

By the Committee on Appropriations

576-03150-13

20131828__

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 198.13, F.S.; deleting a requirement for filing a tax
4 return for a decedent who dies after a certain date;
5 amending s. 211.3103, F.S.; expanding the definition
6 of "phosphate-related expenses" for the purpose of
7 distributing certain tax proceeds; amending s. 212.07,
8 F.S.; conforming a cross-reference to changes made by
9 the act; providing monetary and criminal penalties for
10 a dealer's willful failure to collect certain taxes or
11 fees after receiving notice of such duty to collect
12 from the Department of Revenue; amending s. 212.12,
13 F.S.; deleting provisions relating to the imposition
14 of criminal penalties after department notice of
15 requirements to register as a dealer or to collect
16 taxes; making technical and grammatical changes to
17 provisions specifying penalties for making a false or
18 fraudulent return with the intent to evade payment of
19 a tax or fee; amending s. 212.14, F.S.; modifying the
20 definition of the term "person"; authorizing the
21 department to adopt rules relating to requirements for
22 a person to deposit cash, a bond, or other security
23 with the department in order to ensure compliance with
24 sales tax laws; making technical and grammatical
25 changes; amending s. 212.18, F.S.; providing criminal
26 penalties for a person who willfully fails to register
27 as a dealer after receiving notice of such duty by the
28 department; making technical and grammatical changes;
29 reenacting s. 212.20, F.S., relating to the

576-03150-13

20131828__

30 disposition of funds collected; amending s. 213.13,
31 F.S.; revising the due date for transmitting funds
32 collected by the clerks of court to the department;
33 providing retroactive application; amending s. 213.21,
34 F.S.; increasing dollar threshold of compromise
35 authority that can be delegated to the executive
36 director; creating s. 213.295, F.S., relating to
37 automated sales suppression devices; providing
38 definitions; subjecting a person to criminal penalties
39 and monetary penalties for knowingly selling or
40 engaging in certain other actions involving a zapper
41 or phantom-ware; providing that sales suppression
42 devices and phantom-ware are contraband articles under
43 the Florida Contraband Forfeiture Act; amending s.
44 443.131, F.S.; imposing a requirement on employers to
45 produce records for the Department of Economic
46 Opportunity or its tax collection service provider as
47 a prerequisite for a reduction in the rate of
48 reemployment tax; amending s. 443.141, F.S.; providing
49 a method to calculate the interest rate for past due
50 contributions and reimbursements, and delinquent,
51 erroneous, incomplete, or insufficient reports;
52 providing effective dates.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Operating retroactively to January 1, 2013,
57 subsection (4) of section 198.13, Florida Statutes, is amended
58 to read:

576-03150-13

20131828__

59 198.13 Tax return to be made in certain cases; certificate
60 of nonliability.—

61 (4) Notwithstanding any other provisions of this section
62 and applicable to the estate of a decedent who dies after
63 December 31, 2004, if, upon the death of the decedent, a state
64 death tax credit or a generation-skipping transfer credit is not
65 allowable pursuant to the Internal Revenue Code of 1986, as
66 amended:

67 (a) The personal representative of the estate is not
68 required to file a return under subsection (1) in connection
69 with the estate.

70 (b) The person who would otherwise be required to file a
71 return reporting a generation-skipping transfer under subsection
72 (3) is not required to file such a return in connection with the
73 estate.

74

75 ~~The provisions of this subsection do not apply to estates of~~
76 ~~decedents dying after December 31, 2012.~~

77 Section 2. Paragraph (c) of subsection (6) of section
78 211.3103, Florida Statutes, is amended to read:

79 211.3103 Levy of tax on severance of phosphate rock; rate,
80 basis, and distribution of tax.—

81 (6)

82 (c) As used in ~~For purposes of this subsection section,~~ the
83 term "phosphate-related expenses" means those expenses that
84 provide for infrastructure or services in support of the
85 phosphate industry, including environmental education,
86 reclamation or restoration of phosphate lands, maintenance and
87 restoration of reclaimed lands and county-owned environmental

576-03150-13

20131828

88 lands that were formerly phosphate lands, and community
89 infrastructure on ~~such~~ reclaimed lands and county-owned
90 environmental lands that were formerly phosphate lands, and
91 similar expenses directly related to support of the industry.

92 Section 3. Paragraph (b) of subsection (1) and subsection
93 (3) of section 212.07, Florida Statutes, are amended to read:

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

97 (1)

98 (b) A resale must be in strict compliance with s. 212.18
99 and the rules and regulations, and any dealer who makes a sale
100 for resale which is not in strict compliance with s. 212.18 and
101 the rules and regulations shall himself or herself be liable for
102 and pay the tax. Any dealer who makes a sale for resale shall
103 document the exempt nature of the transaction, as established by
104 rules adopted ~~promulgated~~ by the department, by retaining a copy
105 of the purchaser's resale certificate. In lieu of maintaining a
106 copy of the certificate, a dealer may document, before ~~prior to~~
107 the time of sale, an authorization number provided
108 telephonically or electronically by the department, or by such
109 other means established by rule of the department. The dealer
110 may rely on a resale certificate issued pursuant to s.
111 212.18(3)(d) ~~212.18(3)(e)~~, valid at the time of receipt from the
112 purchaser, without seeking annual verification of the resale
113 certificate if the dealer makes recurring sales to a purchaser
114 in the normal course of business on a continual basis. For
115 purposes of this paragraph, "recurring sales to a purchaser in
116 the normal course of business" refers to a sale in which the

576-03150-13

20131828__

117 dealer extends credit to the purchaser and records the debt as
118 an account receivable, or in which the dealer sells to a
119 purchaser who has an established cash or C.O.D. account, similar
120 to an open credit account. For purposes of this paragraph,
121 purchases are made from a selling dealer on a continual basis if
122 the selling dealer makes, in the normal course of business,
123 sales to the purchaser no less frequently than once in every 12-
124 month period. A dealer may, through the informal protest
125 provided for in s. 213.21 and the rules of the department ~~of~~
126 ~~Revenue~~, provide the department with evidence of the exempt
127 status of a sale. Consumer certificates of exemption executed by
128 those exempt entities that were registered with the department
129 at the time of sale, resale certificates provided by purchasers
130 who were active dealers at the time of sale, and verification by
131 the department of a purchaser's active dealer status at the time
132 of sale in lieu of a resale certificate shall be accepted by the
133 department when submitted during the protest period, but may not
134 be accepted in any proceeding under chapter 120 or any circuit
135 court action instituted under chapter 72.

136 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
137 collect the tax or fees imposed under this chapter ~~herein~~
138 ~~provided, either~~ by himself or herself or through the dealer's
139 agents or employees, ~~is~~, in addition to the penalty of being
140 liable for ~~and~~ paying the tax ~~himself or herself~~, commits guilty
141 ~~of~~ a misdemeanor of the first degree, punishable as provided in
142 s. 775.082 or s. 775.083.

143 (b) A dealer who willfully fails to collect a tax or fee
144 after the department provides notice of the duty to collect the
145 tax or fee is liable for a specific penalty of 100 percent of

576-03150-13

20131828

146 the uncollected tax or fee. This penalty is in addition to any
147 other penalty that may be imposed by law. A dealer who willfully
148 fails to collect taxes or fees totaling:

149 1. Less than \$300:

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

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

154 c. For a third or subsequent offense, commits a felony of
155 the third degree, punishable as provided in s. 775.082, s.
156 775.083, or s. 775.084.

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

160 3. An amount equal to \$20,000 or more, but less than
161 \$100,000, commits a felony of the second degree, punishable as
162 provided in s. 775.082, s. 775.083, or s. 775.084.

163 4. An amount equal to \$100,000 or more, commits a felony of
164 the first degree, punishable as provided in s. 775.082, s.
165 775.083, or s. 775.084.

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

170 Section 4. Paragraph (d) of subsection (2) of section
171 212.12, Florida Statutes, is amended to read:

172 212.12 Dealer's credit for collecting tax; penalties for
173 noncompliance; powers of Department of Revenue in dealing with
174 delinquents; brackets applicable to taxable transactions;

576-03150-13

20131828__

175 records required.-

176 (2)

177 (d) A ~~Any~~ person who makes a false or fraudulent return and
178 who has ~~with~~ a willful intent to evade payment of any tax or fee
179 imposed under this chapter ~~is; any person who, after the~~
180 department's delivery of a written notice to the person's last
181 known address specifically alerting the person of the
182 requirement to register the person's business as a dealer,
183 intentionally fails to register the business; and any person
184 who, after the department's delivery of a written notice to the
185 person's last known address specifically alerting the person of
186 the requirement to collect tax on specific transactions,
187 intentionally fails to collect such tax, shall, in addition to
188 the other penalties provided by law, be liable for a specific
189 penalty of 100 percent of any unreported ~~or any uncollected~~ tax
190 or fee. This penalty is in addition to any other penalty
191 provided by law. A person who makes a false or fraudulent return
192 with a willful intent to evade payment of taxes or fees
193 totaling:

194 1. Less than \$300:

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

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

199 c. For a third or subsequent offense, commits a felony of
200 the third degree, punishable as provided in s. 775.082, s.
201 775.083, or s. 775.084.

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

576-03150-13

20131828__

204 s. 775.082, s. 775.083, or s. 775.084.

205 3. An amount equal to \$20,000 or more, but less than
206 \$100,000, commits a felony of the second degree, punishable as
207 provided in s. 775.082, s. 775.083, or s. 775.084.

208 4. An amount equal to \$100,000 or more, commits a felony of
209 the first degree, punishable and, upon conviction, for fine and
210 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.
211 Delivery of written notice may be made by certified mail, or by
212 the use of such other method as is documented as being necessary
213 and reasonable under the circumstances. The civil and criminal
214 penalties imposed herein for failure to comply with a written
215 notice alerting the person of the requirement to register the
216 person's business as a dealer or to collect tax on specific
217 transactions shall not apply if the person timely files a
218 written challenge to such notice in accordance with procedures
219 established by the department by rule or the notice fails to
220 clearly advise that failure to comply with or timely challenge
221 the notice will result in the imposition of the civil and
222 criminal penalties imposed herein.

223 1. If the total amount of unreported or uncollected taxes
224 or fees is less than \$300, the first offense resulting in
225 conviction is a misdemeanor of the second degree, the second
226 offense resulting in conviction is a misdemeanor of the first
227 degree, and the third and all subsequent offenses resulting in
228 conviction is a misdemeanor of the first degree, and the third
229 and all subsequent offenses resulting in conviction are felonies
230 of the third degree.

231 2. If the total amount of unreported or uncollected taxes
232 or fees is \$300 or more but less than \$20,000, the offense is a

576-03150-13

20131828__

233 ~~felony of the third degree.~~

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

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

240 Section 5. Effective July 1, 2013, subsection (4) of
241 section 212.14, Florida Statutes, is amended to read:

242 212.14 Departmental powers; hearings; distress warrants;
243 bonds; subpoenas and subpoenas duces tecum.—

244 (4) In all cases where it is necessary to ensure
245 compliance with ~~the provisions of~~ this chapter, the department
246 shall require a cash deposit, bond, or other security as a
247 condition to a person obtaining or retaining a dealer's
248 certificate of registration under this chapter. Such bond must
249 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems
250 appropriate under the particular circumstances. A ~~Every~~ person
251 failing to produce such cash deposit, bond, or other security is
252 ~~as provided for herein shall~~ not be entitled to obtain or retain
253 a dealer's certificate of registration under this chapter, and
254 the Department of Legal Affairs is hereby authorized to proceed
255 by injunction, if ~~when so~~ requested by the Department of
256 Revenue, to prevent such person from doing business subject to
257 ~~the provisions of~~ this chapter until such cash deposit, bond, or
258 other security is posted with the department, and any temporary
259 injunction for this purpose may be granted by any judge or
260 chancellor authorized by law to grant injunctions. Any security
261 required to be deposited may be sold by the department at public

576-03150-13

20131828__

262 sale if ~~it becomes~~ necessary ~~so to do~~ in order to recover any
263 tax, interest, or penalty due. Notice of such sale may be served
264 personally or by mail upon the person who deposited the such
265 security. If by mail, notice sent to the last known address as
266 it the same appears on the records of the department is shall be
267 sufficient for the purpose of this requirement. Upon such sale,
268 the surplus, if any, above the amount due under this chapter
269 shall be returned to the person who deposited the security. The
270 department may adopt rules necessary to administer this
271 subsection. For the purpose of the cash deposit, bond, or other
272 security required by this subsection, the term "person" includes
273 those entities defined in s. 212.02(12), as well as:

274 (a) An individual or entity owning a controlling interest
275 in an entity;

276 (b) An individual or entity that has acquired an ownership
277 interest or a controlling interest in a business that would
278 otherwise be liable for posting a cash deposit, bond, or other
279 security, unless the department has determined that the
280 individual or entity is not liable for taxes, interest, or
281 penalties as set forth in s. 213.758; or

282 (c) An individual or entity seeking to obtain a dealer's
283 certificate of registration for a business that will be operated
284 at the same location as a previous business that would otherwise
285 have been liable for posting a cash deposit, bond, or other
286 security, if the individual or entity fails to provide evidence
287 that the business was acquired for consideration in an arms-
288 length transaction.

289 Section 6. Subsection (3) of section 212.18, Florida
290 Statutes, is amended to read:

576-03150-13

20131828__

291 212.18 Administration of law; registration of dealers;
292 rules.—

293 (3) (a) A ~~Every~~ person desiring to engage in or conduct
294 business in this state as a dealer, ~~as defined in this chapter,~~
295 or to lease, rent, or let or grant licenses in living quarters
296 or sleeping or housekeeping accommodations in hotels, apartment
297 houses, roominghouses, or tourist or trailer camps that are
298 subject to tax under s. 212.03, or to lease, rent, or let or
299 grant licenses in real property, ~~as defined in this chapter,~~ and
300 every person who sells or receives anything of value by way of
301 admissions, must file with the department an application for a
302 certificate of registration for each place of business. The
303 application must include, ~~showing~~ the names of the persons who
304 have interests in such business and their residences, the
305 address of the business, and ~~such~~ other data reasonably required
306 by ~~as~~ the department ~~may reasonably require~~. However, owners and
307 operators of vending machines or newspaper rack machines are
308 required to obtain only one certificate of registration for each
309 county in which such machines are located. The department, by
310 rule, may authorize a dealer that uses independent sellers to
311 sell its merchandise to remit tax on the retail sales price
312 charged to the ultimate consumer in lieu of having the
313 independent seller register as a dealer and remit the tax. The
314 department may appoint the county tax collector as the
315 department's agent to accept applications for registrations. The
316 application must be submitted ~~made~~ to the department before the
317 person, firm, copartnership, or corporation may engage in such
318 business, and it must be accompanied by a registration fee of
319 \$5. However, a registration fee is not required to accompany an

576-03150-13

20131828__

320 application to engage in or conduct business to make mail order
321 sales. The department may waive the registration fee for
322 applications submitted through the department's Internet
323 registration process.

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

576-03150-13

20131828__

349 granting licenses in living quarters or sleeping or housekeeping
350 accommodations in hotels, apartment houses, roominghouses, or
351 tourist or trailer camps that are taxable under this chapter, or
352 real property;~~;~~ or engage ~~the engaging~~ in the business of
353 selling or receiving anything of value by way of admissions,
354 without a valid ~~such~~ certificate ~~first being obtained or after~~
355 ~~such certificate has been canceled by the department,~~ is
356 prohibited.

357 (c)1. A ~~The failure or refusal of any person who engages in~~
358 acts requiring a certificate of registration under this
359 subsection who fails or refuses to register commits, ~~firm,~~
360 ~~copartnership, or corporation to so qualify when required~~
361 ~~hereunder~~ is a misdemeanor of the first degree, punishable as
362 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject
363 to injunctive proceedings as provided by law. A person who
364 engages in acts requiring a certificate of registration and who
365 fails or refuses to register is also subject ~~Such failure or~~
366 ~~refusal also subjects the offender~~ to a \$100 initial
367 registration fee in lieu of the \$5 registration fee required by
368 ~~authorized in~~ paragraph (a). However, the department may waive
369 the increase in the registration fee if it finds ~~is determined~~
370 ~~by the department~~ that the failure to register was due to
371 reasonable cause and not to willful negligence, willful neglect,
372 or fraud.

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

377 b. The department shall provide written notice of the duty

576-03150-13

20131828__

378 to register to the person by personal service, by sending notice
379 by registered mail to the person's last known address, or by
380 both personal service and mail.

381 (d)~~(e)~~ In addition to the certificate of registration, the
382 department shall provide to each newly registered dealer an
383 initial resale certificate that will be valid for the remainder
384 of the period of issuance. The department shall provide each
385 active dealer with an annual resale certificate. For purposes of
386 this section, the term "active dealer" means a person who is
387 currently registered with the department and who is required to
388 file at least once during each applicable reporting period.

389 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's certificate
390 of registration if ~~when~~ the dealer fails to comply with this
391 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of
392 registration, the department must schedule an informal
393 conference at which the dealer may present evidence regarding
394 the department's intended revocation or enter into a compliance
395 agreement with the department. The department must notify the
396 dealer of its intended action and the time, place, and date of
397 the scheduled informal conference by written notification sent
398 by United States mail to the dealer's last known address of
399 record furnished by the dealer on a form prescribed by the
400 department. The dealer is required to attend the informal
401 conference and present evidence refuting the department's
402 intended revocation or enter into a compliance agreement with
403 the department which resolves the dealer's failure to comply
404 with this chapter. The department shall issue an administrative
405 complaint under s. 120.60 if the dealer fails to attend the
406 department's informal conference, fails to enter into a

576-03150-13

20131828__

407 compliance agreement with the department resolving the dealer's
408 noncompliance with this chapter, or fails to comply with the
409 executed compliance agreement.

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

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

418 2. An exhibitor whose agreement provides for the sale at
419 wholesale only of tangible personal property or services subject
420 to the tax imposed under ~~in~~ this chapter must obtain a resale
421 certificate from the purchasing dealer but is not required to
422 register as a dealer.

423 3. An exhibitor whose agreement authorizes the retail sale
424 of tangible personal property or services subject to the tax
425 imposed under ~~in~~ this chapter must register as a dealer and
426 collect the tax ~~imposed under this chapter~~ on such sales.

427 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant to
428 s. 212.0596 must register as a dealer.

429
430 A ~~Any~~ person who conducts a convention or a trade show must make
431 his or her ~~their~~ exhibitor's agreements available to the
432 department for inspection and copying.

433 Section 7. For the purpose of incorporating the amendment
434 made by this act to subsection (3) of section 212.18, Florida
435 Statutes, in a reference thereto, paragraph (c) of subsection

576-03150-13

20131828__

436 (6) of section 212.20, Florida Statutes, is reenacted to read:

437 212.20 Funds collected, disposition; additional powers of
438 department; operational expense; refund of taxes adjudicated
439 unconstitutionally collected.—

440 (6) Distribution of all proceeds under this chapter and s.
441 202.18(1)(b) and (2)(b) shall be as follows:

442 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
443 and 212.18(3) shall remain with the General Revenue Fund.

444 Section 8. Operating retroactively to July 1, 2010,
445 subsection (5) of section 213.13, Florida Statutes, is amended
446 to read:

447 213.13 Electronic remittance and distribution of funds
448 collected by clerks of the court.—

449 (5) All court-related collections, including fees, fines,
450 reimbursements, court costs, and other court-related funds that
451 the clerks must remit to the state pursuant to law, must be
452 transmitted electronically by the 10th ~~20th~~ day of the month
453 immediately following the month in which the funds are
454 collected.

455 Section 9. Paragraph (a) of subsection (2) of section
456 213.21, Florida Statutes, is amended to read:

457 213.21 Informal conferences; compromises.—

458 (2)(a) The executive director of the department or his or
459 her designee is authorized to enter into closing agreements with
460 any taxpayer settling or compromising the taxpayer's liability
461 for any tax, interest, or penalty assessed under any of the
462 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
463 be in writing if ~~when~~ the amount of tax, penalty, or interest
464 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the

576-03150-13

20131828__

465 department deems it appropriate or if ~~when~~ requested by the
466 taxpayer. When a written closing agreement has been approved by
467 the department and signed by the executive director or his or
468 her designee and the taxpayer, it shall be final and conclusive;
469 and, except upon a showing of fraud or misrepresentation of
470 material fact or except as to adjustments pursuant to ss. 198.16
471 and 220.23, no additional assessment may be made by the
472 department against the taxpayer for the tax, interest, or
473 penalty specified in the closing agreement for the time period
474 specified in the closing agreement, and the taxpayer is ~~shall~~
475 not ~~be~~ entitled to institute any judicial or administrative
476 proceeding to recover any tax, interest, or penalty paid
477 pursuant to the closing agreement. The department is authorized
478 to delegate to the executive director the authority to approve
479 any such closing agreement resulting in a tax reduction of
480 \$500,000 ~~\$250,000~~ or less.

481 Section 10. Section 213.295, Florida Statutes, is created
482 to read:

483 213.295 Automated sales suppression devices.-

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

485 (a) "Automated sales suppression device" or "zapper" means
486 a software program that falsifies the electronic records of
487 electronic cash registers or other point-of-sale systems,
488 including, but not limited to, transaction data and transaction
489 reports. The term includes the software program, any device that
490 carries the software program, or an Internet link to the
491 software program.

492 (b) "Electronic cash register" means a device that keeps a
493 register or supporting documents through the use of an

576-03150-13

20131828__

494 electronic device or computer system designed to record
495 transaction data for the purpose of computing, compiling, or
496 processing retail sales transaction data in whatever manner.

497 (c) "Phantom-ware" means a hidden programming option
498 embedded in the operating system of an electronic cash register
499 or hardwired into the electronic cash register which may be used
500 to create a second set of records or eliminate or manipulate
501 transaction records, which may or may not be preserved in
502 digital formats, to represent the true or manipulated record of
503 transactions in the electronic cash register.

504 (d) "Transaction data" includes items purchased by a
505 customer; the price for each item; a taxability determination
506 for each item; a segregated tax amount for each of the taxed
507 items; the amount of cash or credit tendered; the net amount
508 returned to the customer in change; the date and time of the
509 purchase; the name, address, and identification number of the
510 vendor; and the receipt or invoice number of the transaction.

511 (e) "Transaction report" means a report that documents, but
512 is not limited to documenting, the sales, taxes, or fees
513 collected, media totals, and discount voids at an electronic
514 cash register which is printed on a cash register tape at the
515 end of a day or a shift, or a report that documents every action
516 at an electronic cash register and which is stored
517 electronically.

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

521 (3) A person who violates this section:

522 (a) Commits a felony of the third degree, punishable as

576-03150-13

20131828__

523 provided in s. 775.082, s. 775.083, or s. 775.084.

524 (b) Is liable for all taxes, fees, penalties, and interest
525 due the state as a result of the use of an automated sales
526 suppression device, zapper, or phantom-ware and shall forfeit to
527 the state as an additional penalty all profits associated with
528 the sale or use of an automated sales suppression device,
529 zapper, or phantom-ware.

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

534 Section 11. Paragraph (h) of subsection (3) of section
535 443.131, Florida Statutes, is amended to read:

536 443.131 Contributions.—

537 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
538 EXPERIENCE.—

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

542 1. All contributions, reimbursements, interest, and
543 penalties incurred by the employer for wages paid by him or her
544 in all previous calendar quarters, except the 4 calendar
545 quarters immediately preceding the calendar quarter or calendar
546 year for which the benefit ratio is computed, are paid; ~~and~~

547 2. The employer has produced for inspection and copying all
548 work records in his or her possession, custody, or control which
549 were requested by the Department of Economic Opportunity or its
550 tax collection service provider pursuant to s. 443.171(5). An
551 employer shall have at least 60 days to provide the requested

576-03150-13

20131828

552 work records before the employer is assigned the standard rate;
553 and

554 ~~3.2-~~ The employer entitled to a rate reduction must have at
555 least one annual payroll as defined in subparagraph (b)1. unless
556 the employer is eligible for additional credit under the Federal
557 Unemployment Tax Act. If the Federal Unemployment Tax Act is
558 amended or repealed in a manner affecting credit under the
559 federal act, this section applies only to the extent that
560 additional credit is allowed against the payment of the tax
561 imposed by the ~~Federal Unemployment Tax~~ act.

562
563 The tax collection service provider shall assign an earned
564 contribution rate to an employer for ~~under subparagraph 1.~~ the
565 quarter immediately after the quarter in which all
566 contributions, reimbursements, interest, and penalties are paid
567 in full and all work records requested pursuant to s. 443.171(5)
568 have been produced for inspection and copying to the Department
569 of Economic Opportunity or the tax collection service provider.

570 Section 12. Effective January 1, 2014, paragraph (a) of
571 subsection (1) of section 443.141, Florida Statutes, is amended
572 to read:

573 443.141 Collection of contributions and reimbursements.—

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

576 (a) *Interest.*—Contributions or reimbursements unpaid on the
577 date due bear interest at the rate of 1 percent per month
578 through December 31, 2013. Beginning January 1, 2014, the
579 interest rate shall be calculated in accordance with s. 213.235,
580 except that the rate of interest may not exceed 1 percent per

576-03150-13

20131828__

581 month from and after the ~~that~~ date due until payment plus
582 accrued interest is received by the tax collection service
583 provider, unless the service provider finds that the employing
584 unit has good reason for failing to pay the contributions or
585 reimbursements when due. Interest collected under this
586 subsection must be paid into the Special Employment Security
587 Administration Trust Fund.

588 Section 13. Except as otherwise expressly provided in this
589 act, this act shall take effect upon becoming a law.