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CS/HB 7099, Engrossed 3

2012 Legislature

1  
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,

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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,

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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.

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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,

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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~~

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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.



## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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~~

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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



ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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-

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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,

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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.

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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.

ENROLLED  
 CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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~~



## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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,

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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

## ENROLLED

CS/HB 7099, Engrossed 3

2012 Legislature

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.