

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 that are impounded by a local,
5 state, or federal law enforcement agency are not
6 taxable; amending s. 212.07, F.S.; conforming a cross-
7 reference to changes made by the act; subjecting a
8 dealer to monetary and criminal penalties for the
9 willful failure to collect certain taxes or fees after
10 notice of the duty to collect the taxes or fees by the
11 Department of Revenue; amending s. 212.12, F.S.;
12 deleting provisions relating to the imposition of
13 criminal penalties after notice by the Department of
14 Revenue of requirements to register as a dealer or to
15 collect taxes; making technical and grammatical
16 changes to provisions specifying penalties for making
17 a false or fraudulent return with the intent to evade
18 payment of a tax or fee; amending s. 212.14, F.S.;
19 defining the term "person"; authorizing the Department
20 of Revenue to adopt rules relating to requirements for
21 a person to deposit cash, a bond, or other security
22 with the department in order to ensure compliance with
23 sales tax laws; making technical and grammatical
24 changes; amending s. 212.18, F.S.; subjecting a person
25 to criminal penalties for willfully failing to
26 register as a dealer after notice of the duty to
27 register by the Department of Revenue; making
28 technical and grammatical changes; amending s. 212.20,

29 F.S.; providing for the distribution of certain taxes
30 generated by visitor activity at the Kennedy Space
31 Center and Cape Canaveral Air Force Station to the
32 Florida Institute of Technology; amending s. 213.13,
33 F.S.; revising the due date for funds collected by the
34 clerks of court to be transmitted to the Department of
35 Revenue; providing retroactive application; creating
36 s. 213.295, F.S.; providing definitions; subjecting a
37 person to criminal penalties and monetary penalties
38 for knowingly selling or engaging in certain other
39 actions involving an automated sales suppression
40 device, zapper, or phantom-ware; defining sales
41 suppression devices and phantom-ware as contraband
42 articles under the Florida Contraband Forfeiture Act;
43 amending s. 213.756, F.S.; providing an absolute
44 defense by a retailer, dealer, or vendor against a
45 purchaser's claim for a refund; amending s. 220.153,
46 F.S.; redefining the term "qualified capital
47 expenditures" for purposes of apportionment by sales
48 factor; amending s. 322.142, F.S.; authorizing the
49 Department of Highway Safety and Motor Vehicles to
50 release photographs or digital images to the
51 Department of Revenue in order to identify individuals
52 for purposes of tax administration; amending s.
53 336.021, F.S.; revising the date when imposition of
54 the ninth-cent fuel tax will be levied; amending s.
55 336.025, F.S.; revising the date when impositions and
56 rate changes of the local option fuel tax shall be

57 | levied; amending s. 443.131, F.S.; imposing a
 58 | requirement on employers to produce records for the
 59 | Department of Economic Opportunity or its tax
 60 | collection service provider as a prerequisite for a
 61 | reduction in the rate of unemployment tax; amending s.
 62 | 443.141, F.S.; providing a method to calculate the
 63 | interest rate for past due contributions and
 64 | reimbursements, and delinquent, erroneous, incomplete,
 65 | or insufficient reports; providing effective dates.

66 |

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

68 |

69 | Section 1. Subsection (6) of section 212.03, Florida
 70 | Statutes, is amended to read:

71 | 212.03 Transient rentals tax; rate, procedure,
 72 | enforcement, exemptions.—

73 | (6) It is the legislative intent that every person is
 74 | engaging in a taxable privilege who leases or rents parking or
 75 | storage spaces for motor vehicles in parking lots or garages,
 76 | including storage facilities for towed vehicles, who leases or
 77 | rents docking or storage spaces for boats in boat docks or
 78 | marinas, or who leases or rents tie-down or storage space for
 79 | aircraft at airports.

80 | (a) For the exercise of this privilege, a tax is hereby
 81 | levied at the rate of 6 percent on the total rental charged.

82 | (b) Charges for parking, docking, tie-down, or storage
 83 | arising from a lawful impoundment are not taxable. As used in
 84 | this paragraph, the term "lawful impoundment" means the storing

85 of or having custody over an aircraft, boat, or motor vehicle
 86 by, or at the direction of, a local, state, or federal law
 87 enforcement agency which the owner or the owner's representative
 88 is not authorized to enter upon, have access to, or remove
 89 without the consent of the law enforcement agency.

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

93 212.07 Sales, storage, use tax; tax added to purchase
 94 price; dealer not to absorb; liability of purchasers who cannot
 95 prove payment of the tax; penalties; general exemptions.—

96 (1) (a) The privilege tax herein levied measured by retail
 97 sales shall be collected by the dealers from the purchaser or
 98 consumer.

99 (b) A resale must be in strict compliance with s. 212.18
 100 and the rules and regulations, and any dealer who makes a sale
 101 for resale which is not in strict compliance with s. 212.18 and
 102 the rules and regulations shall himself or herself be liable for
 103 and pay the tax. Any dealer who makes a sale for resale shall
 104 document the exempt nature of the transaction, as established by
 105 rules promulgated by the department, by retaining a copy of the
 106 purchaser's resale certificate. In lieu of maintaining a copy of
 107 the certificate, a dealer may document, prior to the time of
 108 sale, an authorization number provided telephonically or
 109 electronically by the department, or by such other means
 110 established by rule of the department. The dealer may rely on a
 111 resale certificate issued pursuant to s. 212.18(3)(d)
 112 ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,

113 without seeking annual verification of the resale certificate if
114 the dealer makes recurring sales to a purchaser in the normal
115 course of business on a continual basis. For purposes of this
116 paragraph, "recurring sales to a purchaser in the normal course
117 of business" refers to a sale in which the dealer extends credit
118 to the purchaser and records the debt as an account receivable,
119 or in which the dealer sells to a purchaser who has an
120 established cash or C.O.D. account, similar to an open credit
121 account. For purposes of this paragraph, purchases are made from
122 a selling dealer on a continual basis if the selling dealer
123 makes, in the normal course of business, sales to the purchaser
124 no less frequently than once in every 12-month period. A dealer
125 may, through the informal protest provided for in s. 213.21 and
126 the rules of the Department of Revenue, provide the department
127 with evidence of the exempt status of a sale. Consumer
128 certificates of exemption executed by those exempt entities that
129 were registered with the department at the time of sale, resale
130 certificates provided by purchasers who were active dealers at
131 the time of sale, and verification by the department of a
132 purchaser's active dealer status at the time of sale in lieu of
133 a resale certificate shall be accepted by the department when
134 submitted during the protest period, but may not be accepted in
135 any proceeding under chapter 120 or any circuit court action
136 instituted under chapter 72.

137 (c) Unless the purchaser of tangible personal property
138 that is incorporated into tangible personal property
139 manufactured, produced, compounded, processed, or fabricated for
140 one's own use and subject to the tax imposed under s.

141 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)1.
 142 extends a certificate in compliance with the rules of the
 143 department, the dealer shall himself or herself be liable for
 144 and pay the tax.

145 (3)(a) A ~~Any~~ dealer who fails, neglects, or refuses to
 146 collect the tax or fees imposed under this chapter herein
 147 ~~provided, either~~ by himself or herself or through the dealer's
 148 agents or employees, ~~is,~~ in addition to the penalty of being
 149 liable for ~~and~~ paying the tax ~~himself or herself,~~ commits guilty
 150 ~~of~~ a misdemeanor of the first degree, punishable as provided in
 151 s. 775.082 or s. 775.083.

152 (b) A dealer who willfully fails to collect a tax or fee
 153 after the department provides notice of the duty to collect the
 154 tax or fee is liable for a specific penalty of 100 percent of
 155 the uncollected tax or fee. This penalty is in addition to any
 156 other penalty that may be imposed by law. A dealer who willfully
 157 fails to collect taxes or fees totaling:

158 1. Less than \$300:

159 a. For a first offense, commits a misdemeanor of the
 160 second degree, punishable as provided in s. 775.082 or s.
 161 775.083.

162 b. For a second offense, commits a misdemeanor of the
 163 first degree, punishable as provided in s. 775.082 or s.
 164 775.083.

165 c. For a third or subsequent offense, commits a felony of
 166 the third degree, punishable as provided in s. 775.082, s.
 167 775.083, or s. 775.084.

168 2. An amount equal to \$300 or more, but less than \$20,000,

169 commits a felony of the third degree, punishable as provided in
 170 s. 775.082, s. 775.083, or s. 775.084.

171 3. An amount equal to \$20,000 or more, but less than
 172 \$100,000, commits a felony of the second degree, punishable as
 173 provided in s. 775.082, s. 775.083, or s. 775.084.

174 4. An amount equal to \$100,000 or more, commits a felony
 175 of the first degree, punishable as provided in s. 775.082, s.
 176 775.083, or s. 775.084.

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

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

184 212.12 Dealer's credit for collecting tax; penalties for
 185 noncompliance; powers of Department of Revenue in dealing with
 186 delinquents; brackets applicable to taxable transactions;
 187 records required.-

188 (2)

189 (d) A ~~Any~~ person who makes a false or fraudulent return
 190 with a willful intent to evade payment of any tax or fee imposed
 191 under this chapter is; ~~any person who, after the department's~~
 192 ~~delivery of a written notice to the person's last known address~~
 193 ~~specifically alerting the person of the requirement to register~~
 194 ~~the person's business as a dealer, intentionally fails to~~
 195 ~~register the business; and any person who, after the~~
 196 ~~department's delivery of a written notice to the person's last~~

197 ~~known address specifically alerting the person of the~~
 198 ~~requirement to collect tax on specific transactions,~~
 199 ~~intentionally fails to collect such tax, shall, in addition to~~
 200 ~~the other penalties provided by law, be liable for a specific~~
 201 ~~penalty of 100 percent of any unreported or any uncollected tax~~
 202 ~~or fee. This penalty is in addition to any other penalty~~
 203 provided by law. A person who makes a false or fraudulent return
 204 with a willful intent to evade payment of taxes or fees
 205 totaling:

- 206 1. Less than \$300:
 - 207 a. For a first offense, commits a misdemeanor of the
 - 208 second degree, punishable as provided in s. 775.082 or s.
 - 209 775.083.
 - 210 b. For a second offense, commits a misdemeanor of the
 - 211 first degree, punishable as provided in s. 775.082 or s.
 - 212 775.083.
 - 213 c. For a third or subsequent offense, commits a felony of
 - 214 the third degree, punishable as provided in s. 775.082, s.
 - 215 775.083, or s. 775.084.
- 216 2. An amount equal to \$300 or more, but less than \$20,000,
- 217 commits a felony of the third degree, punishable as provided in
- 218 s. 775.082, s. 775.083, or s. 775.084.
- 219 3. An amount equal to \$20,000 or more, but less than
- 220 \$100,000, commits a felony of the second degree, punishable as
- 221 provided in s. 775.082, s. 775.083, or s. 775.084.
- 222 4. An amount equal to \$100,000 or more, commits a felony
- 223 of the first degree, punishable and, upon conviction, for fine
- 224 and punishment as provided in s. 775.082, s. 775.083, or s.

225 775.084. ~~Delivery of written notice may be made by certified~~
226 ~~mail, or by the use of such other method as is documented as~~
227 ~~being necessary and reasonable under the circumstances. The~~
228 ~~civil and criminal penalties imposed herein for failure to~~
229 ~~comply with a written notice alerting the person of the~~
230 ~~requirement to register the person's business as a dealer or to~~
231 ~~collect tax on specific transactions shall not apply if the~~
232 ~~person timely files a written challenge to such notice in~~
233 ~~accordance with procedures established by the department by rule~~
234 ~~or the notice fails to clearly advise that failure to comply~~
235 ~~with or timely challenge the notice will result in the~~
236 ~~imposition of the civil and criminal penalties imposed herein.~~

237 1. ~~If the total amount of unreported or uncollected taxes~~
238 ~~or fees is less than \$300, the first offense resulting in~~
239 ~~conviction is a misdemeanor of the second degree, the second~~
240 ~~offense resulting in conviction is a misdemeanor of the first~~
241 ~~degree, and the third and all subsequent offenses resulting in~~
242 ~~conviction is a misdemeanor of the first degree, and the third~~
243 ~~and all subsequent offenses resulting in conviction are felonies~~
244 ~~of the third degree.~~

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

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

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

253 ~~first degree.~~

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

256 212.14 Departmental powers; hearings; distress warrants;
 257 bonds; subpoenas and subpoenas duces tecum.—

258 (4) In all cases where it is necessary to ensure
 259 compliance with ~~the provisions of~~ this chapter, the department
 260 shall require a cash deposit, bond, or other security as a
 261 condition to a person obtaining or retaining a dealer's
 262 certificate of registration under this chapter. Such bond shall
 263 be in the form and such amount as the department deems
 264 appropriate under the particular circumstances. Every person
 265 failing to produce such cash deposit, bond, or other security as
 266 provided for herein shall not be entitled to obtain or retain a
 267 dealer's certificate of registration under this chapter, and the
 268 Department of Legal Affairs is hereby authorized to proceed by
 269 injunction, when so requested by the Department of Revenue, to
 270 prevent such person from doing business subject to ~~the~~
 271 ~~provisions of~~ this chapter until such cash deposit, bond, or
 272 other security is posted with the department, and any temporary
 273 injunction for this purpose may be granted by any judge or
 274 chancellor authorized by law to grant injunctions. Any security
 275 required to be deposited may be sold by the department at public
 276 sale if it becomes necessary so to do in order to recover any
 277 tax, interest, or penalty due. Notice of such sale may be served
 278 personally or by mail upon the person who deposited the ~~such~~
 279 security. If by mail, notice sent to the last known address as
 280 the same appears on the records of the department shall be

281 sufficient for the purpose of this requirement. Upon such sale,
 282 the surplus, if any, above the amount due under this chapter
 283 shall be returned to the person who deposited the security. The
 284 department may adopt rules necessary to administer this
 285 subsection. For the purpose of the cash deposit, bond, or other
 286 security required by this subsection, the term "person" includes
 287 those entities defined in s. 212.02(12), as well as:

288 (a) An individual or entity owning a controlling interest
 289 in an entity;

290 (b) An individual or entity that has acquired an ownership
 291 interest or a controlling interest in a business that would
 292 otherwise be liable for posting a cash deposit, bond, or other
 293 security, unless the department has determined that the
 294 individual or entity is not liable for taxes, interest, or
 295 penalties as set forth in s. 213.758; or

296 (c) An individual or entity seeking to obtain a dealer's
 297 certificate of registration for a business that will be operated
 298 at an identical location of a previous business that would
 299 otherwise have been liable for posting a cash deposit, bond, or
 300 other security, if the individual or entity fails to provide
 301 evidence that the business was acquired for consideration in an
 302 arms-length transaction.

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

306 212.18 Administration of law; registration of dealers;
 307 rules.—

308 (3) (a) Every person desiring to engage in or conduct

309 business in this state as a dealer, ~~as defined in this chapter,~~
310 or to lease, rent, or let or grant licenses in living quarters
311 or sleeping or housekeeping accommodations in hotels, apartment
312 houses, roominghouses, or tourist or trailer camps that are
313 subject to tax under s. 212.03, or to lease, rent, or let or
314 grant licenses in real property, ~~as defined in this chapter,~~ and
315 every person who sells or receives anything of value by way of
316 admissions, must file with the department an application for a
317 certificate of registration for each place of business. The
318 application must include, ~~showing~~ the names of the persons who
319 have interests in such business and their residences, the
320 address of the business, and ~~such~~ other data reasonably required
321 by ~~as~~ the department ~~may reasonably require~~. However, owners and
322 operators of vending machines or newspaper rack machines are
323 required to obtain only one certificate of registration for each
324 county in which such machines are located. The department, by
325 rule, may authorize a dealer that uses independent sellers to
326 sell its merchandise to remit tax on the retail sales price
327 charged to the ultimate consumer in lieu of having the
328 independent seller register as a dealer and remit the tax. The
329 department may appoint the county tax collector as the
330 department's agent to accept applications for registrations. The
331 application must be made to the department before the person,
332 firm, copartnership, or corporation may engage in such business,
333 and it must be accompanied by a registration fee of \$5. However,
334 a registration fee is not required to accompany an application
335 to engage in or conduct business to make mail order sales. The
336 department may waive the registration fee for applications

337 submitted through the department's Internet registration
338 process.

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

365 accommodations in hotels, apartment houses, roominghouses, or
 366 tourist or trailer camps that are taxable under this chapter, or
 367 real property;~~;~~ or engage ~~the engaging~~ in the business of
 368 selling or receiving anything of value by way of admissions,
 369 without a valid ~~such~~ certificate ~~first being obtained or after~~
 370 ~~such certificate has been canceled by the department,~~ ~~is~~
 371 ~~prohibited.~~

372 (c)1. A ~~The failure or refusal of any person who engages~~
 373 in acts requiring a certificate of registration under this
 374 subsection who fails or refuses to register commits, ~~firm,~~
 375 ~~copartnership, or corporation to so qualify when required~~
 376 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
 377 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject
 378 to injunctive proceedings as provided by law. A person who
 379 engages in acts requiring a certificate of registration and who
 380 fails or refuses to register is also subject ~~Such failure or~~
 381 ~~refusal also subjects the offender~~ to a \$100 initial
 382 registration fee in lieu of the \$5 registration fee required by
 383 ~~authorized in~~ paragraph (a). However, the department may waive
 384 the increase in the registration fee if it finds ~~is determined~~
 385 ~~by the department~~ that the failure to register was due to
 386 reasonable cause and not to willful negligence, willful neglect,
 387 or fraud.

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

392 b. The department shall give written notice of the duty to

393 register to the person by personal service, by sending notice by
394 registered mail to the person's last known address, or by both
395 personal service and mail.

396 (d)~~(e)~~ In addition to the certificate of registration, the
397 department shall provide to each newly registered dealer an
398 initial resale certificate that will be valid for the remainder
399 of the period of issuance. The department shall provide each
400 active dealer with an annual resale certificate. For purposes of
401 this section, the term "active dealer" means a person who is
402 currently registered with the department and who is required to
403 file at least once during each applicable reporting period.

404 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's
405 certificate of registration if ~~when~~ the dealer fails to comply
406 with this chapter. Prior to revocation of a dealer's certificate
407 of registration, the department must schedule an informal
408 conference at which the dealer may present evidence regarding
409 the department's intended revocation or enter into a compliance
410 agreement with the department. The department must notify the
411 dealer of its intended action and the time, place, and date of
412 the scheduled informal conference by written notification sent
413 by United States mail to the dealer's last known address of
414 record furnished by the dealer on a form prescribed by the
415 department. The dealer is required to attend the informal
416 conference and present evidence refuting the department's
417 intended revocation or enter into a compliance agreement with
418 the department which resolves the dealer's failure to comply
419 with this chapter. The department shall issue an administrative
420 complaint under s. 120.60 if the dealer fails to attend the

421 department's informal conference, fails to enter into a
422 compliance agreement with the department resolving the dealer's
423 noncompliance with this chapter, or fails to comply with the
424 executed compliance agreement.

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

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

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

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

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

444
445 Any person who conducts a convention or a trade show must make
446 his or her ~~their~~ exhibitor's agreements available to the
447 department for inspection and copying.

448 Section 6. Effective July 1, 2013, paragraph (d) of

449 subsection (6) of section 212.20, Florida Statutes, is amended
 450 to read:

451 212.20 Funds collected, disposition; additional powers of
 452 department; operational expense; refund of taxes adjudicated
 453 unconstitutionally collected.—

454 (6) Distribution of all proceeds under this chapter and s.
 455 202.18(1)(b) and (2)(b) shall be as follows:

456 (d) The proceeds of all other taxes and fees imposed
 457 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 458 and (2)(b) shall be distributed as follows:

459 1. In any fiscal year, the greater of \$500 million, minus
 460 an amount equal to 4.6 percent of the proceeds of the taxes
 461 collected pursuant to chapter 201, or 5.2 percent of all other
 462 taxes and fees imposed pursuant to this chapter or remitted
 463 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 464 monthly installments into the General Revenue Fund.

465 2. After the distribution under subparagraph 1., 8.814
 466 percent of the amount remitted by a sales tax dealer located
 467 within a participating county pursuant to s. 218.61 shall be
 468 transferred into the Local Government Half-cent Sales Tax
 469 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 470 transferred shall be reduced by 0.1 percent, and the department
 471 shall distribute this amount to the Public Employees Relations
 472 Commission Trust Fund less \$5,000 each month, which shall be
 473 added to the amount calculated in subparagraph 3. and
 474 distributed accordingly.

475 3. After the distribution under subparagraphs 1. and 2.,
 476 0.095 percent shall be transferred to the Local Government Half-

477 cent Sales Tax Clearing Trust Fund and distributed pursuant to
478 s. 218.65.

479 4. After the distributions under subparagraphs 1., 2., and
480 3., 2.0440 percent of the available proceeds shall be
481 transferred monthly to the Revenue Sharing Trust Fund for
482 Counties pursuant to s. 218.215.

483 5. After the distributions under subparagraphs 1., 2., and
484 3., 1.3409 percent of the available proceeds shall be
485 transferred monthly to the Revenue Sharing Trust Fund for
486 Municipalities pursuant to s. 218.215. If the total revenue to
487 be distributed pursuant to this subparagraph is at least as
488 great as the amount due from the Revenue Sharing Trust Fund for
489 Municipalities and the former Municipal Financial Assistance
490 Trust Fund in state fiscal year 1999-2000, no municipality shall
491 receive less than the amount due from the Revenue Sharing Trust
492 Fund for Municipalities and the former Municipal Financial
493 Assistance Trust Fund in state fiscal year 1999-2000. If the
494 total proceeds to be distributed are less than the amount
495 received in combination from the Revenue Sharing Trust Fund for
496 Municipalities and the former Municipal Financial Assistance
497 Trust Fund in state fiscal year 1999-2000, each municipality
498 shall receive an amount proportionate to the amount it was due
499 in state fiscal year 1999-2000.

500 6. Of the remaining proceeds:

501 a. In each fiscal year, the sum of \$29,915,500 shall be
502 divided into as many equal parts as there are counties in the
503 state, and one part shall be distributed to each county. The
504 distribution among the several counties must begin each fiscal

505 year on or before January 5th and continue monthly for a total
506 of 4 months. If a local or special law required that any moneys
507 accruing to a county in fiscal year 1999-2000 under the then-
508 existing provisions of s. 550.135 be paid directly to the
509 district school board, special district, or a municipal
510 government, such payment must continue until the local or
511 special law is amended or repealed. The state covenants with
512 holders of bonds or other instruments of indebtedness issued by
513 local governments, special districts, or district school boards
514 before July 1, 2000, that it is not the intent of this
515 subparagraph to adversely affect the rights of those holders or
516 relieve local governments, special districts, or district school
517 boards of the duty to meet their obligations as a result of
518 previous pledges or assignments or trusts entered into which
519 obligated funds received from the distribution to county
520 governments under then-existing s. 550.135. This distribution
521 specifically is in lieu of funds distributed under s. 550.135
522 before July 1, 2000.

523 b. The department shall distribute \$166,667 monthly
524 pursuant to s. 288.1162 to each applicant certified as a
525 facility for a new or retained professional sports franchise
526 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
527 monthly by the department to each certified applicant as defined
528 in s. 288.11621 for a facility for a spring training franchise.
529 However, not more than \$416,670 may be distributed monthly in
530 the aggregate to all certified applicants for facilities for
531 spring training franchises. Distributions begin 60 days after
532 such certification and continue for not more than 30 years,

533 | except as otherwise provided in s. 288.11621. A certified
534 | applicant identified in this sub-subparagraph may not receive
535 | more in distributions than expended by the applicant for the
536 | public purposes provided for in s. 288.1162(5) or s.
537 | 288.11621(3).

538 | c. Beginning 30 days after notice by the Department of
539 | Economic Opportunity to the Department of Revenue that an
540 | applicant has been certified as the professional golf hall of
541 | fame pursuant to s. 288.1168 and is open to the public, \$166,667
542 | shall be distributed monthly, for up to 300 months, to the
543 | applicant.

544 | d. Beginning 30 days after notice by the Department of
545 | Economic Opportunity to the Department of Revenue that the
546 | applicant has been certified as the International Game Fish
547 | Association World Center facility pursuant to s. 288.1169, and
548 | the facility is open to the public, \$83,333 shall be distributed
549 | monthly, for up to 168 months, to the applicant. This
550 | distribution is subject to reduction pursuant to s. 288.1169. A
551 | lump sum payment of \$999,996 shall be made, after certification
552 | and before July 1, 2000.

553 | e. Beginning 30 days after notice by the Department of
554 | Economic Opportunity to the Department of Revenue that the
555 | Department of Economic Opportunity has approved a plan developed
556 | by the Florida Institute of Technology for establishing a space
557 | exploration research institute, the department shall distribute
558 | \$416,666 monthly to the Florida Institute of Technology for the
559 | purpose of operating a space exploration research institute.
560 | This amount represents sales and use taxes generated by visitor

561 activity at the Kennedy Space Center and the Cape Canaveral Air
 562 Force Station. The Florida Institute of Technology shall develop
 563 a plan for the space exploration research institute in
 564 conjunction with Space Florida.

565 7. All other proceeds must remain in the General Revenue
 566 Fund.

567 Section 7. Effective upon this act becoming a law and
 568 retroactive to July 1, 2010, subsection (5) of section 213.13,
 569 Florida Statutes, is amended to read:

570 213.13 Electronic remittance and distribution of funds
 571 collected by clerks of the court.—

572 (5) All court-related collections, including fees, fines,
 573 reimbursements, court costs, and other court-related funds that
 574 the clerks must remit to the state pursuant to law, must be
 575 transmitted electronically by the 10th ~~20th~~ day of the month
 576 immediately following the month in which the funds are
 577 collected.

578 Section 8. Effective upon this act becoming a law, section
 579 213.295, Florida Statutes, is created to read:

580 213.295 Automated sales suppression devices.—

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

582 (a) "Automated sales suppression device" or "zapper" means
 583 a software program that falsifies the electronic records of
 584 electronic cash registers or other point-of-sale systems,
 585 including, but not limited to, transaction data and transaction
 586 reports. The term includes the software program, any device that
 587 carries the software program, or an Internet link to the
 588 software program.

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

594 (c) "Phantom-ware" means a hidden programming option
595 embedded in the operating system of an electronic cash register
596 or hardwired into the electronic cash register that can be used
597 to create a second set of records or may eliminate or manipulate
598 transaction records, that may or may not be preserved in digital
599 formats, to represent the true or manipulated record of
600 transactions in the electronic cash register.

601 (d) "Transaction data" includes items purchased by a
602 customer, the price for each item, a taxability determination
603 for each item; a segregated tax amount for each of the taxed
604 items, the amount of cash or credit tendered, the net amount
605 returned to the customer in change, the date and time of the
606 purchase, the name, address, and identification number of the
607 vendor, and the receipt or invoice number of the transaction.

608 (e) "Transaction report" means a report that documents,
609 but is not limited to documenting, the sales, taxes, or fees
610 collected, media totals, and discount voids at an electronic
611 cash register that is printed on a cash register tape at the end
612 of a day or a shift, or a report that documents every action at
613 an electronic cash register and that is stored electronically.

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

617 (3) (a) A person who violates this section commits a felony
 618 of the third degree, punishable as provided in s. 775.082, s.
 619 775.083, or s. 775.084.

620 (b) A person who violates this section is liable for all
 621 taxes, fees, penalties, and interest due the state as a result
 622 of the use of an automated sales suppression device, zapper, or
 623 phantom-ware and shall forfeit to the state as an additional
 624 penalty all profits associated with the sale or use of an
 625 automated sales suppression device, zapper, or phantom-ware.

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

630 Section 9. Paragraph (a) of subsection (2) of section
 631 213.756, Florida Statutes, is amended to read:

632 213.756 Funds collected are state tax funds.—

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

637 1. The purchaser in the action has the burden of proving
 638 all elements of its claim for a refund by clear and convincing
 639 evidence;

640 2. The sole remedy in the action is damages measured by
 641 the difference between what the retailer, dealer, or vendor
 642 collected as a tax, fee, or surcharge and what the retailer,
 643 dealer, or vendor paid to the taxing authority plus any discount
 644 or collection allowance authorized by law and taken by the

645 retailer, dealer, or vendor; ~~and~~

646 3. It is an affirmative defense to the action when the
 647 retailer, dealer, or vendor remitted the amount collected from
 648 the purchaser to the appropriate taxing authority, less any
 649 discount or collection allowance authorized by law; and—

650 4. It is an absolute defense to the action if the
 651 retailer, dealer, or vendor collected tax on delivery charges
 652 and resolved any tax liability on that issue in accordance with
 653 an agreement entered into with the Department of Revenue
 654 pursuant to s. 213.21.

655 Section 10. Paragraph (b) of subsection (1) of section
 656 220.153, Florida Statutes, is amended to read:

657 220.153 Apportionment by sales factor.—

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

659 (b) "Qualified capital expenditures" means expenditures in
 660 this state for purposes substantially related to a business's
 661 production or sale of goods or services. The expenditure must
 662 fund the acquisition of additional real property (land,
 663 buildings, including appurtenances, fixtures and fixed
 664 equipment, structures, etc.), including additions, replacements,
 665 major repairs, and renovations to real property which materially
 666 extend its useful life or materially improve or change its
 667 functional use and the furniture and equipment necessary to
 668 furnish and operate a new or improved facility. The term
 669 "qualified capital expenditures" does not include an expenditure
 670 for a passive investment ~~or for an investment intended for the~~
 671 ~~accumulation of reserves or the realization of profit for~~
 672 ~~distribution to any person holding an ownership interest in the~~

673 ~~business~~. The term "qualified capital expenditures" does not
674 include expenditures to acquire an existing business or
675 expenditures in excess of \$125 million to acquire land or
676 buildings.

677 Section 11. Subsection (4) of section 322.142, Florida
678 Statutes, is amended to read:

679 322.142 Color photographic or digital imaged licenses.—

680 (4) The department may maintain a film negative or print
681 file. The department shall maintain a record of the digital
682 image and signature of the licensees, together with other data
683 required by the department for identification and retrieval.
684 Reproductions from the file or digital record are exempt from
685 ~~the provisions of~~ s. 119.07(1) and shall be made and issued only
686 for departmental administrative purposes; for the issuance of
687 duplicate licenses; in response to law enforcement agency
688 requests; to the Department of Business and Professional
689 Regulation pursuant to an interagency agreement for the purpose
690 of accessing digital images for reproduction of licenses issued
691 by the Department of Business and Professional Regulation; to
692 the Department of State pursuant to an interagency agreement to
693 facilitate determinations of eligibility of voter registration
694 applicants and registered voters in accordance with ss. 98.045
695 and 98.075; to the Department of Revenue pursuant to an
696 interagency agreement for use in establishing paternity and
697 establishing, modifying, or enforcing support obligations in
698 Title IV-D cases; to the Department of Revenue for use in
699 establishing positive identification for tax administration
700 purposes; to the Department of Children and Family Services

701 pursuant to an interagency agreement to conduct protective
702 investigations under part III of chapter 39 and chapter 415; to
703 the Department of Children and Family Services pursuant to an
704 interagency agreement specifying the number of employees in each
705 of that department's regions to be granted access to the records
706 for use as verification of identity to expedite the
707 determination of eligibility for public assistance and for use
708 in public assistance fraud investigations; or to the Department
709 of Financial Services pursuant to an interagency agreement to
710 facilitate the location of owners of unclaimed property, the
711 validation of unclaimed property claims, and the identification
712 of fraudulent or false claims.

713 Section 12. Subsection (5) of section 336.021, Florida
714 Statutes, is amended to read:

715 336.021 County transportation system; levy of ninth-cent
716 fuel tax on motor fuel and diesel fuel.—

717 (5) All impositions of the tax shall be levied before
718 October ~~July~~ 1 of each year to be effective January 1 of the
719 following year. However, levies of the tax which were in effect
720 on July 1, 2002, and which expire on August 31 of any year may
721 be reimposed at the current authorized rate to be effective
722 September 1 of the year of expiration. All impositions shall be
723 required to end on December 31 of a year. A decision to rescind
724 the tax shall not take effect on any date other than December 31
725 and shall require a minimum of 60 days' notice to the department
726 of such decision.

727 Section 13. Paragraphs (a) and (b) of subsection (1) and
728 paragraph (a) of subsection (5) of section 336.025, Florida

729 Statutes, are amended to read:

730 336.025 County transportation system; levy of local option
731 fuel tax on motor fuel and diesel fuel.—

732 (1) (a) In addition to other taxes allowed by law, there
733 may be levied as provided in ss. 206.41(1) (e) and 206.87(1) (c) a
734 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option
735 fuel tax upon every gallon of motor fuel and diesel fuel sold in
736 a county and taxed under the provisions of part I or part II of
737 chapter 206.

738 1. All impositions and rate changes of the tax shall be
739 levied before October ~~July~~ 1 to be effective January 1 of the
740 following year for a period not to exceed 30 years, and the
741 applicable method of distribution shall be established pursuant
742 to subsection (3) or subsection (4). However, levies of the tax
743 which were in effect on July 1, 2002, and which expire on August
744 31 of any year may be reimposed at the current authorized rate
745 effective September 1 of the year of expiration. Upon
746 expiration, the tax may be relieved provided that a
747 redetermination of the method of distribution is made as
748 provided in this section.

749 2. County and municipal governments shall utilize moneys
750 received pursuant to this paragraph only for transportation
751 expenditures.

752 3. Any tax levied pursuant to this paragraph may be
753 extended on a majority vote of the governing body of the county.
754 A redetermination of the method of distribution shall be
755 established pursuant to subsection (3) or subsection (4), if,
756 after July 1, 1986, the tax is extended or the tax rate changed,

757 for the period of extension or for the additional tax.

758 (b) In addition to other taxes allowed by law, there may
 759 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-
 760 cent, 4-cent, or 5-cent local option fuel tax upon every gallon
 761 of motor fuel sold in a county and taxed under the provisions of
 762 part I of chapter 206. The tax shall be levied by an ordinance
 763 adopted by a majority plus one vote of the membership of the
 764 governing body of the county or by referendum.

765 1. All impositions and rate changes of the tax shall be
 766 levied before October ~~July~~ 1, to be effective January 1 of the
 767 following year. However, levies of the tax which were in effect
 768 on July 1, 2002, and which expire on August 31 of any year may
 769 be reimposed at the current authorized rate effective September
 770 1 of the year of expiration.

771 2. The county may, prior to levy of the tax, establish by
 772 interlocal agreement with one or more municipalities located
 773 therein, representing a majority of the population of the
 774 incorporated area within the county, a distribution formula for
 775 dividing the entire proceeds of the tax among county government
 776 and all eligible municipalities within the county. If no
 777 interlocal agreement is adopted before the effective date of the
 778 tax, tax revenues shall be distributed pursuant to the
 779 provisions of subsection (4). If no interlocal agreement exists,
 780 a new interlocal agreement may be established prior to June 1 of
 781 any year pursuant to this subparagraph. However, any interlocal
 782 agreement agreed to under this subparagraph after the initial
 783 levy of the tax or change in the tax rate authorized in this
 784 section shall under no circumstances materially or adversely

785 affect the rights of holders of outstanding bonds which are
786 backed by taxes authorized by this paragraph, and the amounts
787 distributed to the county government and each municipality shall
788 not be reduced below the amount necessary for the payment of
789 principal and interest and reserves for principal and interest
790 as required under the covenants of any bond resolution
791 outstanding on the date of establishment of the new interlocal
792 agreement.

793 3. County and municipal governments shall use moneys
794 received pursuant to this paragraph for transportation
795 expenditures needed to meet the requirements of the capital
796 improvements element of an adopted comprehensive plan or for
797 expenditures needed to meet immediate local transportation
798 problems and for other transportation-related expenditures that
799 are critical for building comprehensive roadway networks by
800 local governments. For purposes of this paragraph, expenditures
801 for the construction of new roads, the reconstruction or
802 resurfacing of existing paved roads, or the paving of existing
803 graded roads shall be deemed to increase capacity and such
804 projects shall be included in the capital improvements element
805 of an adopted comprehensive plan. Expenditures for purposes of
806 this paragraph shall not include routine maintenance of roads.

807 (5) (a) By October ~~July~~ 1 of each year, the county shall
808 notify the Department of Revenue of the rate of the taxes levied
809 pursuant to paragraphs (1) (a) and (b), and of its decision to
810 rescind or change the rate of a tax, if applicable, and shall
811 provide the department with a certified copy of the interlocal
812 agreement established under subparagraph (1) (b)2. or

813 subparagraph (3)(a)1. with distribution proportions established
 814 by such agreement or pursuant to subsection (4), if applicable.
 815 A decision to rescind a tax may ~~shall~~ not take effect on any
 816 date other than December 31 and requires ~~shall require~~ a minimum
 817 of 60 days' notice to the Department of Revenue of such
 818 decision.

819 Section 14. Effective upon this act becoming a law,
 820 paragraph (h) of subsection (3) of section 443.131, Florida
 821 Statutes, is amended to read:

822 443.131 Contributions.—

823 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 824 EXPERIENCE.—

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

828 1. All contributions, reimbursements, interest, and
 829 penalties incurred by the employer for wages paid by him or her
 830 in all previous calendar quarters, except the 4 calendar
 831 quarters immediately preceding the calendar quarter or calendar
 832 year for which the benefit ratio is computed, are paid; ~~and~~

833 2. The employer has produced for inspection and copying
 834 all work records in his or her possession, custody, or control
 835 which were requested by the Department of Economic Opportunity
 836 or its tax collection service provider pursuant to s.

837 443.171(5); and

838 3.2. The employer entitled to a rate reduction must have
 839 at least one annual payroll as defined in subparagraph (b)1.
 840 unless the employer is eligible for additional credit under the

841 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 842 Act is amended or repealed in a manner affecting credit under
 843 the federal act, this section applies only to the extent that
 844 additional credit is allowed against the payment of the tax
 845 imposed by the Federal Unemployment Tax Act.

846
 847 The tax collection service provider shall assign an earned
 848 contribution rate to an employer ~~under subparagraph 1.~~ the
 849 quarter immediately after the quarter in which all
 850 contributions, reimbursements, interest, and penalties are paid
 851 in full and all work records requested pursuant to s. 443.171(5)
 852 have been produced for inspection and copying to the Department
 853 of Economic Opportunity or the tax collection service provider.

854 Section 15. Effective January 1, 2013, paragraph (a) of
 855 subsection (1) of section 443.141, Florida Statutes, is amended
 856 to read:

857 443.141 Collection of contributions and reimbursements.—

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

860 (a) Interest.—Contributions or reimbursements unpaid on
 861 the date due bear interest at the rate of 1 percent per month
 862 through December 31, 2012. Beginning January 1, 2013, the
 863 interest rate shall be calculated in accordance with s. 213.235,
 864 except that the rate of interest shall never be greater than 1
 865 percent per month, from and after the ~~that~~ date due until
 866 payment plus accrued interest is received by the tax collection
 867 service provider, unless the service provider finds that the
 868 employing unit has good reason for failing to pay the

869 | contributions or reimbursements when due. Interest collected
870 | under this subsection must be paid into the Special Employment
871 | Security Administration Trust Fund.

872 | Section 16. Except as otherwise expressly provided in this
873 | act and except for this section, which shall take effect upon
874 | this act becoming a law, this act shall take effect July 1,
875 | 2012.