

By the Committees on Budget Subcommittee on Finance and Tax; and
Budget Subcommittee on Finance and Tax

593-02256-12

20121304c1

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 212.03, F.S.; providing that charges for the storage
4 of towed vehicles are taxable, unless the vehicles are
5 impounded by a local, state, or federal law
6 enforcement agency; amending s. 212.07, F.S.;;
7 conforming a cross-reference to changes made by the
8 act; subjecting a dealer to monetary and criminal
9 penalties for the willful failure to collect certain
10 taxes or fees after notice of the duty to collect the
11 taxes or fees by the Department of Revenue; amending
12 s. 212.12, F.S.; deleting provisions relating to the
13 imposition of criminal penalties after notice by the
14 Department of Revenue of requirements to register as a
15 dealer or to collect taxes; making technical and
16 grammatical changes to provisions specifying penalties
17 for making a false or fraudulent return with the
18 intent to evade payment of a tax or fee; amending s.
19 212.14, F.S.; defining the term "person"; authorizing
20 the Department of Revenue to adopt rules relating to
21 requirements for a person to deposit cash, a bond, or
22 other security with the department in order to ensure
23 compliance with sales tax laws; making technical and
24 grammatical changes; amending s. 212.18, F.S.;;
25 subjecting a person to criminal penalties for
26 willfully failing to register as a dealer after notice
27 of the duty to register by the Department of Revenue;
28 making technical and grammatical changes; amending s.
29 213.13, F.S.; revising the due date for funds

593-02256-12

20121304c1

30 collected by the clerks of court to be transmitted to
31 the Department of Revenue; creating s. 213.295, F.S.;
32 providing definitions; subjecting a person to criminal
33 penalties and monetary penalties for knowingly selling
34 an automated sales suppression device, zapper, or
35 phantom-ware; defining sales suppression devices and
36 phantom-ware as contraband articles under the Florida
37 Contraband Forfeiture Act; amending s. 220.153, F.S.;
38 redefining the term "qualified capital expenditures"
39 for purposes of apportionment by sales factor;
40 amending s. 322.142, F.S.; authorizing the Department
41 of Highway Safety and Motor Vehicles to release
42 photographs or digital images to the Department of
43 Revenue in order to identify individuals for purposes
44 of tax administration; amending s. 443.131, F.S.;
45 imposing a requirement on employers to produce records
46 for the Department of Economic Opportunity or its tax
47 collection service provider as a prerequisite for a
48 reduction in the rate of unemployment tax; amending s.
49 443.141, F.S.; providing a method to calculate the
50 interest rate for past due contributions and
51 reimbursements, and delinquent, erroneous, incomplete,
52 or insufficient reports; providing for application;
53 providing effective dates.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. Subsection (6) of section 212.03, Florida
58 Statutes, is amended to read:

593-02256-12

20121304c1

59 212.03 Transient rentals tax; rate, procedure, enforcement,
60 exemptions.-

61 (6) (a) It is the legislative intent that every person is
62 engaging in a taxable privilege who leases or rents parking or
63 storage spaces for motor vehicles in parking lots or garages,
64 including storage facilities for towed vehicles, who leases or
65 rents docking or storage spaces for boats in boat docks or
66 marinas, or who leases or rents tie-down or storage space for
67 aircraft at airports. For the exercise of this privilege, a tax
68 is hereby levied at the rate of 6 percent on the total rental
69 charged.

70 (b) Charges for parking, docking, tie-down, or storage
71 arising from a lawful impoundment by a local, state, or federal
72 law enforcement agency are not taxable.

73 Section 2. Effective upon this act becoming a law,
74 subsections (1) and (3) of section 212.07, Florida Statutes, are
75 amended to read:

76 212.07 Sales, storage, use tax; tax added to purchase
77 price; dealer not to absorb; liability of purchasers who cannot
78 prove payment of the tax; penalties; general exemptions.-

79 (1) (a) The privilege tax herein levied measured by retail
80 sales shall be collected by the dealers from the purchaser or
81 consumer.

82 (b) A resale must be in strict compliance with s. 212.18
83 and the rules and regulations, and any dealer who makes a sale
84 for resale which is not in strict compliance with s. 212.18 and
85 the rules and regulations ~~is shall himself or herself be~~ liable
86 for and shall pay the tax. Any dealer who makes a sale for
87 resale shall document the exempt nature of the transaction, as

593-02256-12

20121304c1

88 established by rules promulgated by the department, by retaining
89 a copy of the purchaser's resale certificate. In lieu of
90 maintaining a copy of the certificate, a dealer may document,
91 before ~~prior to~~ the time of sale, an authorization number
92 provided telephonically or electronically by the department, or
93 by such other means established by rule of the department. The
94 dealer may rely on a resale certificate issued pursuant to s.
95 212.18(3)(d) ~~s. 212.18(3)(c)~~, valid at the time of receipt from
96 the purchaser, without seeking annual verification of the resale
97 certificate if the dealer makes recurring sales to a purchaser
98 in the normal course of business on a continual basis. As used
99 in ~~For purposes of~~ this paragraph, the term "recurring sales to
100 a purchaser in the normal course of business" refers to a sale
101 in which the dealer extends credit to the purchaser and records
102 the debt as an account receivable, or in which the dealer sells
103 to a purchaser who has an established cash or C.O.D. account,
104 similar to an open credit account. For purposes of this
105 paragraph, purchases are made from a selling dealer on a
106 continual basis if the selling dealer makes, in the normal
107 course of business, sales to the purchaser at least no less
108 ~~frequently than~~ once in every 12-month period. A dealer may,
109 through the informal protest provided for in s. 213.21 and the
110 rules of the Department of Revenue, provide the department with
111 evidence of the exempt status of a sale. Consumer certificates
112 of exemption executed by those exempt entities that were
113 registered with the department at the time of sale, resale
114 certificates provided by purchasers who were active dealers at
115 the time of sale, and verification by the department of a
116 purchaser's active dealer status at the time of sale in lieu of

593-02256-12

20121304c1

117 a resale certificate shall be accepted by the department when
118 submitted during the protest period, but may not be accepted in
119 any proceeding under chapter 120 or any circuit court action
120 instituted under chapter 72.

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

129 (3)(a) A ~~Any~~ dealer who fails, neglects, or refuses to
130 collect the tax or fees imposed under this chapter herein
131 ~~provided, either~~ by himself or herself or through the dealer's
132 agents or employees, ~~is,~~ in addition to the penalty of being
133 liable for and paying the tax ~~himself or herself,~~ commits guilty
134 ~~of~~ a misdemeanor of the first degree, punishable as provided in
135 s. 775.082 or s. 775.083.

136 (b) A dealer who willfully fails to collect a tax or fee
137 after the department provides notice of the duty to collect the
138 tax or fee is liable for a specific penalty of 100 percent of
139 the uncollected tax or fee. This penalty is in addition to any
140 other penalty that may be imposed by law. A dealer who willfully
141 fails to collect taxes or fees totaling:

142 1. Less than \$300:

143 a. For a first offense, commits a misdemeanor of the second
144 degree, punishable as provided in s. 775.082 or s. 775.083.

145 b. For a second offense, commits a misdemeanor of the first

593-02256-12

20121304c1

146 degree, punishable as provided in s. 775.082 or s. 775.083.

147 c. For a third or subsequent offense, commits a felony of
148 the third degree, punishable as provided in s. 775.082, s.
149 775.083, or s. 775.084.

150 2. An amount equal to \$300 or more, but less than \$20,000,
151 commits a felony of the third degree, punishable as provided in
152 s. 775.082, s. 775.083, or s. 775.084.

153 3. An amount equal to \$20,000 or more, but less than
154 \$100,000, commits a felony of the second degree, punishable as
155 provided in s. 775.082, s. 775.083, or s. 775.084.

156 4. An amount equal to \$100,000 or more, commits a felony of
157 the first degree, punishable as provided in s. 775.082, s.
158 775.083, or s. 775.084.

159 (c) The department shall give written notice of the duty to
160 collect taxes or fees to the dealer by personal service, by
161 sending notice to the dealer's last known address by registered
162 mail, or by both personal service and mail.

163 Section 3. Effective upon this act becoming a law,
164 paragraph (d) of subsection (2) of section 212.12, Florida
165 Statutes, is amended to read:

166 212.12 Dealer's credit for collecting tax; penalties for
167 noncompliance; powers of Department of Revenue in dealing with
168 delinquents; brackets applicable to taxable transactions;
169 records required.—

170 (2)

171 (d) A ~~Any~~ person who makes a false or fraudulent return
172 with a willful intent to evade payment of any tax or fee imposed
173 under this chapter is; ~~any person who, after the department's~~
174 ~~delivery of a written notice to the person's last known address~~

593-02256-12

20121304c1

175 ~~specifically alerting the person of the requirement to register~~
176 ~~the person's business as a dealer, intentionally fails to~~
177 ~~register the business; and any person who, after the~~
178 ~~department's delivery of a written notice to the person's last~~
179 ~~known address specifically alerting the person of the~~
180 ~~requirement to collect tax on specific transactions,~~
181 ~~intentionally fails to collect such tax, shall, in addition to~~
182 ~~the other penalties provided by law, be liable for a specific~~
183 ~~penalty of 100 percent of any unreported or any uncollected tax~~
184 ~~or fee. This penalty is in addition to any other penalty~~
185 provided by law. A person who makes a false or fraudulent return
186 with a willful intent to evade payment of taxes or fees
187 totaling:

188 1. Less than \$300:

189 a. For a first offense, commits a misdemeanor of the second
190 degree, punishable as provided in s. 775.082 or s. 775.083.

191 b. For a second offense, commits a misdemeanor of the first
192 degree, punishable as provided in s. 775.082 or s. 775.083.

193 c. For a third or subsequent offense, commits a felony of
194 the third degree, punishable as provided in s. 775.082, s.
195 775.083, or s. 775.084.

196 2. An amount equal to \$300 or more, but less than \$20,000,
197 commits a felony of the third degree, punishable as provided in
198 s. 775.082, s. 775.083, or s. 775.084.

199 3. An amount equal to \$20,000 or more, but less than
200 \$100,000, commits a felony of the second degree, punishable as
201 provided in s. 775.082, s. 775.083, or s. 775.084.

202 4. An amount equal to \$100,000 or more, commits a felony of
203 the first degree, punishable and, upon conviction, for fine and

593-02256-12

20121304c1

204 ~~punishment as provided in s. 775.082, s. 775.083, or s. 775.084.~~
205 ~~Delivery of written notice may be made by certified mail, or by~~
206 ~~the use of such other method as is documented as being necessary~~
207 ~~and reasonable under the circumstances. The civil and criminal~~
208 ~~penalties imposed herein for failure to comply with a written~~
209 ~~notice alerting the person of the requirement to register the~~
210 ~~person's business as a dealer or to collect tax on specific~~
211 ~~transactions shall not apply if the person timely files a~~
212 ~~written challenge to such notice in accordance with procedures~~
213 ~~established by the department by rule or the notice fails to~~
214 ~~clearly advise that failure to comply with or timely challenge~~
215 ~~the notice will result in the imposition of the civil and~~
216 ~~criminal penalties imposed herein.~~

217 ~~1. If the total amount of unreported or uncollected taxes~~
218 ~~or fees is less than \$300, the first offense resulting in~~
219 ~~conviction is a misdemeanor of the second degree, the second~~
220 ~~offense resulting in conviction is a misdemeanor of the first~~
221 ~~degree, and the third and all subsequent offenses resulting in~~
222 ~~conviction is a misdemeanor of the first degree, and the third~~
223 ~~and all subsequent offenses resulting in conviction are felonies~~
224 ~~of the third degree.~~

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

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

231 ~~4. If the total amount of unreported or uncollected taxes~~
232 ~~or fees is \$100,000 or more, the offense is a felony of the~~

593-02256-12

20121304c1

233 ~~first degree.~~

234 Section 4. Subsection (4) of section 212.14, Florida
235 Statutes, is amended to read:

236 212.14 Departmental powers; hearings; distress warrants;
237 bonds; subpoenas and subpoenas duces tecum.-

238 (4) (a) ~~In all cases where it is necessary to ensure~~
239 ~~compliance with the provisions of this chapter,~~ The department
240 shall require a cash deposit, bond, or other security as a
241 condition to a person obtaining or retaining a dealer's
242 certificate of registration under this chapter, if necessary, to
243 ensure compliance with this chapter. ~~The~~ Such bond must ~~shall~~ be
244 in the form and such amount as the department deems appropriate
245 under the particular circumstances. A ~~Every~~ person who fails
246 ~~failing~~ to produce such cash deposit, bond, or other security as
247 required in this subsection may ~~provided for herein shall~~ not be
248 ~~entitled to~~ obtain or retain a dealer's certificate of
249 registration under this chapter. If requested by the department,
250 and the Department of Legal Affairs may ~~is hereby authorized to~~
251 proceed by injunction, ~~when so requested by the Department of~~
252 ~~Revenue,~~ to prevent the ~~such~~ person from doing business subject
253 to the provisions of this chapter until the ~~such~~ cash deposit,
254 bond, or other security is posted with the department. The, ~~and~~
255 ~~any~~ temporary injunction ~~for this purpose~~ may be granted by any
256 judge or chancellor authorized by law to grant injunctions. The
257 department may sell any security ~~required to be deposited~~
258 pursuant to this section ~~may be sold by the department~~ at public
259 sale if ~~it becomes~~ necessary ~~so to do~~ in order to recover any
260 tax, interest, or penalty due. Notice of the ~~such~~ sale may be
261 served personally or by mail upon the person who deposited the

593-02256-12

20121304c1

262 ~~such~~ security. Notice ~~if~~ by mail is sufficient if the, notice is
263 sent to the last known address of the person as shown ~~the same~~
264 ~~appears~~ on the records of the department ~~shall be sufficient for~~
265 ~~the purpose of this requirement~~. Upon the ~~such~~ sale, the
266 department shall return the surplus, if any, above the amount
267 due ~~under this chapter shall be returned~~ to the person who
268 deposited the security.

269 (b) As used in this subsection, the term "person" has the
270 same meaning as defined in s. 212.02(12) and also includes:

271 1. An individual or entity owning a controlling interest in
272 an entity;

273 2. An individual or entity who has acquired an ownership
274 interest or a controlling interest in a business that would be
275 otherwise liable for posting a cash deposit, bond, or other
276 security, unless the department has determined that the
277 individual or entity is not liable for taxes, interest, or
278 penalties under s. 213.758; or

279 3. An individual or entity seeking to obtain a dealer's
280 certificate of registration for a business that will be operated
281 at the same location as a previous business that otherwise would
282 have been liable for posting a cash deposit, bond, or other
283 security, and the individual or entity does not provide evidence
284 that the business was acquired for consideration in an arms-
285 length transaction.

286 (c) The department may adopt rules to administer this
287 subsection.

288 Section 5. Effective upon this act becoming a law,
289 subsection (3) of section 212.18, Florida Statutes, is amended
290 to read:

593-02256-12

20121304c1

291 212.18 Administration of law; registration of dealers;
292 rules.-

293 (3) (a) Every person desiring to engage in or conduct
294 business in this state as a dealer, ~~as defined in this chapter,~~
295 or to lease, rent, or let or grant licenses in living quarters
296 or sleeping or housekeeping accommodations in hotels, apartment
297 houses, roominghouses, or tourist or trailer camps that are
298 subject to tax under s. 212.03, or to lease, rent, or let or
299 grant licenses in real property, ~~as defined in this chapter,~~ and
300 every person who sells or receives anything of value by way of
301 admissions, must file with the department an application for a
302 certificate of registration for each place of business. The
303 application must include, ~~showing~~ the names of the persons who
304 have interests in the ~~such~~ business and their residences, the
305 address of the business, and ~~such~~ other data reasonably required
306 by ~~as~~ the department ~~may reasonably require~~. However, owners and
307 operators of vending machines or newspaper rack machines are
308 required to obtain only one certificate of registration for each
309 county in which the ~~such~~ machines are located. The department,
310 ~~by rule,~~ may authorize by rule a dealer that uses independent
311 sellers to sell its merchandise to remit tax on the retail sales
312 price charged to the ultimate consumer in lieu of having the
313 independent seller register as a dealer and remit the tax. The
314 department may appoint the county tax collector as the
315 department's agent to accept applications for registrations. The
316 application must be made to the department before the person,
317 firm, copartnership, or corporation engages ~~may engage~~ in such
318 business, and it must be accompanied by a registration fee of
319 \$5. However, a registration fee is not required to accompany an

593-02256-12

20121304c1

320 application to engage in or conduct business to make mail order
321 sales. The department may waive the registration fee for
322 applications submitted through the department's Internet
323 registration process.

324 (b) The department, upon receipt of the ~~such~~ application,
325 shall ~~will~~ grant to the applicant a separate certificate of
326 registration for each place of business, which certificate may
327 be canceled by the department or its designated assistants for
328 any failure by the certificateholder to comply with any of the
329 provisions of this chapter. The certificate is not assignable
330 and is valid only for the person, firm, copartnership, or
331 corporation to which the certificate is issued. The certificate
332 must be displayed at all times ~~placed~~ in a conspicuous place in
333 the business or businesses for which it is issued ~~and must be~~
334 ~~displayed at all times~~. Except as provided in this subsection, a
335 ~~no~~ person may not ~~shall~~ engage in the business of selling or
336 leasing tangible personal property or services or as a dealer or
337 in leasing, renting, or letting of or granting licenses in
338 living quarters or sleeping or housekeeping accommodations in
339 hotels, apartment houses, roominghouses, tourist or trailer
340 camps, or real property, or in selling ~~as hereinbefore defined,~~
341 ~~nor shall any person sell or~~ receiving ~~receive~~ anything of value
342 by way of admissions, without a valid ~~first having obtained such~~
343 a certificate. ~~A or after such certificate has been canceled; no~~
344 person may not ~~shall~~ receive a ~~any~~ license from any authority
345 within the state to engage in any such business without a valid
346 certificate ~~first having obtained such a certificate or after~~
347 ~~such certificate has been canceled. The engaging in the business~~
348 ~~of selling or leasing tangible personal property or services or~~

593-02256-12

20121304c1

349 ~~as a dealer, as defined in this chapter, or the engaging in~~
350 ~~leasing, renting, or letting of or granting licenses in living~~
351 ~~quarters or sleeping or housekeeping accommodations in hotels,~~
352 ~~apartment houses, roominghouses, or tourist or trailer camps~~
353 ~~that are taxable under this chapter, or real property, or the~~
354 ~~engaging in the business of selling or receiving anything of~~
355 ~~value by way of admissions, without such certificate first being~~
356 ~~obtained or after such certificate has been canceled by the~~
357 ~~department, is prohibited.~~

358 (c)1. A ~~The failure or refusal of any person who engages in~~
359 acts requiring a certificate of registration under this
360 subsection who fails or refuses to register, commits, firm,
361 copartnership, or corporation to so qualify when required
362 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
363 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject
364 to injunctive proceedings as provided by law. A person who
365 engages in acts requiring a certificate of registration and who
366 fails or refuses to register is also subject ~~Such failure or~~
367 ~~refusal also subjects the offender~~ to a \$100 initial
368 registration fee in lieu of the \$5 registration fee required by
369 ~~authorized in~~ paragraph (a). However, the department may waive
370 the increase in the registration fee if it finds ~~is determined~~
371 ~~by the department~~ that the failure to register was due to
372 reasonable cause and not to willful negligence, willful neglect,
373 or fraud.

374 2. A person who willfully fails to register as a dealer
375 after the department provides notice of the duty to register
376 commits a felony of the third degree, punishable as provided in
377 s. 775.082, s. 775.083, or s. 775.084. The department shall give

593-02256-12

20121304c1

378 written notice of the duty to register to the person by personal
379 service, by sending notice by registered mail to the person's
380 last known address, or by both personal service and mail.

381 (d)~~(e)~~ In addition to the certificate of registration, the
382 department shall provide to each newly registered dealer an
383 initial resale certificate that is ~~will be~~ valid for the
384 remainder of the period of issuance. The department shall
385 provide each active dealer with an annual resale certificate. As
386 used in ~~For purposes of~~ this section, the term "active dealer"
387 means a person who is currently registered with the department
388 and who is required to file at least once during each applicable
389 reporting period.

390 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's certificate
391 of registration if ~~when~~ the dealer fails to comply with this
392 chapter. Before the ~~Prior to~~ revocation of a dealer's
393 certificate of registration, the department must schedule an
394 informal conference at which the dealer may present evidence
395 regarding the department's intended revocation or enter into a
396 compliance agreement with the department. The department must
397 notify the dealer of its intended action and the time, place,
398 and date of the scheduled informal conference by written notice
399 ~~notification~~ sent by United States mail to the dealer's last
400 known address of record furnished by the dealer on a form
401 prescribed by the department. The dealer is required to attend
402 the informal conference and present evidence refuting the
403 department's intended revocation or enter into a compliance
404 agreement with the department which resolves the dealer's
405 failure to comply with this chapter. The department shall issue
406 an administrative complaint under s. 120.60 if the dealer fails

593-02256-12

20121304c1

407 to attend the department's informal conference, fails to enter
408 into a compliance agreement with the department resolving the
409 dealer's noncompliance with this chapter, or fails to comply
410 with the executed compliance agreement.

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

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

419 2. An exhibitor whose agreement provides for the sale at
420 wholesale only of tangible personal property or services subject
421 to the tax imposed in this chapter must obtain a resale
422 certificate from the purchasing dealer but is not required to
423 register as a dealer.

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

428 4. Any exhibitor who makes a mail order sale pursuant to s.
429 212.0596 must register as a dealer.

430

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

434 Section 6. Effective upon this act becoming a law,
435 subsection (5) of section 213.13, Florida Statutes, is amended

593-02256-12

20121304c1

436 to read:

437 213.13 Electronic remittance and distribution of funds
438 collected by clerks of the court.-

439 (5) All court-related collections, including fees, fines,
440 reimbursements, court costs, and other court-related funds that
441 the clerks must remit to the state pursuant to law, must be
442 transmitted electronically by the 10th ~~20th~~ day of the month
443 immediately following the month in which the funds are
444 collected.

445 Section 7. Effective upon this act becoming a law, section
446 213.295, Florida Statutes, is created to read:

447 213.295 Automated sales suppression devices.-

448 (1) As used in this section, the term:

449 (a) "Automated sales suppression device" or "zapper" means
450 a software program that falsifies the electronic records of
451 electronic cash registers or other point-of-sale systems,
452 including, but not limited to, transaction data and transaction
453 reports. The term includes the software program, any device that
454 carries the software program, or an Internet link to the
455 software program.

456 (b) "Electronic cash register" means a device that keeps a
457 register or supporting documents through the use of an
458 electronic device or computer system designed to record
459 transaction data for the purpose of computing, compiling, or
460 processing retail sales transaction data.

461 (c) "Phantom-ware" means a hidden programming option
462 embedded in the operating system of an electronic cash register
463 or hardwired into the electronic cash register which can be used
464 to create a second set of records or to eliminate or manipulate

593-02256-12

20121304c1

465 transaction records, which records may or may not be preserved
466 in a digital format, in order to represent the true or
467 manipulated record of a transaction in the electronic cash
468 register.

469 (d) "Transaction data" includes data identifying an item
470 purchased by a customer; the price for an item; a taxability
471 determination for an item; a segregated tax amount for each
472 taxed item; the amount of cash or credit tendered; the net
473 amount returned to the customer in change; the date and time of
474 the purchase; the name, address, and identification number of
475 the vendor; and the receipt or invoice number of the
476 transaction.

477 (e) "Transaction report" means:

478 1. A report that contains, but is not limited to,
479 documentation of the sales, taxes, or fees collected; media
480 totals; and discount voids at an electronic cash register, and
481 that is printed on a cash register tape at the end of a day or a
482 shift; or

483 2. A report that documents every action at an electronic
484 cash register and that is stored electronically.

485 (2) A person may not knowingly sell, purchase, install,
486 transfer, possess, utilize, or access any automated sales
487 suppression device, zapper, or phantom-ware.

488 (3) (a) A person who violates this section commits a felony
489 of the third degree, punishable as provided in s. 775.082, s.
490 775.083, or s. 775.084.

491 (b) A person who violates this section is liable for all
492 taxes, fees, penalties, and interest due the state as a result
493 of the use of an automated sales suppression device, zapper, or

593-02256-12

20121304c1

494 phantom-ware and shall forfeit to the state as an additional
495 penalty all profits associated with the sale or use of an
496 automated sales suppression device, zapper, or phantom-ware.

497 (4) An automated sales suppression device, zapper, phantom-
498 ware, or any device containing such device or software is a
499 contraband article under ss. 932.701-932.706, the Florida
500 Contraband Forfeiture Act.

501 Section 8. Paragraph (b) of subsection (1) of section
502 220.153, Florida Statutes, is amended to read:

503 220.153 Apportionment by sales factor.—

504 (1) DEFINITIONS.—As used in this section, the term:

505 (b) "Qualified capital expenditures" means expenditures in
506 this state for purposes substantially related to a business's
507 production or sale of goods or services. The expenditure must
508 fund the acquisition of additional real property (land,
509 buildings, including appurtenances, fixtures and fixed
510 equipment, structures, etc.), including additions, replacements,
511 major repairs, and renovations to real property which materially
512 extend its useful life or materially improve or change its
513 functional use and the furniture and equipment necessary to
514 furnish and operate a new or improved facility. The term
515 "qualified capital expenditures" does not include an expenditure
516 for a passive investment ~~or for an investment intended for the~~
517 ~~accumulation of reserves or the realization of profit for~~
518 ~~distribution to any person holding an ownership interest in the~~
519 ~~business~~. The term "qualified capital expenditures" does not
520 include expenditures to acquire an existing business or
521 expenditures in excess of \$125 million to acquire land or
522 buildings.

593-02256-12

20121304c1

523 Section 9. Subsection (4) of section 322.142, Florida
524 Statutes, is amended to read:

525 322.142 Color photographic or digital imaged licenses.—

526 (4) The department may maintain a film negative or print
527 file. The department shall maintain a record of the digital
528 image and signature of the licensees, together with other data
529 required by the department for identification and retrieval.
530 Reproductions from the file or digital record are exempt from
531 ~~the provisions of s. 119.07(1)~~ and shall be made and issued only
532 for departmental administrative purposes; for the issuance of
533 duplicate licenses; in response to law enforcement agency
534 requests; to the Department of Business and Professional
535 Regulation pursuant to an interagency agreement for the purpose
536 of accessing digital images for reproduction of licenses issued
537 by the Department of Business and Professional Regulation; to
538 the Department of State pursuant to an interagency agreement to
539 facilitate determinations of eligibility of voter registration
540 applicants and registered voters in accordance with ss. 98.045
541 and 98.075; to the Department of Revenue pursuant to an
542 interagency agreement for use in establishing paternity and
543 establishing, modifying, or enforcing support obligations in
544 Title IV-D cases; to the Department of Revenue for use in
545 establishing positive identification for tax administration
546 purposes; to the Department of Children and Family Services
547 pursuant to an interagency agreement to conduct protective
548 investigations under part III of chapter 39 and chapter 415; to
549 the Department of Children and Family Services pursuant to an
550 interagency agreement specifying the number of employees in each
551 of that department's regions to be granted access to the records

593-02256-12

20121304c1

552 for use as verification of identity to expedite the
553 determination of eligibility for public assistance and for use
554 in public assistance fraud investigations; or to the Department
555 of Financial Services pursuant to an interagency agreement to
556 facilitate the location of owners of unclaimed property, the
557 validation of unclaimed property claims, and the identification
558 of fraudulent or false claims.

559 Section 10. Effective upon this act becoming a law,
560 paragraph (h) of subsection (3) of section 443.131, Florida
561 Statutes, is amended to read:

562 443.131 Contributions.—

563 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
564 EXPERIENCE.—

565 (h) *Additional conditions for variation from the standard*
566 *rate.*—An employer's contribution rate may not be reduced below
567 the standard rate under this section unless:

568 1. All contributions, reimbursements, interest, and
569 penalties incurred by the employer for wages paid by him or her
570 in all previous calendar quarters, except the 4 calendar
571 quarters immediately preceding the calendar quarter or calendar
572 year for which the benefit ratio is computed, are paid; ~~and~~

573 2. The employer has produced for inspection and copying all
574 work records in his or her possession, custody, or control which
575 were requested by the Department of Economic Opportunity or its
576 tax collection service provider pursuant to s. 443.171(5); and

577 ~~3.2. The employer has entitled to a rate reduction must~~
578 ~~have~~ at least one annual payroll as defined in subparagraph
579 (b)1. unless the employer is eligible for additional credit
580 under the Federal Unemployment Tax Act. If the Federal

593-02256-12

20121304c1

581 Unemployment Tax Act is amended or repealed in a manner
582 affecting credit under the federal act, this section applies
583 only to the extent that additional credit is allowed against the
584 payment of the tax imposed by the Federal Unemployment Tax Act.

585

586 The tax collection service provider shall assign an earned
587 contribution rate to an employer ~~under subparagraph 1.~~ the
588 quarter immediately after the quarter in which all
589 contributions, reimbursements, interest, and penalties are paid
590 in full and all work records requested pursuant to s. 443.171(5)
591 have been produced for inspection and copying to the Department
592 of Economic Opportunity or the tax collection service provider.

593 Section 11. Effective January 1, 2013, and applicable to
594 contributions or reimbursements made on or after that date,
595 paragraph (a) of subsection (1) of section 443.141, Florida
596 Statutes, is amended to read:

597 443.141 Collection of contributions and reimbursements.—

598 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
599 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

600 (a) *Interest.*—Contributions or reimbursements unpaid on the
601 date due bear interest at the rate calculated pursuant to s.
602 213.235. However, the rate may not exceed ~~of~~ 1 percent per
603 month. Interest shall accrue ~~from and after that date~~ until
604 payment plus accrued interest is received by the tax collection
605 service provider, unless the service provider finds that the
606 employing unit has good reason for failing to pay the
607 contributions or reimbursements when due. Interest collected
608 under this subsection must be paid into the Special Employment
609 Security Administration Trust Fund.

593-02256-12

20121304c1

610 Section 12. Except as otherwise expressly provided in this
611 act and except for this section, which shall take effect upon
612 this act becoming a law, this act shall take effect July 1,
613 2012.