The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL:	CS/SB 1514
INTRODUCER:	Commerce and Tourism Committee and Senator Detert
SUBJECT:	Tax on Sales, Use, and Other Transactions
DATE:	February 2, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
2.			BI	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1514 amends Florida law to require out-of-state retailer that conduct business over the Internet to collect and remit Florida sales tax on sales made to Florida customers.

The CS revises the definition of "dealer." Specifically, the CS creates two new situations under which an out-of-state retailer may be required to collect and remit Florida sales tax:

1. When a person with substantial nexus to Florida does one of a number of acts, including selling a similar line of products as a dealer or operates under the same name and uses similar trademarks as a dealer, then the dealer must collect and remit Florida sales and use tax.
2. If the dealer enters into an agreement with one or more Floridians, under which the person directly or indirectly refers potential customers to the dealer for a commission or other consideration, and the cumulative gross receipts for referrals are in excess of $10,000 during the previous 12 months, then a rebuttable presumption arises that the dealer must collect and remit Florida sales and use tax.

However, the CS bases the requirement to collect sales and use tax on the fact that the activities conducted in Florida on behalf of the dealer are significantly associated with the dealer's ability to establish and maintain a market in Florida.

This CS amends ss. 212.06, 212.0596, and 212.0506, F.S.

II. Present Situation:

Because Florida has no personal state income tax, the state primarily depends on consumption-based taxes for its general revenue. Sales tax collections make up over 70 percent of general revenue.[1] Forty-five states and the District of Columbia impose sales and use taxes.[2] States that do not have a personal income tax – Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming – rely most heavily on sales tax collections.[3]

Florida Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on most tangible personal property, admissions, storage, transient rentals, commercial rentals, motor vehicles, and a limited number of services.[4] The statutes currently provide more than 200 different exemptions.[5]

A sales tax of 6 percent is levied on the sales prices of tangible personal property sold at retail in Florida.[6] Sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

A use tax of 6 percent is levied on the cost price of tangible personal property when it is used, consumed, distributed, or stored, rather than sold, in Florida.[7] This tax is levied when sales tax was not paid at the time of purchase. For example, use tax is owed when a person buys:[8]

- A taxable item in Florida and doesn't pay sales tax;
- An item tax-exempt intending to resell it, and then the item is used in a business or for personal use; or
- A taxable item outside Florida and brings or has it delivered into the state within 6 months of the purchase date, and sales tax was not paid on the item.

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[1] See Florida Revenue Estimating Conference, 2012 Florida Tax Handbook. Revenues from the sales and use tax for FY 2011-12 totaled over $17 billion.

[2] Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose a state sales and use tax, although Alaska permits local governments to impose sales and use taxes.

[3] New Hampshire and Tennessee both have income taxes, but the taxes are not imposed on wages or other income other than dividends and interest.

[4] Of the limited services that are taxable, some, such as cable, are taxed at a higher rate.

[5] For a list of exemptions and history, see REC, 2012 Florida Tax Handbook. Exemptions are estimated to total about $10 billion.

[6] Section 212.05(1)(a)1.a., F.S.

[7] Section 212.05(1)(b), F.S.

[8] DOR, Florida's Sales and Use Tax, GT-800013, last revised 7/2009, available at http://dor.myflorida.com/dor/forms/2009/gt800013.pdf (last visited 1/20/2012).

If the item brought into Florida is subject to tax, a credit is allowed for taxes paid to another state, a U.S. territory, or Washington, D.C. Credit is not given for taxes paid to another country.

The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections of discretionary sales surtaxes received by DOR are returned monthly to the county imposing the tax. Further, there are several state-shared revenue programs that allocate some portion of the state sales and use tax to local governments. A few revenue sharing programs require as a prerequisite that the county or municipality meet eligibility criteria. While general law restricts the use of some shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.[9]

Local Discretionary Sales Surtax

A "surtax" is an extra tax or charge.[10] Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions and on communications services, defined in ch. 202, F.S. Table 1 identifies the eight taxes, the rate limits, and the number of counties authorized to impose and the number imposing the tax.[11]

Table 1: Local Discretionary Sales Surtaxes

Tax	Authorized Levy (%)	# Counties Authorized to Levy Tax	# Counties Levying Tax
Charter County Transportation System Surtax	up to 1%	31	2
Local Government Infrastructure Surtax	0.5% or 1%	67	18
Small County Surtax	0.5% or 1%	31	28
Indigent Care & Trauma Center Surtax	up to 0.25%, or up to 0.5%	65	1
County Public Hospital Surtax	0.5%	1 (Miami-Dade County)	1
School Capital Outlay Surtax	up to 0.5%	67	15
Voter-Approved Indigent Care Surtax	0.5% or 1%	60	3

[9] For more information see REC, 2012 Florida Tax Handbook.
[10] Black's Law Dictionary (9th ed., 2009), tax.
[11] The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

Emergency Fire Rescue Services and Facilities Surtax	up to 1%	65	0

Source: REC, 2012 Tax Handbook

The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S.; currently, the maximum ranges between 2 percent and 3.5 percent for Florida's 67 counties. In general, the levy of a particular tax is subject to county voter approval.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state taxes. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. The surtax does not apply to a sales amount above $5,000 on any item of tangible personal property. This $5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

Internet Sales and Out of State Vendors[12]

Under Florida law, each sale is subject to sales tax unless such transaction is specifically exempt. Sales made over the Internet are not exempt from the provisions of ch. 212, F.S. Use taxes are difficult for states to enforce because they must rely on out-of-state vendors to collect the tax money or purchasers must remit the tax themselves.[13] Out-of-state vendors, not wanting to be tax collectors for states and local governments, argue that states have no jurisdiction over them. A state's ability to compel an out-of-state seller to collect and remit sales tax is limited by the Commerce Clause and the Due Process Clause of the U.S. Constitution.[14] The U.S. Supreme Court has held that the state's disparate state and local sales tax systems make collecting taxes an undue burden on out-of-state retailers.[15]

In order for sales occurring over the Internet to be subject to the sales tax, there must be sufficient nexus between the seller and the state. Nexus has been found to exist when a seller:

- Has agents in this state who solicit or transact business on behalf of the seller and as a result receive orders for merchandise to be delivered to the purchaser in this state;
- Has a physical location in this state;
- Delivers merchandise into this state in vehicles which are leased or owned by the seller;
- Owns land or buildings located in this state;
- Stores merchandise in this state for sale or use; or

[12] For an in depth analysis, see Senate Budget Subcommittee on Finance and Tax, Interim Report 2012-107: Application of Florida's Sales Tax to Sales by Out-of-State Retailers (August 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/BFT1072012-107ft.pdf (last visited 1/20/2012).

[13] See DOR, Florida Consumer Information website on remitting use tax for Internet sales, available at http://dor.myflorida.com/dor/taxes/consumer.html (last visited 1/20/2012).

[14] Due Process requires some minimal contact with the taxing state for a taxing statute to be upheld. Upholding a statute against a Commerce Clause challenge is dependent upon satisfaction of a 4-part test: (1) the tax is applied to an activity with a substantial nexus with the taxing state; (2) the tax is fairly apportioned; (3) the tax does not discriminate against interstate commerce; and (4) the tax is fairly related to a service provided by the taxing state. See Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977), rehearing denied, 430 U.S. 976 (1977).

[15] See Closing the Online Tax Loophole, Blackston, Michelle, NCSL's State Legislatures, April 2008.

- Rents or leases merchandise that is located in Florida in the possession of a lessee.[16]

Section 212.0596, F.S., generally imposes tax on a "mail order sale," which is defined to mean "a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property."[17]

Section 212.0596(2), F.S., requires dealers doing mail order business in Florida to collect and remit Florida sales tax if the dealer has nexus with Florida, and provides what activities constitute nexus for purposes of mail order sales. These include when:

- The dealer has agents in Florida who solicit or transact business on behalf of the dealer, whether the resulting mail orders result from or are related to the agent's solicitation or transaction of business;
- The property was delivered in Florida in fulfillment of a sales contract entered into in Florida;
- The dealer creates nexus with Florida by purposefully or systematically exploiting Florida's market by any media assisted, media facilitated, or media solicited means;
- Another U.S. jurisdiction uses its taxing power over the retailer in support of Florida's taxing power;
- The dealer is subject to service of process; or
- The dealer without nexus with Florida is a corporation that is a member of an affiliated group of corporations under s. 1504 of the Internal Revenue Code and whose members are eligible to file a consolidated federal corporate income tax return.

If the person selling the property into this state does not have sufficient nexus or is not registered with DOR as a dealer to collect sales tax, and the goods are delivered in Florida, then use tax applies and is due from the purchaser.

According to the U.S. Census Bureau about 70 percent of U.S. households have Internet access.[18] The U.S. Census Bureau estimated that national e-commerce sales over the last 4 quarters total over $227 billion dollars. However, e-commerce sales make up only about 4.5 percent of total retail sales in the U.S.[19]

The issue of sales and use taxes on e-commerce is important to the states for three main reasons:

- The continued growth in e-commerce points to an increasing number of transactions on which sales and use taxes will not be collected, resulting in sales tax revenue losses for state and local governments;

[16] Depending on the jurisdiction, courts have found that these situations satisfy nexus while others have found that they were insufficient alone.
[17] Section 212.0596(1), F.S.
[18] 2009 data available at http://www.census.gov/population/www/socdemo/computer.html (last visited 1/30/2012).
[19] Quarterly Retail E-Commerce Sales, 3rd Quarter 2011, available at http://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf (last visited 1/30/2021).

- Since out-of-state sellers do not have to collect sales and use taxes, except in states where they have "nexus," they enjoy a competitive advantage over "brick and mortar" businesses; and
- Because of loopholes for on-line retailers, consumers who can afford access to the Internet escape paying sales and use taxes while forcing those without access to shoulder a heavier burden of the sales tax.[20]

While studies estimate differing amounts of loss sales tax revenue, the most recent, a September 2011 report by Arudin, Laffer, and Moore Econometrics, estimated tax revenue losses of $374 million in 2010 and between $449.6 million and $454.0 million in 2012.[21] With 67 different state and local taxing jurisdictions in Florida, an out-of-state retailer may find it difficult to collect and remit sales taxes. There are about 7,500 different taxing jurisdictions at the state and local levels in the U.S.

Internet Tax Freedom Act

In response to the significant growth in the Internet, Congress enacted the Internet Tax Freedom Act in October 1998. This legislation called for a 3-year moratorium, from October 1, 1998, to October 21, 2001, on state and local taxes on Internet access and multiple or discriminatory taxes on electronic commerce. This moratorium has been extended several times and currently expires November 1, 2014.[22]

Streamlined Sales Tax Project

Because of the rise of e-commerce, in 2009 a group was formed to develop a simplified sales tax collection system that could be used by traditional brick-and-mortar businesses and businesses involved in e-commerce. The result of the Streamlined Sales Tax Project is the Streamlined Sales and Use Tax Agreement (SSUTA). It proposes an effort to "modernize" states' sales and use tax structures to create a uniform, simplified taxing system that would apply to all businesses collecting sales and use taxes. Participation in collecting sales tax under the agreement is voluntary for sellers who do not have a physical presence or "nexus" within a state. However, an end goal of the effort is for Congress to require collection from all sellers for all types of commerce.[23]

Currently, 21 states are full members of SSUTA because they have state laws which are in compliance with the agreement.[24] Also, currently, over 1,000 businesses have voluntarily agreed to collect taxes on out-of-state sales.

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[20] Graham Williams, "Streamlined Sales Tax for the New Economy," National Conference of State Legislatures, Nov./Dec. 2000, Vol. 8, No. 44.

[21] Report on file with the Senate Commerce and Tourism Committee.

[22] Created by Pub. L. No. 105-277; Extended to November 2003 by Pub. L. No. 107-75; Extended to November 2007 by Pub. L. No. 108-435; Extended to November 2014 by Pub. L. No. 110-108.

[23] Florida legislative action in response to this project includes s. 213.27, F.S., which grants DOR authority to enter into contracts with public or private vendors to develop and implement a voluntary system for sales and use tax collection and administration (ch. 2000-355, L.O.F.), and ch. 2001-225, L.O.F., which among other things, created the Simplified Sales and Use Tax Act, authorizing Florida to participate in the next phase of discussions with other states for the purposes of developing the project.

[24] Three additional states are associate members, which are states that are in compliance with SSUTA, but their laws have not yet taken effect. See the SSUTA website for more information: http://www.streamlinedsalestax.org/.

Federal Involvement in the Issue

Since the power to regulate interstate commerce resides at the federal level, federal legislation appears to be the only comprehensive solution for states to have the authority to require out-of-state retailers to collect sales tax. Multiple bills have been filed in Congress over the years to try to address the issue, but none have been voted on by either the House or Senate.[25]

Actions of Other States

Other states have attempted to address the issue of taxing sales by out-of-state retailers. Twelve states have enacted laws which take different approaches to a solution.[26] Generally it appears that there are four approaches:

1. Establish nexus through affiliates of an out-of-state retailer. When a state resident is an "affiliate" of an out-of-state retailer and the total sales by the out-of-state retailer that result from all referrals from affiliates in the state exceed a certain total (generally $10,000), then the retailer must collect and remit state sales tax. Total sales by the out-of-state retailer as a result of referrals must exceed the threshold before tax is required to be collected by the out-of-state retailer.
2. Establish nexus through commission arrangements by Internet retailers with other websites owned by state residents for referring sales (also known as "click-through"). Similar to the affiliate relationship with out-of-state retailers, this approach also requires sales of a certain amount before liability for collection of state sales tax arises.
3. Require the retailer to notify the customer that sales and use tax may be due in the customer's state. This approach does not require collection of sales tax by the retailer. Instead the retailer is required to provide notice to the consumer, and in one state is required to also remit information to the state department of revenue related to sales to that state's residents.
4. Exempt certain retailers from collecting and remitting sales tax if the seller agrees to make a substantial investment in the state in the form of a distribution center and create a certain number of jobs. For example, South Carolina's statute requires a $125 million investment and 2,000 new jobs in exchange for exemption from sales tax collections until 2016. However, Internet retailers must notify a purchaser in a confirmation email that the purchaser may owe South Carolina use tax on the total sales price.

Some states have enacted one approach or a hybrid of the ideas. A fifth approach may be establishing nexus through existing state laws related to mail order sales. Pennsylvania is attempting to require out-of-state retailers to collect sales tax under the state's existing law.[27]

States that have enacted these laws or taken these approaches have been challenged by out-of-state retailers for violation of the U.S. Constitution. While some retailers have been awarded an

[25] The most recent filed legislation is titled the "Main Street Fairness Act," and authorizes states who are members of the SSUTA to require out-of-state retailers to collect and remit state sales and use tax. See H.R. 2701 and S. 1452 (112th Congress).

[26] New York (2008), North Carolina (2009), Rhode Island (2009), Colorado (2010), Oklahoma (2010), Arkansas (2011), California (2011), Connecticut (2011), Illinois (2011), South Dakota (2011), and Vermont (2011) enacted legislation aimed at taxing the out of state sales; Texas (2011) passed similar legislation but it was vetoed by the Governor. South Carolina (2011) enacted legislation taking the opposite approach. See Interim Report 2012-107.

[27] See Pennsylvania Department of Revenue, Nexus Resources for Retailers, available at http://www.revenue.state.pa.us/portal/server.pt/community/nexus_resources/20610 (last visited 1/20/2012).

injunction from enforcement of the state's statutes, there have been no final decisions affording a resolution of the issues.

III. Effect of Proposed Changes:

SB 1514 amends Florida law to require out-of-state vendors that conduct business over the Internet to collect and remit Florida sales tax on sales made to Florida customers.

Section 1 amends s. 212.06, F.S., relating to the definition of "dealer." Specifically the CS repeals the portion of the definition of dealer which relates to persons who solicit business through representatives, by distribution of catalogs or other advertising, or by other means to receive orders from Floridians for use or consumption of the property in this state.

The CS exempts common carriers from the definition of dealer.

Section 2 amends s. 212.0596, F.S., to provide that a "mail order sale" includes the sale of tangible personal property over the Internet.

The CS revises provisions related to when dealers who make mail order sales are required to collect and remit Florida sales and use tax.

Under current law, a dealer who is a corporation doing business in Florida or a person domiciled in Florida is required to collect and remit sales and use tax; the CS amends this provision to remove the limitation to corporations.

The CS provides that a representative of a dealer, in addition to an agent, soliciting or transacting business in the state may cause the dealer to have nexus for mail order sales.

Additionally, the CS creates two new situations:

Affiliates
When a person with substantial nexus to Florida sells a similar line of products as a dealer; does business under the same name and uses similar trademarks; maintains an office, warehouse, or similar place of business to facilitate the delivery of property sold by the dealer; facilitates delivery or pick-up of the property in Florida; assembles, installs, or performs maintenance services for the dealer in Florida; or conducts other activities in Florida that are "significantly associated with the dealer's ability to establish and maintain a market in Florida," then the dealer must collect and remit Florida sales and use tax.

The CS provides that a dealer is required to collect and remit sales and use tax if the dealer:

- Has a physical presence in the state, or
- The activities conducted in Florida on behalf of the dealer are significantly associated with the dealer's ability to establish and maintain a market in Florida.

Commission Arrangements
If the dealer enters into an agreement with one or more Floridians, under which the person directly or indirectly refers potential customers to the dealer for a commission or other consideration, and the cumulative gross receipts for referrals are in excess of $10,000 during the previous 12 months, then a rebuttable presumption arises that the dealer must collect and remit Florida sales and use tax. Such referrals may be made by a link on a website, an in-person presentation, telemarketing, or otherwise. This presumption is effective on October 1, 2012.

The dealer may rebut the presumption by submitting evidence the Floridians which with the dealer has agreements did not engage in activity that was significantly associated with the dealer's ability to establish and maintain a market in Florida for the previous 12 months. Such evidence may include sworn affidavits from the Floridians attesting that they did not engage in any solicitation in Florida on the dealer's behalf in the previous year.

Section 3 amends s. 212.0506, F.S., to correct a cross-reference.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This CS does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art VII, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

As discussed above in the Present Situation, a state's ability to compel an out-of-state seller to collect and remit sales tax is primarily limited by the Commerce Clause of the U.S. Constitution.[28]

Upholding a statute against a Commerce Clause challenge is dependent upon satisfaction of a 4-part test: (1) the tax is applied to an activity with a substantial nexus with the taxing state; (2) the tax is fairly apportioned; (3) the tax does not discriminate against

[28] See AMJUR STATELOCL s. 175; 71 A.L.R.5th 671.

interstate commerce; and (4) the tax is fairly related to a service provided by the taxing state. See Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977).

The nexus requirement outlined in Complete Auto has generally been interpreted to require that in order to require an out-of-state retailer to collect sales and use tax, the retailer must have a "physical presence" in the state.[29]

In Scripto, Inc. v. Carson, the U.S. Supreme Court held that an out-of-state retailer with agents in Florida was a dealer required to collect and remit Florida sales tax.[30] The agents of the out-of-state retailer represented the retailer pursuant to a contract that authorized the Florida merchants to solicit orders and otherwise obtain business for the retailer in Florida in return for compensation to be paid in the form of a commission.

The U.S. Supreme Court held in Tyler Pipe Industries, Inc., v. Washington State Dept. of Revenue, that "the crucial factor governing nexus is whether the activities performed in this state on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain a market in this state for the sales."[31] The Court found that this standard was satisfied because of the activities of the business's sales representatives in the state.

Many of the cases related to this issue were decided before the emergence of the Internet, and thus it is unclear how the case law should be applied to sales over the Internet. While some provisions of the CS would likely be held to meet the constitutional requirements of nexus, others are more questionable. The provisions of the CS seem to take an approach that follows applying "agency nexus."

Many of the states who have enacted similar laws have become involved in lawsuits challenging the constitutionality of their laws. There have been no final decisions affording a resolution of the issues.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of this CS.

B. Private Sector Impact:

Dealers meeting the requirements of this CS would be required to collect and remit sales and use tax. Dealers may incur costs to update their systems to collect and remit such taxes.

[29] See Quill Corporation v. North Dakota, 504 U.S. 298 (1992).
[30] Scripto, Inc., v. Carson, 362 U.S. 207, 211 (1960).
[31] Tyler Pipe Industries, Inc., v. Washington State Dept. of Revenue, 483 U.S. 232, 250 – 251 (1987).

C. Government Sector Impact:

DOR indicated that this CS would have an insignificant fiscal impact on its operations.

VI. Technical Deficiencies:

DOR indicated the following issues:

- The changes on lines 225 – 255 delete the provision to levy and collect tax from a dealer having nexus through an affiliate. The deleted affiliate language is replaced with a provision granting the state the power to levy and collect tax from a person with substantial nexus who in addition engages in one of a list of additional activities. Courts have held in the past that once substantial nexus has been established, states may impose their tax on the dealer's activities. Therefore, the additional list of activities added in lines 235 – 253 may not be necessary and may actually limit accounts having to register once a dealer has established substantial nexus.
    - Additionally, there does not appear to be any replacement language for a dealer having nexus through an affiliate.

- Line 255 refers to "person," while other provisions in the section refer to "dealer." The intent of using the two terms is not known.

- Addition of the word "and" on line 236 and the flush left language on lines 263 – 268 and the deletion of lines of 226 – 234, inhibit DOR's ability to enforce collection of sales tax from out-of-state sellers. The language narrows the scope of current statutory provisions.

- The flush left language only requires a dealer to collect and remit tax if it has a "physical presence" in Florida, or if activities conducted on the dealer's behalf in Florida are "significantly associated with the dealer's ability to establish and maintain a market for sales in this state."

VII. Related Issues:

Many of the states who have enacted similar laws have become involved in lawsuits challenging the constitutionality of their laws; it is likely that if this CS were to become law, Florida may be subject to such lawsuits.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 2, 2012:
The committee substitute removed the provision from the bill which provided that certain rulings, agreements, or contracts which state that a person is not a dealer were void unless approved by a majority vote of the Senate and the House of Representatives.

B. Amendments:

None.