

By Senator Evers

2-00751-13

20131710\_\_

1                                   A bill to be entitled  
 2           An act relating to the sales and use tax on protection  
 3           services; amending s. 212.05, F.S.; deleting  
 4           provisions imposing the tax on detective, burglar  
 5           protection, and other protection services; providing  
 6           an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Paragraph (i) of subsection (1) of section  
 11   212.05, Florida Statutes, is amended to read:

12           212.05 Sales, storage, use tax.—It is hereby declared to be  
 13   the legislative intent that every person is exercising a taxable  
 14   privilege who engages in the business of selling tangible  
 15   personal property at retail in this state, including the  
 16   business of making mail order sales, or who rents or furnishes  
 17   any of the things or services taxable under this chapter, or who  
 18   stores for use or consumption in this state any item or article  
 19   of tangible personal property as defined herein and who leases  
 20   or rents such property within the state.

21           (1) For the exercise of such privilege, a tax is levied on  
 22   each taxable transaction or incident, which tax is due and  
 23   payable as follows:

24           (i) ~~At the rate of 6 percent on charges for all:~~  
 25           ~~a. Detective, burglar protection, and other protection~~  
 26           ~~services (NAICS National Numbers 561611, 561612, 561613, and~~  
 27           ~~561621). Any law enforcement officer, as defined in s. 943.10,~~  
 28           ~~who is performing approved duties as determined by his or her~~  
 29           ~~local law enforcement agency in his or her capacity as a law~~

2-00751-13

20131710\_\_

30 ~~enforcement officer, and who is subject to the direct and~~  
31 ~~immediate command of his or her law enforcement agency, and in~~  
32 ~~the law enforcement officer's uniform as authorized by his or~~  
33 ~~her law enforcement agency, is performing law enforcement and~~  
34 ~~public safety services and is not performing detective, burglar~~  
35 ~~protection, or other protective services, if the law enforcement~~  
36 ~~officer is performing his or her approved duties in a~~  
37 ~~geographical area in which the law enforcement officer has~~  
38 ~~arrest jurisdiction. Such law enforcement and public safety~~  
39 ~~services are not subject to tax irrespective of whether the duty~~  
40 ~~is characterized as "extra duty," "off duty," or "secondary~~  
41 ~~employment," and irrespective of whether the officer is paid~~  
42 ~~directly or through the officer's agency by an outside source.~~  
43 ~~The term "law enforcement officer" includes full-time or part-~~  
44 ~~time law enforcement officers, and any auxiliary law enforcement~~  
45 ~~officer, when such auxiliary law enforcement officer is working~~  
46 ~~under the direct supervision of a full-time or part-time law~~  
47 ~~enforcement officer.~~

48 ~~b.~~ nonresidential cleaning, excluding cleaning of the  
49 interiors of transportation equipment, and nonresidential  
50 building pest control services (NAICS National Numbers 561710  
51 and 561720).

52 ~~1.2.~~ As used in this paragraph, the term "NAICS" means  
53 those classifications contained in the North American Industry  
54 Classification System, as published in 2007 by the Office of  
55 Management and Budget, Executive Office of the President.

56 ~~3.~~ ~~Charges for detective, burglar protection, and other~~  
57 ~~protection security services performed in this state but used~~  
58 ~~outside this state are exempt from taxation. Charges for~~

2-00751-13

20131710\_\_

59 ~~detective, burglar protection, and other protection security~~  
60 ~~services performed outside this state and used in this state are~~  
61 ~~subject to tax.~~

62 2.4. If a transaction involves both the sale or use of a  
63 service taxable under this paragraph and the sale or use of a  
64 service or any other item not taxable under this chapter, the  
65 consideration paid must be separately identified and stated with  
66 respect to the taxable and exempt portions of the transaction or  
67 the entire transaction shall be presumed taxable. The burden is  
68 ~~shall be~~ on the seller of the service or the purchaser of the  
69 service, as ~~whichever~~ applicable, to overcome this presumption  
70 by providing documentary evidence as to which portion of the  
71 transaction is exempt from tax. The department may ~~is authorized~~  
72 ~~to~~ adjust the amount ~~of consideration~~ identified as the taxable  
73 and exempt portions of the transaction; however, a determination  
74 that the taxable and exempt portions are inaccurately stated and  
75 that the adjustment is applicable must be supported by  
76 substantial competent evidence.

77 ~~5. Each seller of services subject to sales tax pursuant to~~  
78 ~~this paragraph shall maintain a monthly log showing each~~  
79 ~~transaction for which sales tax was not collected because the~~  
80 ~~services meet the requirements of subparagraph 3. for out-of-~~  
81 ~~state use. The log must identify the purchaser's name, location~~  
82 ~~and mailing address, and federal employer identification number,~~  
83 ~~if a business, or the social security number, if an individual,~~  
84 ~~the service sold, the price of the service, the date of sale,~~  
85 ~~the reason for the exemption, and the sales invoice number. The~~  
86 ~~monthly log shall be maintained pursuant to the same~~  
87 ~~requirements and subject to the same penalties imposed for the~~

2-00751-13

20131710\_\_

88 ~~keeping of similar records pursuant to this chapter.~~

89       Section 2. This act shall take effect July 1, 2013.