

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 211.3103, F.S.; revising the rate for the tax on
4 severance of phosphate rock; revising requirements
5 relating to the imposition, collection, distribution,
6 and use of such tax; 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.

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29 | 213.13, F.S.; revising the due date for funds
30 | collected by the clerks of court to be transmitted to
31 | the Department of Revenue; providing retroactive
32 | application; creating s. 213.295, F.S.; providing
33 | definitions; subjecting a person to criminal penalties
34 | and monetary penalties for knowingly selling or
35 | engaging in certain other actions involving an
36 | automated sales suppression device, zapper, or
37 | phantom-ware; defining sales suppression devices and
38 | phantom-ware as contraband articles under the Florida
39 | Contraband Forfeiture Act; amending s. 220.153, F.S.;
40 | redefining the term "qualified capital expenditures"
41 | for purposes of apportionment by sales factor;
42 | amending s. 322.142, F.S.; authorizing the Department
43 | of Highway Safety and Motor Vehicles to release
44 | photographs or digital images to the Department of
45 | Revenue in order to identify individuals for purposes
46 | of tax administration; amending s. 443.131, F.S.;
47 | imposing a requirement on employers to produce records
48 | for the Department of Economic Opportunity or its tax
49 | collection service provider as a prerequisite for a
50 | reduction in the rate of unemployment tax; amending s.
51 | 443.141, F.S.; providing a method to calculate the
52 | interest rate for past due contributions and
53 | reimbursements, and delinquent, erroneous, incomplete,
54 | or insufficient reports; providing effective dates.

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Section 211.3103, Florida Statutes, is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(1) There is hereby levied an excise tax upon every person engaging in the business of severing phosphate rock from the soils or waters of this state for commercial use. The tax shall be collected, administered, and enforced by the department.

(2) The tax rate shall be \$1.61 per ton severed. ~~Beginning July 1, 2004, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:~~

~~(a) The first \$10 million in revenue collected from the tax during each fiscal year shall be paid to the credit of the Conservation and Recreation Lands Trust Fund.~~

~~(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:~~

~~1. To the credit of the General Revenue Fund of the state, 40.1 percent.~~

~~2. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 16.5 percent. The department shall distribute this portion of the proceeds annually based on production information reported by the producers on the annual returns for the taxable year. Any such proceeds received by a county shall be used only for phosphate-~~

85 ~~related expenses.~~

86 ~~3. For payment to counties that have been designated a~~
 87 ~~rural area of critical economic concern pursuant to s. 288.0656~~
 88 ~~in proportion to the number of tons of phosphate rock produced~~
 89 ~~from a phosphate rock matrix located within such political~~
 90 ~~boundary, 13 percent. The department shall distribute this~~
 91 ~~portion of the proceeds annually based on production information~~
 92 ~~reported by the producers on the annual returns for the taxable~~
 93 ~~year. Payments under this subparagraph shall be made to the~~
 94 ~~counties unless the Legislature by special act creates a local~~
 95 ~~authority to promote and direct the economic development of the~~
 96 ~~county. If such authority exists, payments shall be made to that~~
 97 ~~authority.~~

98 ~~4. To the credit of the Phosphate Research Trust Fund in~~
 99 ~~the Division of Universities of the Department of Education, 9.3~~
 100 ~~percent.~~

101 ~~5. To the credit of the Minerals Trust Fund, 10.7 percent.~~

102 ~~6. To the credit of the Nonmandatory Land Reclamation~~
 103 ~~Trust Fund, 10.4 percent.~~

104 ~~(3) Beginning July 1, 2003, and annually thereafter, the~~
 105 ~~Department of Environmental Protection may use up to \$2 million~~
 106 ~~of the funds in the Nonmandatory Land Reclamation Trust Fund to~~
 107 ~~purchase a surety bond or a policy of insurance, the proceeds of~~
 108 ~~which would pay the cost of restoration, reclamation, and~~
 109 ~~cleanup of any phosphogypsum stack system and phosphate mining~~
 110 ~~activities in the event that an operator or permittee thereof~~
 111 ~~has been subject to a final order of bankruptcy and all funds~~
 112 ~~available therefrom are determined to be inadequate to~~

113 ~~accomplish such restoration, reclamation, and cleanup. This~~
114 ~~section does not imply that such operator or permittee is~~
115 ~~thereby relieved of its obligations or relieved of any~~
116 ~~liabilities pursuant to any other remedies at law,~~
117 ~~administrative remedies, statutory remedies, or remedies~~
118 ~~pursuant to bankruptcy law. The department shall adopt rules to~~
119 ~~implement this subsection, including the purchase and oversight~~
120 ~~of the bond or policy.~~

121 ~~(4) Funds distributed pursuant to subparagraphs (2) (b)3.~~
122 ~~and (11) (e)4. shall be used for:~~

123 ~~(a) Planning, preparing, and financing of infrastructure~~
124 ~~projects for job creation and capital investment, especially~~
125 ~~those related to industrial and commercial sites. Infrastructure~~
126 ~~investments may include the following public or public-private~~
127 ~~partnership facilities: stormwater systems, telecommunications~~
128 ~~facilities, roads or other remedies to transportation~~
129 ~~impediments, nature-based tourism facilities, or other physical~~
130 ~~requirements necessary to facilitate trade and economic~~
131 ~~development activities.~~

132 ~~(b) Maximizing the use of federal, local, and private~~
133 ~~resources, including, but not limited to, those available under~~
134 ~~the Small Cities Community Development Block Grant Program.~~

135 ~~(c) Projects that improve inadequate infrastructure that~~
136 ~~has resulted in regulatory action that prohibits economic or~~
137 ~~community growth, if such projects are related to specific job~~
138 ~~creation or job retention opportunities.~~

139 ~~(5) Beginning January 1, 2004, the tax rate shall be the~~
140 ~~base rate of \$1.62 per ton severed.~~

141 ~~(6) Beginning January 1, 2005, and annually thereafter,~~
 142 ~~the tax rate shall be the base rate times the base rate~~
 143 ~~adjustment for the tax year as calculated by the department in~~
 144 ~~accordance with subsection (8).~~

145 (3)~~(7)~~ The excise tax levied by this section shall apply
 146 to the total production of the producer during the taxable year,
 147 measured on the basis of bone-dry tons produced at the point of
 148 severance.

149 ~~(8) (a) On or before March 30, 2004, and annually~~
 150 ~~thereafter, the department shall calculate the base rate~~
 151 ~~adjustment, if any, for phosphate rock based on the change in~~
 152 ~~the unadjusted annual producer price index for the prior~~
 153 ~~calendar year in relation to the unadjusted annual producer~~
 154 ~~price index for calendar year 1999.~~

155 ~~(b) For the purposes of determining the base rate~~
 156 ~~adjustment for any year, the base rate adjustment shall be a~~
 157 ~~fraction, the numerator of which is the unadjusted annual~~
 158 ~~producer price index for the prior calendar year and the~~
 159 ~~denominator of which is the unadjusted annual producer price~~
 160 ~~index for calendar year 1999.~~

161 ~~(c) The department shall provide the base rate, the base~~
 162 ~~rate adjustment, and the resulting tax rate to affected~~
 163 ~~producers by written notice on or before April 15 of the current~~
 164 ~~year.~~

165 ~~(d) If the producer price index for phosphate rock is~~
 166 ~~substantially revised, the department shall make appropriate~~
 167 ~~adjustment in the method used to compute the base rate~~
 168 ~~adjustment under this subsection which will produce results~~

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169 ~~reasonably consistent with the result that would have been~~
170 ~~obtained if the producer price index for phosphate rock had not~~
171 ~~been revised. However, the tax rate shall not be less than \$1.51~~
172 ~~per ton severed.~~

173 ~~(e) If the producer price index for phosphate rock is~~
174 ~~discontinued, a comparable index shall be selected by the~~
175 ~~department and adopted by rule.~~

176 (4)~~(9)~~ The excise tax levied on the severance of phosphate
177 rock shall be in addition to any ad valorem taxes levied upon
178 the separately assessed mineral interest in the real property
179 upon which the site of severance is located, or any other tax,
180 permit, or license fee imposed by the state or its political
181 subdivisions.

182 (5)~~(10)~~ The tax levied by this section shall be collected
183 in the manner prescribed in s. 211.33.

184 ~~(11) (a) Beginning July 1, 2008, there is hereby levied a~~
185 ~~surcharge of \$1.38 per ton severed in addition to the excise tax~~
186 ~~levied by this section. The surcharge shall be levied until the~~
187 ~~last day of the calendar quarter in which the total revenue~~
188 ~~generated by the surcharge equals \$60 million. Revenues derived~~
189 ~~from the surcharge shall be deposited into the Nonmandatory Land~~
190 ~~Reclamation Trust Fund and shall be exempt from the general~~
191 ~~revenue service charge provided in s. 215.20. Revenues derived~~
192 ~~from the surcharge shall be used to augment funds appropriated~~
193 ~~for the rehabilitation, management, and closure of the Piney~~
194 ~~Point and Mulberry sites and for approved reclamation of~~
195 ~~nonmandatory lands in accordance with chapter 378. A minimum of~~
196 ~~75 percent of the revenues from the surcharge shall be dedicated~~

197 ~~to the Piney Point and Mulberry sites.~~

198 ~~(b) Beginning July 1, 2008, the excise tax rate shall be~~
 199 ~~\$1.945 per ton severed and the base rate adjustment provided in~~
 200 ~~subsection (6) shall not apply.~~

201 ~~(c)1. Beginning July 1 of the 2010-2011 fiscal year, the~~
 202 ~~tax rate shall be the base rate of \$1.71 per ton severed.~~

203 ~~2. Beginning July 1 of the 2011-2012 fiscal year, the tax~~
 204 ~~rate shall be the base rate of \$1.61 per ton severed.~~

205 ~~3. The base rate adjustment provided in subsection (6)~~
 206 ~~shall not apply until the conditions of paragraph (d) are met.~~

207 ~~(d) Beginning July 1 of the fiscal year following the date~~
 208 ~~on which a taxpayer's surcharge offset equals or exceeds the~~
 209 ~~total amount of surcharge remitted by such taxpayer under~~
 210 ~~paragraph (a), and each year thereafter, the excise tax rate~~
 211 ~~levied on such taxpayer shall be adjusted as provided in~~
 212 ~~subsection (6). The surcharge offset for each taxpayer is an~~
 213 ~~amount calculated by the department equal to the cumulative~~
 214 ~~difference between the amount of excise tax that would have been~~
 215 ~~collected under subsections (5) and (6) and the excise tax~~
 216 ~~collected under subparagraphs (c)1. and 2. from such taxpayer.~~

217 ~~(e) Beginning July 1 of the 2010-2011 fiscal year, the~~
 218 ~~proceeds of all taxes, interest, and penalties imposed under~~
 219 ~~this section shall be exempt from the general revenue service~~
 220 ~~charge provided in s. 215.20, and shall be paid into the State~~
 221 ~~Treasury as follows:~~

222 ~~1. To the credit of the Conservation and Recreation Lands~~
 223 ~~Trust Fund, 21.9 percent.~~

224 ~~2. To the credit of the General Revenue Fund of the state,~~

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225 ~~37.1 percent.~~

226 ~~3. For payment to counties in proportion to the number of~~
227 ~~tons of phosphate rock produced from a phosphate rock matrix~~
228 ~~located within such political boundary, 12 percent. The~~
229 ~~department shall distribute this portion of the proceeds~~
230 ~~annually based on production information reported by the~~
231 ~~producers on the annual returns for the taxable year. Any such~~
232 ~~proceeds received by a county shall be used only for phosphate-~~
233 ~~related expenses.~~

234 ~~4. For payment to counties that have been designated a~~
235 ~~rural area of critical economic concern pursuant to s. 288.0656~~
236 ~~in proportion to the number of tons of phosphate rock produced~~
237 ~~from a phosphate rock matrix located within such political~~
238 ~~boundary, 9.4 percent. The department shall distribute this~~
239 ~~portion of the proceeds annually based on production information~~
240 ~~reported by the producers on the annual returns for the taxable~~
241 ~~year. Payments under this subparagraph shall be made to the~~
242 ~~counties unless the Legislature by special act creates a local~~
243 ~~authority to promote and direct the economic development of the~~
244 ~~county. If such authority exists, payments shall be made to that~~
245 ~~authority.~~

246 ~~5. To the credit of the Nonmandatory Land Reclamation~~
247 ~~Trust Fund, 5.8 percent.~~

248 ~~6. To the credit of the Phosphate Research Trust Fund in~~
249 ~~the Division of Universities of the Department of Education, 5.8~~
250 ~~percent.~~

251 ~~7. To the credit of the Minerals Trust Fund, 8.0 percent.~~

252 (6) (a) (f) Beginning July 1 of the 2011-2012 fiscal year,

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253 the proceeds of all taxes, interest, and penalties imposed under
254 this section are exempt from the general revenue service charge
255 provided in s. 215.20, and such proceeds shall be paid into the
256 State Treasury as follows:

257 1. To the credit of the Conservation and Recreation Lands
258 Trust Fund, 25.5 percent.

259 2. To the credit of the General Revenue Fund of the state,
260 35.7 percent.

261 3. For payment to counties in proportion to the number of
262 tons of phosphate rock produced from a phosphate rock matrix
263 located within such political boundary, 12.8 percent. The
264 department shall distribute this portion of the proceeds
265 annually based on production information reported by the
266 producers on the annual returns for the taxable year. Any such
267 proceeds received by a county shall be used only for phosphate-
268 related expenses.

269 4. For payment to counties that have been designated as a
270 rural area of critical economic concern pursuant to s. 288.0656
271 in proportion to the number of tons of phosphate rock produced
272 from a phosphate rock matrix located within such political
273 boundary, 10.0 percent. The department shall distribute this
274 portion of the proceeds annually based on production information
275 reported by the producers on the annual returns for the taxable
276 year. Payments under this subparagraph shall be made to the
277 counties unless the Legislature by special act creates a local
278 authority to promote and direct the economic development of the
279 county. If such authority exists, payments shall be made to that
280 authority.

281 5. To the credit of the Nonmandatory Land Reclamation
282 Trust Fund, 6.2 percent.

283 6. To the credit of the Phosphate Research Trust Fund in
284 the Division of Universities of the Department of Education, 6.2
285 percent.

286 7. To the credit of the Minerals Trust Fund, 3.6 percent.

287 (b)~~(g)~~ For purposes of this section, "phosphate-related
288 expenses" means those expenses that provide for infrastructure
289 or services in support of the phosphate industry, reclamation or
290 restoration of phosphate lands, community infrastructure on such
291 reclaimed lands, and similar expenses directly related to
292 support of the industry.

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

296 212.07 Sales, storage, use tax; tax added to purchase
297 price; dealer not to absorb; liability of purchasers who cannot
298 prove payment of the tax; penalties; general exemptions.—

299 (1) (a) The privilege tax herein levied measured by retail
300 sales shall be collected by the dealers from the purchaser or
301 consumer.

302 (b) A resale must be in strict compliance with s. 212.18
303 and the rules and regulations, and any dealer who makes a sale
304 for resale which is not in strict compliance with s. 212.18 and
305 the rules and regulations shall himself or herself be liable for
306 and pay the tax. Any dealer who makes a sale for resale shall
307 document the exempt nature of the transaction, as established by
308 rules promulgated by the department, by retaining a copy of the

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309 purchaser's resale certificate. In lieu of maintaining a copy of
310 the certificate, a dealer may document, prior to the time of
311 sale, an authorization number provided telephonically or
312 electronically by the department, or by such other means
313 established by rule of the department. The dealer may rely on a
314 resale certificate issued pursuant to s. 212.18(3)(d)
315 ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,
316 without seeking annual verification of the resale certificate if
317 the dealer makes recurring sales to a purchaser in the normal
318 course of business on a continual basis. For purposes of this
319 paragraph, "recurring sales to a purchaser in the normal course
320 of business" refers to a sale in which the dealer extends credit
321 to the purchaser and records the debt as an account receivable,
322 or in which the dealer sells to a purchaser who has an
323 established cash or C.O.D. account, similar to an open credit
324 account. For purposes of this paragraph, purchases are made from
325 a selling dealer on a continual basis if the selling dealer
326 makes, in the normal course of business, sales to the purchaser
327 no less frequently than once in every 12-month period. A dealer
328 may, through the informal protest provided for in s. 213.21 and
329 the rules of the Department of Revenue, provide the department
330 with evidence of the exempt status of a sale. Consumer
331 certificates of exemption executed by those exempt entities that
332 were registered with the department at the time of sale, resale
333 certificates provided by purchasers who were active dealers at
334 the time of sale, and verification by the department of a
335 purchaser's active dealer status at the time of sale in lieu of
336 a resale certificate shall be accepted by the department when

337 submitted during the protest period, but may not be accepted in
 338 any proceeding under chapter 120 or any circuit court action
 339 instituted under chapter 72.

340 (c) Unless the purchaser of tangible personal property
 341 that is incorporated into tangible personal property
 342 manufactured, produced, compounded, processed, or fabricated for
 343 one's own use and subject to the tax imposed under s.
 344 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)1.
 345 extends a certificate in compliance with the rules of the
 346 department, the dealer shall himself or herself be liable for
 347 and pay the tax.

348 (3)(a) A ~~Any~~ dealer who fails, neglects, or refuses to
 349 collect the tax or fees imposed under this chapter herein
 350 ~~provided, either~~ by himself or herself or through the dealer's
 351 agents or employees, ~~is,~~ in addition to the penalty of being
 352 liable for ~~and~~ paying the tax ~~himself or herself,~~ commits guilty
 353 ~~of~~ a misdemeanor of the first degree, punishable as provided in
 354 s. 775.082 or s. 775.083.

355 (b) A dealer who willfully fails to collect a tax or fee
 356 after the department provides notice of the duty to collect the
 357 tax or fee is liable for a specific penalty of 100 percent of
 358 the uncollected tax or fee. This penalty is in addition to any
 359 other penalty that may be imposed by law. A dealer who willfully
 360 fails to collect taxes or fees totaling:

361 1. Less than \$300:

362 a. For a first offense, commits a misdemeanor of the
 363 second degree, punishable as provided in s. 775.082 or s.
 364 775.083.

365 b. For a second offense, commits a misdemeanor of the
 366 first degree, punishable as provided in s. 775.082 or s.
 367 775.083.

368 c. For a third or subsequent offense, commits a felony of
 369 the third degree, punishable as provided in s. 775.082, s.
 370 775.083, or s. 775.084.

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

374 3. An amount equal to \$20,000 or more, but less than
 375 \$100,000, commits a felony of the second degree, punishable as
 376 provided in s. 775.082, s. 775.083, or s. 775.084.

377 4. An amount equal to \$100,000 or more, commits a felony
 378 of the first degree, punishable as provided in s. 775.082, s.
 379 775.083, or s. 775.084.

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

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

387 212.12 Dealer's credit for collecting tax; penalties for
 388 noncompliance; powers of Department of Revenue in dealing with
 389 delinquents; brackets applicable to taxable transactions;
 390 records required.-

391 (2)

392 (d) A ~~Any~~ person who makes a false or fraudulent return

393 with a willful intent to evade payment of any tax or fee imposed
 394 under this chapter ~~is;~~ ~~any person who, after the department's~~
 395 ~~delivery of a written notice to the person's last known address~~
 396 ~~specifically alerting the person of the requirement to register~~
 397 ~~the person's business as a dealer, intentionally fails to~~
 398 ~~register the business; and any person who, after the~~
 399 ~~department's delivery of a written notice to the person's last~~
 400 ~~known address specifically alerting the person of the~~
 401 ~~requirement to collect tax on specific transactions,~~
 402 ~~intentionally fails to collect such tax, shall, in addition to~~
 403 ~~the other penalties provided by law, be liable for a specific~~
 404 ~~penalty of 100 percent of any unreported or any uncollected tax~~
 405 ~~or fee. This penalty is in addition to any other penalty~~
 406 provided by law. A person who makes a false or fraudulent return
 407 with a willful intent to evade payment of taxes or fees
 408 totaling:

409 1. Less than \$300:

410 a. For a first offense, commits a misdemeanor of the
 411 second degree, punishable as provided in s. 775.082 or s.
 412 775.083.

413 b. For a second offense, commits a misdemeanor of the
 414 first degree, punishable as provided in s. 775.082 or s.
 415 775.083.

416 c. For a third or subsequent offense, commits a felony of
 417 the third degree, punishable as provided in s. 775.082, s.
 418 775.083, or s. 775.084.

419 2. An amount equal to \$300 or more, but less than \$20,000,
 420 commits a felony of the third degree, punishable as provided in

421 s. 775.082, s. 775.083, or s. 775.084.

422 3. An amount equal to \$20,000 or more, but less than
423 \$100,000, commits a felony of the second degree, punishable as
424 provided in s. 775.082, s. 775.083, or s. 775.084.

425 4. An amount equal to \$100,000 or more, commits a felony
426 of the first degree, punishable and, upon conviction, for fine
427 and punishment as provided in s. 775.082, s. 775.083, or s.
428 775.084. Delivery of written notice may be made by certified
429 mail, or by the use of such other method as is documented as
430 being necessary and reasonable under the circumstances. The
431 civil and criminal penalties imposed herein for failure to
432 comply with a written notice alerting the person of the
433 requirement to register the person's business as a dealer or to
434 collect tax on specific transactions shall not apply if the
435 person timely files a written challenge to such notice in
436 accordance with procedures established by the department by rule
437 or the notice fails to clearly advise that failure to comply
438 with or timely challenge the notice will result in the
439 imposition of the civil and criminal penalties imposed herein.

440 1. If the total amount of unreported or uncollected taxes
441 or fees is less than \$300, the first offense resulting in
442 conviction is a misdemeanor of the second degree, the second
443 offense resulting in conviction is a misdemeanor of the first
444 degree, and the third and all subsequent offenses resulting in
445 conviction is a misdemeanor of the first degree, and the third
446 and all subsequent offenses resulting in conviction are felonies
447 of the third degree.

448 2. If the total amount of unreported or uncollected taxes

449 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~
 450 ~~felony of the third degree.~~

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

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

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

459 212.14 Departmental powers; hearings; distress warrants;
 460 bonds; subpoenas and subpoenas duces tecum.—

461 (4) In all cases where it is necessary to ensure
 462 compliance with ~~the provisions of~~ this chapter, the department
 463 shall require a cash deposit, bond, or other security as a
 464 condition to a person obtaining or retaining a dealer's
 465 certificate of registration under this chapter. Such bond shall
 466 be in the form and such amount as the department deems
 467 appropriate under the particular circumstances. Every person
 468 failing to produce such cash deposit, bond, or other security as
 469 provided for herein shall not be entitled to obtain or retain a
 470 dealer's certificate of registration under this chapter, and the
 471 Department of Legal Affairs is hereby authorized to proceed by
 472 injunction, when so requested by the Department of Revenue, to
 473 prevent such person from doing business subject to ~~the~~
 474 ~~provisions of~~ this chapter until such cash deposit, bond, or
 475 other security is posted with the department, and any temporary
 476 injunction for this purpose may be granted by any judge or

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477 | chancellor authorized by law to grant injunctions. Any security
478 | required to be deposited may be sold by the department at public
479 | sale if it becomes necessary so to do in order to recover any
480 | tax, interest, or penalty due. Notice of such sale may be served
481 | personally or by mail upon the person who deposited ~~the~~ such
482 | security. If by mail, notice sent to the last known address as
483 | the same appears on the records of the department shall be
484 | sufficient for the purpose of this requirement. Upon such sale,
485 | the surplus, if any, above the amount due under this chapter
486 | shall be returned to the person who deposited the security. The
487 | department may adopt rules necessary to administer this
488 | subsection. For the purpose of the cash deposit, bond, or other
489 | security required by this subsection, the term "person" includes
490 | those entities defined in s. 212.02(12), as well as:

491 | (a) An individual or entity owning a controlling interest
492 | in an entity;

493 | (b) An individual or entity that has acquired an ownership
494 | interest or a controlling interest in a business that would
495 | otherwise be liable for posting a cash deposit, bond, or other
496 | security, unless the department has determined that the
497 | individual or entity is not liable for taxes, interest, or
498 | penalties as set forth in s. 213.758; or

499 | (c) An individual or entity seeking to obtain a dealer's
500 | certificate of registration for a business that will be operated
501 | at an identical location of a previous business that would
502 | otherwise have been liable for posting a cash deposit, bond, or
503 | other security, if the individual or entity fails to provide
504 | evidence that the business was acquired for consideration in an

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505 arms-length transaction.

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

509 212.18 Administration of law; registration of dealers;
510 rules.—

511 (3) (a) Every person desiring to engage in or conduct
512 business in this state as a dealer, ~~as defined in this chapter,~~
513 or to lease, rent, or let or grant licenses in living quarters
514 or sleeping or housekeeping accommodations in hotels, apartment
515 houses, roominghouses, or tourist or trailer camps that are
516 subject to tax under s. 212.03, or to lease, rent, or let or
517 grant licenses in real property, ~~as defined in this chapter,~~ and
518 every person who sells or receives anything of value by way of
519 admissions, must file with the department an application for a
520 certificate of registration for each place of business. The
521 application must include, ~~showing~~ the names of the persons who
522 have interests in such business and their residences, the
523 address of the business, and ~~such~~ other data reasonably required
524 by ~~as~~ the department ~~may reasonably require~~. However, owners and
525 operators of vending machines or newspaper rack machines are
526 required to obtain only one certificate of registration for each
527 county in which such machines are located. The department, by
528 rule, may authorize a dealer that uses independent sellers to
529 sell its merchandise to remit tax on the retail sales price
530 charged to the ultimate consumer in lieu of having the
531 independent seller register as a dealer and remit the tax. The
532 department may appoint the county tax collector as the

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533 department's agent to accept applications for registrations. The
534 application must be made to the department before the person,
535 firm, copartnership, or corporation may engage in such business,
536 and it must be accompanied by a registration fee of \$5. However,
537 a registration fee is not required to accompany an application
538 to engage in or conduct business to make mail order sales. The
539 department may waive the registration fee for applications
540 submitted through the department's Internet registration
541 process.

542 (b) The department, upon receipt of such application,
543 shall ~~will~~ grant to the applicant a separate certificate of
544 registration for each place of business, which certificate may
545 be canceled by the department or its designated assistants for
546 any failure by the certificateholder to comply with ~~any of the~~
547 ~~provisions of~~ this chapter. The certificate is not assignable
548 and is valid only for the person, firm, copartnership, or
549 corporation to which issued. The certificate must be placed in a
550 conspicuous place in the business or businesses for which it is
551 issued and must be displayed at all times. Except as provided in
552 this subsection, a ~~no~~ person may not ~~shall~~ engage in business as
553 a dealer or in leasing, renting, or letting of or granting
554 licenses in living quarters or sleeping or housekeeping
555 accommodations in hotels, apartment houses, roominghouses,
556 tourist or trailer camps, or real property, or ~~as hereinbefore~~
557 ~~defined, nor shall any person~~ sell or receive anything of value
558 by way of admissions, without a valid first ~~having obtained such~~
559 a certificate. ~~A or after such certificate has been canceled; no~~
560 person may not ~~shall~~ receive a ~~any~~ license from any authority

561 within the state to engage in any such business without a valid
 562 certificate ~~first having obtained such a certificate or after~~
 563 ~~such certificate has been canceled.~~ A person may not engage ~~The~~
 564 ~~engaging~~ in the business of selling or leasing tangible personal
 565 property or services or as a dealer; engage, ~~as defined in this~~
 566 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 567 granting licenses in living quarters or sleeping or housekeeping
 568 accommodations in hotels, apartment houses, roominghouses, or
 569 tourist or trailer camps that are taxable under this chapter, or
 570 real property; ~~or engage~~ the engaging in the business of
 571 selling or receiving anything of value by way of admissions,
 572 without a valid ~~such certificate first being obtained or after~~
 573 ~~such certificate has been canceled by the department, is~~
 574 ~~prohibited.~~

575 (c)1. A ~~The failure or refusal of any person who engages~~
 576 in acts requiring a certificate of registration under this
 577 subsection who fails or refuses to register commits, ~~firm,~~
 578 ~~copartnership, or corporation to so qualify when required~~
 579 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
 580 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject
 581 to injunctive proceedings as provided by law. A person who
 582 engages in acts requiring a certificate of registration and who
 583 fails or refuses to register is also subject ~~Such failure or~~
 584 ~~refusal also subjects the offender~~ to a \$100 initial
 585 registration fee in lieu of the \$5 registration fee required by
 586 ~~authorized in~~ paragraph (a). However, the department may waive
 587 the increase in the registration fee if it finds ~~is determined~~
 588 ~~by the department~~ that the failure to register was due to

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589 reasonable cause and not to willful negligence, willful neglect,
590 or fraud.

591 2.a. A person who willfully fails to register after the
592 department provides notice of the duty to register as a dealer
593 commits a felony of the third degree, punishable as provided in
594 s. 775.082, s. 775.083, or s. 775.084.

595 b. The department shall give written notice of the duty to
596 register to the person by personal service, by sending notice by
597 registered mail to the person's last known address, or by both
598 personal service and mail.

599 (d)(e) In addition to the certificate of registration, the
600 department shall provide to each newly registered dealer an
601 initial resale certificate that will be valid for the remainder
602 of the period of issuance. The department shall provide each
603 active dealer with an annual resale certificate. For purposes of
604 this section, the term "active dealer" means a person who is
605 currently registered with the department and who is required to
606 file at least once during each applicable reporting period.

607 (e)(d) The department may revoke a ~~any~~ dealer's
608 certificate of registration if ~~when~~ the dealer fails to comply
609 with this chapter. Prior to revocation of a dealer's certificate
610 of registration, the department must schedule an informal
611 conference at which the dealer may present evidence regarding
612 the department's intended revocation or enter into a compliance
613 agreement with the department. The department must notify the
614 dealer of its intended action and the time, place, and date of
615 the scheduled informal conference by written notification sent
616 by United States mail to the dealer's last known address of

617 record furnished by the dealer on a form prescribed by the
618 department. The dealer is required to attend the informal
619 conference and present evidence refuting the department's
620 intended revocation or enter into a compliance agreement with
621 the department which resolves the dealer's failure to comply
622 with this chapter. The department shall issue an administrative
623 complaint under s. 120.60 if the dealer fails to attend the
624 department's informal conference, fails to enter into a
625 compliance agreement with the department resolving the dealer's
626 noncompliance with this chapter, or fails to comply with the
627 executed compliance agreement.

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

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

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

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

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

647
648 Any person who conducts a convention or a trade show must make
649 his or her ~~their~~ exhibitor's agreements available to the
650 department for inspection and copying.

651 Section 6. Effective upon this act becoming a law and
652 retroactive to July 1, 2010, subsection (5) of section 213.13,
653 Florida Statutes, is amended to read:

654 213.13 Electronic remittance and distribution of funds
655 collected by clerks of the court.—

656 (5) All court-related collections, including fees, fines,
657 reimbursements, court costs, and other court-related funds that
658 the clerks must remit to the state pursuant to law, must be
659 transmitted electronically by the 10th ~~20th~~ day of the month
660 immediately following the month in which the funds are
661 collected.

662 Section 7. Effective upon this act becoming a law, section
663 213.295, Florida Statutes, is created to read:

664 213.295 Automated sales suppression devices.—

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

666 (a) "Automated sales suppression device" or "zapper" means
667 a software program that falsifies the electronic records of
668 electronic cash registers or other point-of-sale systems,
669 including, but not limited to, transaction data and transaction
670 reports. The term includes the software program, any device that
671 carries the software program, or an Internet link to the
672 software program.

673 (b) "Electronic cash register" means a device that keeps a
674 register or supporting documents through the use of an
675 electronic device or computer system designed to record
676 transaction data for the purpose of computing, compiling, or
677 processing retail sales transaction data in whatever manner.

678 (c) "Phantom-ware" means a hidden programming option
679 embedded in the operating system of an electronic cash register
680 or hardwired into the electronic cash register that can be used
681 to create a second set of records or may eliminate or manipulate
682 transaction records, that may or may not be preserved in digital
683 formats, to represent the true or manipulated record of
684 transactions in the electronic cash register.

685 (d) "Transaction data" includes items purchased by a
686 customer, the price for each item, a taxability determination
687 for each item; a segregated tax amount for each of the taxed
688 items, the amount of cash or credit tendered, the net amount
689 returned to the customer in change, the date and time of the
690 purchase, the name, address, and identification number of the
691 vendor, and the receipt or invoice number of the transaction.

692 (e) "Transaction report" means a report that documents,
693 but is not limited to documenting, the sales, taxes, or fees
694 collected, media totals, and discount voids at an electronic
695 cash register that is printed on a cash register tape at the end
696 of a day or a shift, or a report that documents every action at
697 an electronic cash register and that is stored electronically.

698 (2) A person may not knowingly sell, purchase, install,
699 transfer, possess, use, or access any automated sales
700 suppression device, zapper, or phantom-ware.

701 (3) (a) A person who violates this section commits a felony
 702 of the third degree, punishable as provided in s. 775.082, s.
 703 775.083, or s. 775.084.

704 (b) A person who violates this section is liable for all
 705 taxes, fees, penalties, and interest due the state as a result
 706 of the use of an automated sales suppression device, zapper, or
 707 phantom-ware and shall forfeit to the state as an additional
 708 penalty all profits associated with the sale or use of an
 709 automated sales suppression device, zapper, or phantom-ware.

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

714 Section 8. Paragraph (b) of subsection (1) of section
 715 220.153, Florida Statutes, is amended to read:

716 220.153 Apportionment by sales factor.—

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

718 (b) "Qualified capital expenditures" means expenditures in
 719 this state for purposes substantially related to a business's
 720 production or sale of goods or services. The expenditure must
 721 fund the acquisition of additional real property (land,
 722 buildings, including appurtenances, fixtures and fixed
 723 equipment, structures, etc.), including additions, replacements,
 724 major repairs, and renovations to real property which materially
 725 extend its useful life or materially improve or change its
 726 functional use and the furniture and equipment necessary to
 727 furnish and operate a new or improved facility. The term
 728 "qualified capital expenditures" does not include an expenditure

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729 | for a passive investment ~~or for an investment intended for the~~
730 | ~~accumulation of reserves or the realization of profit for~~
731 | ~~distribution to any person holding an ownership interest in the~~
732 | ~~business~~. The term "qualified capital expenditures" does not
733 | include expenditures to acquire an existing business or
734 | expenditures in excess of \$125 million to acquire land or
735 | buildings.

736 | Section 9. Subsection (4) of section 322.142, Florida
737 | Statutes, is amended to read:

738 | 322.142 Color photographic or digital imaged licenses.—

739 | (4) The department may maintain a film negative or print
740 | file. The department shall maintain a record of the digital
741 | image and signature of the licensees, together with other data
742 | required by the department for identification and retrieval.
743 | Reproductions from the file or digital record are exempt from
744 | ~~the provisions of~~ s. 119.07(1) and shall be made and issued only
745 | for departmental administrative purposes; for the issuance of
746 | duplicate licenses; in response to law enforcement agency
747 | requests; to the Department of Business and Professional
748 | Regulation pursuant to an interagency agreement for the purpose
749 | of accessing digital images for reproduction of licenses issued
750 | by the Department of Business and Professional Regulation; to
751 | the Department of State pursuant to an interagency agreement to
752 | facilitate determinations of eligibility of voter registration
753 | applicants and registered voters in accordance with ss. 98.045
754 | and 98.075; to the Department of Revenue pursuant to an
755 | interagency agreement for use in establishing paternity and
756 | establishing, modifying, or enforcing support obligations in

757 Title IV-D cases; to the Department of Revenue for use in
 758 establishing positive identification for tax administration
 759 purposes; to the Department of Children and Family Services
 760 pursuant to an interagency agreement to conduct protective
 761 investigations under part III of chapter 39 and chapter 415; to
 762 the Department of Children and Family Services pursuant to an
 763 interagency agreement specifying the number of employees in each
 764 of that department's regions to be granted access to the records
 765 for use as verification of identity to expedite the
 766 determination of eligibility for public assistance and for use
 767 in public assistance fraud investigations; or to the Department
 768 of Financial Services pursuant to an interagency agreement to
 769 facilitate the location of owners of unclaimed property, the
 770 validation of unclaimed property claims, and the identification
 771 of fraudulent or false claims.

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

775 443.131 Contributions.—

776 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 777 EXPERIENCE.—

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

781 1. All contributions, reimbursements, interest, and
 782 penalties incurred by the employer for wages paid by him or her
 783 in all previous calendar quarters, except the 4 calendar
 784 quarters immediately preceding the calendar quarter or calendar

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785 year for which the benefit ratio is computed, are paid; ~~and~~
 786 2. The employer has produced for inspection and copying
 787 all work records in his or her possession, custody, or control
 788 which were requested by the Department of Economic Opportunity
 789 or its tax collection service provider pursuant to s.
 790 443.171(5); and

791 ~~3.2.~~ The employer entitled to a rate reduction must have
 792 at least one annual payroll as defined in subparagraph (b)1.
 793 unless the employer is eligible for additional credit under the
 794 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 795 Act is amended or repealed in a manner affecting credit under
 796 the federal act, this section applies only to the extent that
 797 additional credit is allowed against the payment of the tax
 798 imposed by the Federal Unemployment Tax Act.

799
 800 The tax collection service provider shall assign an earned
 801 contribution rate to an employer ~~under subparagraph 1.~~ the
 802 quarter immediately after the quarter in which all
 803 contributions, reimbursements, interest, and penalties are paid
 804 in full and all work records requested pursuant to s. 443.171(5)
 805 have been produced for inspection and copying to the Department
 806 of Economic Opportunity or the tax collection service provider.

807 Section 11. Effective January 1, 2013, paragraph (a) of
 808 subsection (1) of section 443.141, Florida Statutes, is amended
 809 to read:

810 443.141 Collection of contributions and reimbursements.—

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

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813 (a) Interest.—Contributions or reimbursements unpaid on
814 the date due bear interest at the rate of 1 percent per month
815 through December 31, 2012. Beginning January 1, 2013, the
816 interest rate shall be calculated in accordance with s. 213.235,
817 except that the rate of interest shall never be greater than 1
818 percent per month, from and after the ~~that~~ date due until
819 payment plus accrued interest is received by the tax collection
820 service provider, unless the service provider finds that the
821 employing unit has good reason for failing to pay the
822 contributions or reimbursements when due. Interest collected
823 under this subsection must be paid into the Special Employment
824 Security Administration Trust Fund.

825 Section 12. Except as otherwise expressly provided in this
826 act and except for this section, which shall take effect upon
827 this act becoming a law, this act shall take effect July 1,
828 2012.