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LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 3/AD/2R	.	Floor: SENA3/C
03/09/2012 07:03 PM	.	03/09/2012 11:45 PM
	.	

Senator Norman moved the following:

Senate Amendment (with title amendment)

Between lines 739 and 740
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



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14 evidence;

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

21 3. It is an affirmative defense to the action 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 the action if the retailer,
26 dealer, or vendor collected tax on delivery charges and resolved
27 any tax liability on that issue in accordance with an agreement
28 entered into with the Department of Revenue pursuant to s.
29 213.21.

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 Between lines 38 and 39

34 insert:

35 amending s. 213.756, F.S.; providing an absolute
36 defense by a retailer, dealer, or vendor against a
37 purchaser's claim for a refund;