant, not a general contractor, shall make the sworn statement required by this sub-subparagraph. Copies of the invoices which ~~that~~ evidence the purchase of the building materials used in the rehabilitation and the payment of

sales tax on the building materials must be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes is documented by a general contractor or by the applicant in this manner, the cost of the building materials is deemed to be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to rehabilitate the real property are substantially completed.

h. A statement of whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a municipality, county, other governmental unit or agency, or nonprofit community-based organization through a refund of previously paid taxes if the building materials used in the rehabilitation are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund, a municipality, county, other governmental unit or agency, or nonprofit community-based

organization must file an application that includes the same information required in subparagraph 1. In addition, the application must include a sworn statement signed by the chief executive officer of the municipality, county, other governmental unit or agency, or nonprofit community-based organization seeking a refund which states that the building materials for which a refund is sought were funded by a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required by subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the required information and are eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business <u>that applies for the exemption</u> are residents of an enterprise zone, excluding temporary and part-time employees. The certification must be in writing, and a copy of the certification shall be transmitted to the executive director of the department. The applicant is responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector or by November 1 after the rehabilitated property is first subject to assessment.

5. Only one exemption through a refund of previously paid taxes for the rehabilitation of real property is permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. Only one exemption through a refund of previously paid taxes for the rehabilitation of real property is permitted for any single building. A refund may not be granted unless the amount to be refunded exceeds $500. A refund may not exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if at least 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund may not exceed the lesser of 97 percent of the sales tax paid on the cost of the building materials or $10,000. A refund shall be made within 30 days after formal approval by the department of the application for the refund.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this

paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of improvements to real property.

b. "Full-time employee" means a person who performs duties in connection with the operations of an eligible business on a regular, full-time basis for an average of at least 36 hours per week each month throughout the year.

c.~~b.~~ "Real property" has the same meaning as provided in s. 192.001(12), except that the term does not include a condominium parcel or condominium property as defined in s. 718.103.

d.~~c.~~ "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

e.~~d.~~ "Substantially completed" has the same meaning as provided in s. 192.042(1).

f. "Temporary employee" means an employee who has been employed by an eligible business for less than 3 months on the date of the application for the exemption provided in this paragraph, or who is employed only for a limited time.

9. This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(14) HOURLY, DAILY, OR MILEAGE CHARGES; HIGH-VOLTAGE TRANSMISSION FACILITY.—The following are exempt from the taxes imposed by this chapter:

(a) The hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, if such charges are paid by reason of the presence of railroad cars owned by another company on the tracks of the taxpayer, or such charges are made

pursuant to car service agreements.

(b) The payments made to an owner of a high-voltage bulk transmission facility in connection with the possession or control of such facility by a regional transmission organization, independent system operator, or similar entity under the jurisdiction of the Federal Energy Regulatory Commission. However, if two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved. ~~TECHNICAL ASSISTANCE ADVISORY COMMITTEE.—The department shall establish a technical assistance advisory committee with public and private sector members, including representatives of both manufacturers and retailers, to advise the Department of Revenue and the Department of Health in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines that are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.~~

(17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

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

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

Section 14. Section 212.094, Florida Statutes, is created to read:

212.094 Purchaser requests for refunds from dealers.—

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

(2) The purchaser may not take any other action against the dealer with respect to the requested refund or credit until 60 days after the dealer's receipt of a completed request.

(3) This section does not affect a person's standing to claim a refund.

(4) This section does not apply to refunds resulting from merchandise returned by a customer to a dealer.

Section 15. Section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; ~~brackets applicable to taxable transactions;~~

records required.—

(1)(a) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter ~~(except dealers who make mail order sales)~~ shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax and making of tax returns in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, no allowance shall be allowed for all amounts in excess of $1,200. ~~The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with~~

~~a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.~~

(b) ~~(a)~~ The Department of Revenue may deny the collection allowance if a taxpayer files an incomplete return or if the required tax return or tax is delinquent at the time of payment.

1. An "incomplete return" is, for purposes of this chapter, a return that ~~which~~ is lacking such uniformity, completeness, and arrangement that the physical handling, verification, review of the return, or determination of other taxes and fees reported on the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, reported, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. Sales made through

vending machines as defined in s. 212.0515 must be separately shown on the return. Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(c) ~~(b)~~ The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

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

not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

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

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

Notwithstanding any provision of chapter 120 to the contrary, the Department of Revenue may adopt rules to carry out the amendment made by chapter 2006-52, Laws of Florida, to this section.

(e)1. In lieu of the collection allowance provided in paragraph (a), the executive director of the department shall establish a monetary collection allowance for a person who qualifies as a certified service provider.

2. The executive director of the department shall establish collection allowance amounts for certified service providers. The collection allowance must be based upon a base percentage calculation, the estimated costs of collection, the state's ability to reduce the allowance over time, and other criteria that will achieve the highest percentage of tax collections to

be remitted. However, a collection allowance amount may not exceed 10 percent of the tax remitted for a reporting period. All monetary allowances must be in the form of collection allowances.

(2)(a) When any person required hereunder to make any return or to pay any tax or fee imposed by this chapter either fails to timely file such return or fails to pay the tax or fee shown due on the return within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of 10 percent of either the tax or fee shown on the return that is not timely filed or any tax or fee not paid timely. The penalty may not be less than $50 for failure to timely file a tax return required by s. 212.11(1) or timely pay the tax or fee shown due on the return except as provided in s. 213.21(10). If a person fails to timely file a return required by s. 212.11(1) and to timely pay the tax or fee shown due on the return, only one penalty of 10 percent, which may not be less than $50, shall be imposed.

(b) When any person required under this section to make a return or to pay a tax or fee imposed by this chapter fails to disclose the tax or fee on the return within the time required, excluding a noncompliant filing event generated by situations covered in paragraph (a), in addition to all other penalties provided in this section and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the additional tax or fee owed in the amount of 10 percent of any such unpaid tax or fee not paid timely if the failure is for

not more than 30 days, with an additional 10 percent of any such unpaid tax or fee for each additional 30 days, or fraction thereof, while the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee.

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

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

alerting the person of the requirement to register the person's business as a dealer or to collect tax on specific transactions shall not apply if the person timely files a written challenge to such notice in accordance with procedures established by the department by rule or the notice fails to clearly advise that failure to comply with or timely challenge the notice will result in the imposition of the civil and criminal penalties imposed herein.

1. If the total amount of unreported or uncollected taxes or fees is less than $300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.

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

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

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

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

percent of the tax, surcharge, or fee, and commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

(3) When any dealer, or other person charged herein, fails to remit the tax, or any portion thereof, on or before the day when such tax is required by law to be paid, there shall be added to the amount due interest at the rate of 1 percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due, except as otherwise provided in this chapter.

(4) All penalties and interest imposed by this chapter

shall be payable to and collectible by the department in the same manner as if they were a part of the tax imposed. The department may settle or compromise any such interest or penalties pursuant to s. 213.21.

(5)(a) The department is authorized to audit or inspect the records and accounts of dealers defined herein~~, including audits or inspections of dealers who make mail order sales to the extent permitted by another state,~~ and to correct by credit any overpayment of tax, and, in the event of a deficiency, an assessment shall be made and collected. No administrative finding of fact is necessary prior to the assessment of any tax deficiency.

(b) In the event any dealer or other person charged herein fails or refuses to make his or her records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this chapter, makes a grossly incorrect report or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state, or of the sales or cost price of all services the sale or use of which is taxable under this chapter, together with interest,

plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

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

(b) For the purpose of this subsection, if a dealer does not have adequate records of his or her retail sales or purchases, the department may, upon the basis of a test or sampling of the dealer’s available records or other information relating to the sales or purchases made by such dealer for a

representative period, determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. This subsection does not affect the duty of the dealer to collect, or the liability of any consumer to pay, any tax imposed by or pursuant to this chapter.

(c)1. If the records of a dealer are adequate but voluminous in nature and substance, the department may sample such records and project the audit findings derived therefrom over the entire audit period to determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. In order to conduct such a sample, the department must first make a good faith effort to reach an agreement with the dealer, which agreement provides for the means and methods to be used in the sampling process. In the event that no agreement is reached, the dealer is entitled to a review by the executive director. In the case of fixed assets, a dealer may agree in writing with the department for adequate but voluminous records to be statistically sampled. Such an agreement shall provide for the methodology to be used in the statistical sampling process. The audit findings derived therefrom shall be projected over the period represented by the sample in order to determine the proportion that taxable purchases bear to total purchases. Once an agreement has been signed, it is final and conclusive with respect to the method of sampling fixed assets, and the department may not conduct a detailed audit of fixed assets, and the taxpayer may not request a detailed audit after the agreement is reached.

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

3.a. A taxpayer is entitled, both in connection with an audit and in connection with an application for refund filed independently of any audit, to establish the amount of any refund or deficiency through statistical sampling when the taxpayer's records are adequate but voluminous. In the case of fixed assets, a dealer may agree in writing with the department for adequate but voluminous records to be statistically sampled. Such an agreement shall provide for the methodology to be used in the statistical sampling process. The audit findings derived therefrom shall be projected over the period represented by the sample in order to determine the proportion that taxable purchases bear to total purchases. Once an agreement has been signed, it is final and conclusive with respect to the method of sampling fixed assets, and the department may not conduct a detailed audit of fixed assets, and the taxpayer may not request a detailed audit after the agreement is reached.

b. Alternatively, a taxpayer is entitled to establish any refund or deficiency through any other sampling method agreed

upon by the taxpayer and the department when the taxpayer's records, other than those regarding fixed assets, are adequate but voluminous. Whether done through statistical sampling or any other sampling method agreed upon by the taxpayer and the department, the completed sample must reflect both overpayments and underpayments of taxes due. The sample shall be conducted through:

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

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

(III) A sampling method that has been submitted by the taxpayer and approved by the department before a refund claim is submitted. This sub-sub-subparagraph does not prohibit a taxpayer from filing a refund claim prior to approval by the department of the sampling method; however, a refund claim submitted before the sampling method has been approved by the department cannot be a complete refund application pursuant to s. 213.255 until the sampling method has been approved by the department.

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

for approval by the department.

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

(8) In the case of the lease or rental of tangible personal property, or other rentals or license fees as herein defined and taxed, if the consideration given or reported by the lessor, person receiving rental or license fee, or dealer does not, in the judgment of the department, represent the true or actual consideration, then the department is authorized to ascertain the same and assess and collect the tax thereon in the same manner as above provided, with respect to imported tangible property, together with interest, plus penalties, if such have accrued.

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, communication services, and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are

purchased, sold, or leased at any one time by or to a customer or buyer; the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his or her gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. In computing the tax due or to be collected as the result of any transaction, the dealer may elect to compute the tax due on a transaction on a per-item basis or on an invoice basis, consistent with the definition of the term "sales price." The tax rate shall be the sum of the applicable state and local rates, if any, and the tax computation shall be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded to the next whole cent. ~~The department shall make available in an electronic format or otherwise the tax amounts and the following brackets applicable to all transactions taxable at the rate of 6 percent:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(11) The department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to transactions taxable at 7 percent pursuant to s. 212.05(1)(e) and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.~~

(10)~~(12)~~ The Legislature intends ~~It is hereby declared to be the legislative intent~~ that, whenever in the construction, administration, or enforcement of this chapter there may be any question respecting a duplication of the tax, the end consumer, or the last retail sale, is ~~be~~ the sale intended to be taxed and insofar as may be practicable there be no duplication or pyramiding of the tax.

(11)~~(13)~~ In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners; property managers; lessors; landlords; hotel, apartment house, and roominghouse operators; and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction that ~~which~~ is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records as long as required by s. 213.35, subject to the inspection of the department and its agents. Upon the failure by such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; receiver of rent or license fees; or real estate agent commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense; for subsequent offenses, ~~they are~~ each is ~~guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state

of any tax revenues, such subsequent offense is ~~shall be~~ a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

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

Section 16. Subsection (1) of section 212.15, Florida Statutes, is amended to read:

212.15 Taxes declared state funds; penalties for failure to remit taxes; due and delinquent dates; judicial review.—

(1) The taxes imposed by this chapter shall~~, except as provided in s. 212.06(5)(a)2.c.,~~ become state funds at the moment of collection and shall for each month be due to the department on the first day of the succeeding month and be delinquent on the 21st day of such month. All returns postmarked after the 20th day of such month are delinquent.

Section 17. Subsection (3) of section 212.17, Florida

Statutes, is amended to read:

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

(3) A dealer who has remitted ~~paid~~ the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for ~~any~~ tax remitted ~~paid~~ by the dealer on the unpaid balance due on bad debts ~~worthless accounts~~ within 12 months following the month in which the bad debt was ~~has been~~ charged off as uncollectable in the dealer's books and records and was eligible to be deducted for federal income tax purposes. A credit or refund based on a bad debt may not include finance charges or interest, sales tax, uncollectible amounts on property that remain in the possession of the selling dealer, expenses incurred in collection efforts, or any amounts relating to repossessed property.

(a) A dealer who is taking a credit against or obtaining a refund on worthless accounts shall calculate the amount of the deduction pursuant to 26 U.S.C. s. 166.

(b) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is charged off, a refund claim must be filed, notwithstanding s. 215.26(2), within the period prescribed in this subsection.

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

(d) If filing responsibilities have been assumed by a certified service provider, the certified service provider shall

claim, on behalf of the dealer, any bad-debt allowance provided by this subsection. The certified service provider shall credit or refund to the dealer the full amount of any bad-debt allowance or refund received.

(e) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall first be applied proportionally to the taxable price of the property or service and the sales tax on such property, and second to any interest, service charges, and any other charges.

(f) In situations in which the books and records of the dealer or certified service provider making the claim for a bad-debt allowance support an allocation of the bad debts among states, the department may permit the allocation among states.

Section 18. Paragraphs (a) and (e) of subsection (3) of section 212.18, Florida Statutes, are amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and

their residences, the address of the business, and such other data as the department may reasonably require. However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it must be accompanied by a registration fee of $5. ~~However, a registration fee is not required to accompany an application to engage in or conduct business to make mail order sales.~~ The department may waive the registration fee for applications submitted through the department's Internet registration process or the multistate electronic registration system.

(e) As used in this paragraph, the term "exhibitor" means a person who enters into an agreement authorizing the display of tangible personal property or services at a convention or a trade show. The following provisions apply to the registration of exhibitors as dealers under this chapter:

1. An exhibitor whose agreement prohibits the sale of tangible personal property or services subject to the tax imposed in this chapter is not required to register as a dealer.

2. An exhibitor whose agreement provides for the sale at wholesale only of tangible personal property or services subject

to the tax imposed in this chapter must obtain a resale certificate from the purchasing dealer but is not required to register as a dealer.

3. An exhibitor whose agreement authorizes the retail sale of tangible personal property or services subject to the tax imposed in this chapter must register as a dealer and collect the tax imposed under this chapter on such sales.

~~4. Any exhibitor who makes a mail order sale pursuant to s. 212.0596 must register as a dealer.~~

Any person who conducts a convention or a trade show must make their exhibitor's agreements available to the department for inspection and copying.

Section 19. Section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(1) The department shall pay over to the Chief Financial Officer of the state all funds received and collected by it under the provisions of this chapter, to be credited to the account of the General Revenue Fund of the state.

(2) The department is authorized to employ all necessary assistants to administer this chapter properly and is also authorized to purchase all necessary supplies and equipment ~~which may be~~ required for this purpose.

(3) The estimated amount of money needed for the administration of this chapter shall be included by the department in its annual legislative budget request for the

operation of its office.

~~(4) When there has been a final adjudication that any tax pursuant to s. 212.0596 was levied, collected, or both, contrary to the Constitution of the United States or the State Constitution, the department shall, in accordance with rules, determine, based upon claims for refund and other evidence and information, who paid such tax or taxes, and refund to each such person the amount of tax paid. For purposes of this subsection, a "final adjudication" is a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.~~

(4)~~(5)~~ For the purposes of this section, the term:

(a) "Proceeds" means all tax or fee revenue collected or received by the department, including interest and penalties.

(b) "Reallocate" means reduction of the accounts of initial deposit and redeposit into the indicated account.

(5)~~(6)~~ Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(c) Proceeds from the fees imposed under ss. 212.05(1)(h)3. and 212.18(3) shall remain with the General Revenue Fund.

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)

and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to

be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or

relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism,

Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

7. All other proceeds must remain in the General Revenue Fund.

Section 20. Section 213.052, Florida Statutes, is created to read:

213.052 Notice of state sales and use tax rate changes.—

(1) A sales or use tax rate change imposed under chapter 212 is effective on January 1, April 1, July 1, or October 1. The Department of Revenue shall provide notice of the rate change to all affected dealers at least 60 days before the effective date of the rate change. In addition to other methods, the department may use telephone, electronic mail, facsimile, or other electronic means to provide notice.

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

Section 21. Section 213.0521, Florida Statutes, is created to read:

213.0521 Effective date of state sales and use tax rate changes.—The effective date for services covering a period starting before and ending after the statutory effective date is as follows:

(1) For a rate increase, the new rate applies to the first

billing period starting on or after the effective date.

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

Section 22. Section 213.215, Florida Statutes, is created to read:

213.215 Sales and use tax amnesty upon registration in accordance with Streamlined Sales and Use Tax Agreement.—

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

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

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

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

(5) The amnesty is fully effective, absent the seller's

fraud or intentional misrepresentation of a material fact, as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for at least 36 months.

(6) The amnesty applies only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a purchaser.

Section 23. Subsections (1) and (2) of section 213.256, Florida Statutes, are amended to read:

213.256 Simplified Sales and Use Tax Administration Act.—

(1) As used in this section and s. 213.2567, the term:

(a) "Agent" means, for purposes of carrying out the responsibilities placed on a dealer, a person appointed by the dealer to represent the dealer before the department.

~~"Department" means the Department of Revenue.~~

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

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

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

(e) "Dealer" means any person making sales, leases, or

rentals of personal property or services.

(f) "Department" means the Department of Revenue.

(g) "Governing board" means the governing board overseeing an agreement with other states to conform the sales and use tax laws of this state to the terms of the agreement.

(h)1. "Model 1 seller" means a dealer who has selected a certified service provider as the dealer's agent to perform all of the dealer's sales and use tax functions other than the dealer's obligation to remit tax on the dealer's purchases.

2. "Model 2 seller" means a dealer who has selected a certified automated system to perform part of the dealer's sales and use tax functions, but retains responsibility for remitting the tax.

3. "Model 3 seller" means a dealer who has sales in at least five member states, has total annual sales revenue of at least $500 million, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states which establishes a tax performance standard for the dealer. As used in this subparagraph, a dealer includes an affiliated group of dealers using the same proprietary system.

4. "Model 4 seller" means a dealer who is registered under the agreement and is not a model 1, model 2, or model 3 seller.

(i) ~~(c)~~ "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(j) "Registered under this agreement" means registration by a dealer with the member states under the central registration system.

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

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

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

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

(2)(a) The executive director of the department is authorized to ~~shall~~ enter into the agreement ~~the Streamlined Sales and Use Tax Agreement~~ with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all dealers ~~sellers~~ and for all types of commerce. In furtherance of the agreement, the executive director of the department or his or her designee shall act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated systems ~~system~~ and central registration systems ~~establish performance standards for multistate sellers~~.

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

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

(d) The executive director of the department or his or her designee is authorized to prepare and submit from time to time

reports and certifications that are determined necessary according to the terms of an agreement and to enter into other agreements with the governing board, member states, and service providers which the executive director determines will facilitate the administration of the tax laws of this state.

Section 24. Section 213.2562, Florida Statutes, is created to read:

213.2562 Approval of software to calculate tax.—The department shall review software submitted to the governing board for certification as an automated system. If the software accurately reflects the taxability of product categories included in the program, the department shall certify the approval of the software to the governing board.

Section 25. Section 213.2567, Florida Statutes, is created to read:

213.2567 Simplified sales and use tax registration; certification; liability; and audit.—

(1) A dealer who registers under the agreement agrees to collect and remit sales and use taxes for all taxable sales into the member states, including member states joining after the dealer's registration. Withdrawal or revocation of this state does not relieve a dealer of its responsibility to remit taxes previously or subsequently collected on behalf of the state.

(a) When registering, the dealer may select a model 1, model 2, or model 3 method of remittance or another method allowed by state law to remit the taxes collected.

(b) A model 2, model 3, or model 4 seller may register in this state as a seller that does not anticipate having any sales in this state if the seller did not have any sales in this state

within the 12 months preceding registration. However, the seller retains the obligation to collect and remit sales and use tax on any sale made into this state.

(c) A dealer may be registered by an agent. This registration must be in writing and submitted to a member state.

(2)(a) A model 1 seller is liable for any sales and use tax, penalty, and interest due this state. A certified service provider is the agent of a model 1 seller with whom the certified service provider has contracted for the collection and remittance of sales and use taxes. As the model 1 seller's agent, the certified service provider is jointly and severally liable with the model 1 seller for sales and use tax, penalty, and interest due this state on all sales transactions it processes for the model 1 seller.

(b) A member state may audit model 1 sellers and certified service providers pursuant to this chapter and chapter 212. Member states may jointly audit certified service providers.

(3) A model 2 seller that uses a certified automated system remains responsible and is liable to this state for reporting and remitting tax. However, a model 2 seller is not responsible for errors in reliance on a certified automated system.

(4) A model 3 seller is liable for the failure of the proprietary system to meet the performance standard.

(5) A person who provides a certified automated system is not liable for errors contained in software that was approved by the department and certified to the governing board. However, such person is:

(a) Responsible for the proper functioning of that system;

(b) Liable to this state for underpayments of tax

attributable to errors in the functioning of the certified automated system; and

(c) Liable for the misclassification of an item or transaction that is not corrected within 10 days following the receipt of notice from the department.

(6) The executive director of the department, or his or her designee, may certify a person as a certified service provider if the person:

(a) Uses a certified automated system;

(b) Integrates its certified automated system with the system of a dealer for whom the person collects tax so that the tax due on a sale is determined at the time of the sale;

(c) Agrees to remit the taxes it collects at the time and in the manner specified by chapter 212;

(d) Agrees to file returns on behalf of the dealers for whom the person collects tax;

(e) Agrees to protect the privacy of tax information the person obtains in accordance with s. 213.053; and

(f) Enters into a written agreement with the department concerning the disclosure of information and agrees to comply with the terms of the written agreement.

(7) The department shall review software submitted to the governing board for certification as a certified automated system. The executive director of the department shall certify the approval of the software to the governing board if the software:

(a) Determines the applicable state and local sales and use tax rate for a transaction in accordance with s. 212.06(3) and (4);

(b) Correctly determines whether an item is exempt from tax;

(c) Correctly determines the amount of tax to be remitted for each taxpayer for a reporting period; and

(d) Can generate reports and returns as required by the governing board.

(8) The department may by rule establish one or more sales tax performance standards for model 3 sellers.

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

Section 26. The executive director of the Department of Revenue may adopt emergency rules to implement this act. Notwithstanding any other law, the emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

Section 27. The President of the Senate and the Speaker of the House of Representatives shall create a joint select committee to study alternatives for the modernization, simplification, and streamlining of the various taxes in this state, including, but not limited to, issues such as further simplification of the communications services tax. The committee shall also study how sales and use tax exemptions may be used to

encourage economic development and how this state's corporate income tax may be revised to ensure fairness to all businesses.

Section 28. Paragraph (a) of subsection (5) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

(a) The Legislative Auditing Committee shall direct the Auditor General to make an audit of any municipality whenever petitioned to do so by at least 20 percent of the registered electors in the last general election of that municipality pursuant to this subsection. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the registered electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Section 29. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the

following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose that ~~which~~ could properly be performed or served by an appropriate governmental unit or that ~~which~~ is demonstrated to perform a function or serve a purpose that ~~which~~ would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan that ~~which~~ has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full-service, fixed-base ~~full service fixed base~~ operation that ~~which~~ provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity that ~~which~~ serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as

defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02 ~~s. 212.02(22)~~. Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee"

as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full-service, fixed-base ~~full service fixed based~~ operation that ~~which~~ provides goods and services to the general aviation public in the promotion of air commerce, provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements that ~~which~~ will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02 ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

Section 30. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 202.18, Florida Statutes, are amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under

this chapter shall be treated as follows:

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

(b) The remaining portion shall be distributed according to s. 212.20(5) ~~s. 212.20(6)~~.

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

(b) Sixty-three percent of the remainder shall be allocated to the state and distributed pursuant to s. 212.20(5)(d)2. ~~s. 212.20(6)~~, except that the proceeds allocated pursuant to s. 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).

Section 31. Paragraphs (f), (g), (h), and (i) of subsection (1) of section 203.01, Florida Statutes, are amended to read:

203.01 Tax on gross receipts for utility and communications services.—

(1)

(f) Any person who imports into this state electricity, natural gas, or manufactured gas, or severs natural gas, for that person's own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under this chapter and who cannot demonstrate payment of the tax imposed by this chapter must register with the Department of Revenue and pay into the State Treasury each month an amount equal to the cost price of such electricity, natural gas, or manufactured gas times the rate set forth in paragraph (b), reduced by the amount of any like tax lawfully imposed on and

paid by the person from whom the electricity, natural gas, or manufactured gas was purchased or any person who provided delivery service or transportation service in connection with the electricity, natural gas, or manufactured gas. For purposes of this paragraph, the term "cost price" has the meaning ascribed in s. 212.02 ~~s. 212.02(4)~~. The methods of demonstrating proof of payment and the amount of such reductions in tax shall be made according to rules of the Department of Revenue.

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

(h) Electricity produced by cogeneration or by small power producers during the 12-month period ending June 30 of each year which is in excess of nontaxable electricity produced during the 12-month period ending June 30, 1990, is subject to the tax imposed by this section. The tax shall be applied to the cost price of such electricity as provided in s. 212.02 ~~s. 212.02(4)~~ and shall be paid each month, beginning with the month in which total production exceeds the production of nontaxable electricity for the 12-month period ending June 30, 1990. For purposes of this paragraph, "nontaxable electricity" means electricity produced by cogeneration or by small power producers which is not subject to tax under paragraph (g). Taxes paid pursuant to paragraph (g) may be credited against taxes due under this paragraph. Electricity generated as part of an

industrial manufacturing process that ~~which~~ manufactures products from phosphate rock, raw wood fiber, paper, citrus, or any agricultural product shall not be subject to the tax imposed by this paragraph. "Industrial manufacturing process" means the entire process conducted at the location where the process takes place.

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

Section 32. Subsection (1) of section 212.052, Florida Statutes, is amended to read:

212.052 Research or development costs; exemption.—

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

(a) The term "research or development" means research that ~~which~~ has one of the following as its ultimate goal:

1. Basic research in a scientific field of endeavor.

2. Advancing knowledge or technology in a scientific or technical field of endeavor.

3. The development of a new product, whether or not the new product is offered for sale.

4. The improvement of an existing product, whether or not the improved product is offered for sale.

5. The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product.

6. The design and development of prototypes, whether or not a resulting product is offered for sale.

The term "research or development" does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar nontechnical activities.

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

(c) The term "product" means any item, device, technique, prototype, invention, or process that ~~which~~ is, was, or may be commercially exploitable.

Section 33. Subsection (3) of section 212.13, Florida Statutes, is amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property or services licensed within this state is required to permit the department to examine his or her books and records at all reasonable hours, and, upon his or her refusal, the department may require him or her to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such

person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state. When the dealer has made an allocation or attribution pursuant to the definition of sales price in s. 212.02 ~~s. 212.02(16)~~, the department may prescribe by rule the books and records that must be made available during an audit of the dealer's books and records and examples of methods for determining the reasonableness thereof. Books and records kept in the regular course of business include, but are not limited to, general ledgers, price lists, cost records, customer billings, billing system reports, tariffs, and other regulatory filings and rules of regulatory authorities. Such record may be required to be made available to the department in an electronic format when so kept by the dealer. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state. During an audit, the department may reasonably require production of any additional books and records found necessary to assist in its determination.

Section 34. Section 212.081, Florida Statutes, is amended to read:

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

(1) To aid in the enforcement of this chapter by recognizing the effect of court rulings involving such enforcement and to incorporate herein substantial rulings of the department which have been recognized as necessary to supplement

the interpretation of some of the terms used in this section.

(2) To arrange the exemptions allowed in this section in more orderly categories thereby eliminating some of the confusion attendant upon the present arrangement where cross-exemptions frequently occur.

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

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

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

Section 35. Subsection (3) of section 218.245, Florida Statutes, is amended to read:

218.245 Revenue sharing; apportionment.—

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of Florida, shall be distributed to each eligible municipality and any unit of local government that is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments. However, for the purpose of calculating this distribution, the amount received from the half-cent sales tax under s. 218.61 in the prior state fiscal year by a unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as amended, and as preserved by s. 6(e), Art. VIII, of the Constitution as revised in 1968, shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Section 36. Subsections (5), (6), and (7) of section

218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year ordinary distributions to the county pursuant to ss. 212.20(5)(d)2., 218.61, and 218.62 ~~ss. 212.20(6)(d)2., 218.61, and 218.62~~. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~, excluding moneys appropriated for supplemental distributions pursuant to subsection (8), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount, less any amounts distributed under subsection (6), shall be distributed equally on a per capita basis among the eligible counties.

(6) If moneys deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ exceed the amount necessary to provide the base allocation to each eligible county, the moneys in the trust fund may be used to provide a transitional distribution, as specified in this subsection, to certain counties whose population has increased. The transitional distribution shall be made available to each county that qualified for a distribution under subsection (2) in the prior year but does not, because of the

requirements of paragraph (2)(a), qualify for a distribution in the current year. Beginning on July 1 of the year following the year in which the county no longer qualifies for a distribution under subsection (2), the county shall receive two-thirds of the amount received in the prior year, and beginning July 1 of the second year following the year in which the county no longer qualifies for a distribution under subsection (2), the county shall receive one-third of the amount it received in the last year it qualified for the distribution under subsection (2). If insufficient moneys are available in the Local Government Half-cent Sales Tax Clearing Trust Fund to fully provide such a transitional distribution to each county that meets the eligibility criteria in this section, each eligible county shall receive a share of the available moneys proportional to the amount it would have received had moneys been sufficient to fully provide such a transitional distribution to each eligible county.

(7) There is hereby annually appropriated from the Local Government Half-cent Sales Tax Clearing Trust Fund the distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to be used for emergency and supplemental distributions pursuant to this section.

Section 37. Paragraph (s) of subsection (1) of section 288.1045, Florida Statutes, is amended to read:

288.1045 Qualified defense contractor and space flight business tax refund program.—

(1) DEFINITIONS.—As used in this section:

(s) "Space flight business" means the manufacturing, processing, or assembly of space flight technology products,

space flight facilities, space flight propulsion systems, or space vehicles, satellites, or stations of any kind possessing the capability for space flight, as defined by s. 212.02 ~~s. 212.02(23)~~, or components thereof, and includes, in supporting space flight, vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related to such activities. The term does not include products that are designed or manufactured for general commercial aviation or other uses even if those products may also serve an incidental use in space flight applications.

Section 38. Paragraphs (a) and (d) of subsection (3) of section 288.11621, Florida Statutes, are amended to read:

288.11621 Spring training baseball franchises.—

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

1. Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

3. Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

(d)1. All certified applicants must place unexpended state funds received pursuant to s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the Department of Revenue suspend further distributions of state funds made available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified before July 1, 2010, must begin within 48 months after the initial receipt of the state funds. In addition, the construction of, or capital improvements to, a spring training facility must be completed within 24 months after the project's commencement.

Section 39. Subsection (6) of section 288.1169, Florida Statutes, is amended to read:

288.1169 International Game Fish Association World Center facility.—

(6) The Department of Commerce must recertify every 10 years that the facility is open, that the International Game Fish Association World Center continues to be the only international administrative headquarters, fishing museum, and Hall of Fame in the United States recognized by the International Game Fish Association, and that the project is meeting the minimum projections for attendance or sales tax revenues as required at the time of original certification. If

the facility is not recertified during this 10-year review as meeting the minimum projections, then funding shall be abated until certification criteria are met. If the project fails to generate $1 million of annual revenues pursuant to paragraph (2)(e), the distribution of revenues pursuant to s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.d.~~ shall be reduced to an amount equal to $83,333 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is $1 million. Such reduction remains in effect until revenues generated by the project in a 12-month period equal or exceed $1 million.

Section 40. Subsection (8) of section 551.102, Florida Statutes, is amended to read:

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

(8) "Slot machine" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment

necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02 ~~s. 212.02(24)~~ or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 41. Paragraph (a) of subsection (1) of section 790.0655, Florida Statutes, is amended to read:

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.—

(1)(a) There shall be a mandatory ~~3-day~~ waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02 ~~s. 212.02(13)~~.

Section 42. Section 212.0596, Florida Statutes, is repealed.

Section 43. This act shall take effect January 1, 2012.