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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 500 and 501
insert:

Section 8. Paragraph (a) of subsection (2) of section
213.756, Florida Statutes, is amended to read:

213.756 Funds collected are state tax funds.—

(2) (a) In any action by a purchaser against a retailer,
dealer, or vendor to obtain a refund of or to otherwise recover
taxes, fees, or surcharges collected by the retailer, dealer, or
vendor from the purchaser:

1. The purchaser ~~in the action~~ has the burden of proving
all elements of its claim ~~for a refund~~ by clear and convincing



14 evidence;

15 2. The purchaser's sole remedy ~~in the action~~ is damages
16 measured by the difference between what the retailer, dealer, or
17 vendor collected as a tax, fee, or surcharge and what the
18 retailer, dealer, or vendor paid to the taxing authority, plus
19 any discount or collection allowance authorized by law and taken
20 by the retailer, dealer, or vendor; ~~and~~

21 3. It is an affirmative defense to the action if ~~when~~ the
22 retailer, dealer, or vendor remitted the amount collected from
23 the purchaser to the appropriate taxing authority, less any
24 discount or collection allowance authorized by law; ~~and~~.

25 4. It is an absolute defense to any claim if the retailer,
26 dealer, or vendor collected the amount pursuant to an agreement
27 with the Department of Revenue and remitted the amount collected
28 from the purchaser to the appropriate taxing authority, less any
29 discount or collection allowance authorized by law.

30

31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 37

34 and insert:

35 Contraband Forfeiture Act; amending s. 213.756, F.S.;
36 providing an absolute defense by a retailer against a
37 purchaser's claim for a refund; amending s. 220.153,
38 F.S.;