

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 198.13, F.S.; eliminating a requirement for a personal
4 representative to file a Florida estate tax return for
5 decedents who die after December 31, 2012; providing
6 for retroactive application; amending s. 211.3103,
7 F.S.; revising the definition of the term "phosphate-
8 related expenses" to include additional uses for which
9 a county may expend phosphate tax proceeds; amending
10 s. 212.07, F.S.; conforming a cross-reference;
11 subjecting a dealer to monetary and criminal penalties
12 for the willful failure to collect certain taxes or
13 fees after notice of the duty to collect the taxes or
14 fees by the Department of Revenue; amending s. 212.12,
15 F.S.; deleting provisions relating to the imposition
16 of criminal penalties after notice by the Department
17 of Revenue of requirements to register as a dealer or
18 to collect taxes; making technical and grammatical
19 changes to provisions specifying penalties for making
20 a false or fraudulent return with the intent to evade
21 payment of a tax or fee; amending s. 212.14, F.S.;
22 defining the term "person"; authorizing the Department
23 of Revenue to adopt rules relating to requirements for
24 a person to deposit cash, a bond, or other security
25 with the department in order to ensure compliance with
26 sales tax laws; making technical and grammatical
27 changes; amending s. 212.18, F.S.; subjecting a person
28 to criminal penalties for willfully failing to

29 register as a dealer after notice of the duty to
30 register by the Department of Revenue; making
31 technical and grammatical changes; amending s. 213.13,
32 F.S.; revising the due date for funds collected by the
33 clerks of court to be transmitted to the Department of
34 Revenue; providing for retroactive application;
35 amending s. 213.21, F.S.; revising the maximum dollar
36 amount of compromise authority that the Department of
37 Revenue may delegate to the executive director;
38 creating s. 213.295, F.S.; providing definitions;
39 subjecting a person to criminal penalties and monetary
40 penalties for knowingly selling or engaging in certain
41 other actions involving an automated sales suppression
42 device, zapper, or phantom-ware; defining sales
43 suppression devices, zappers, and phantom-ware as
44 contraband articles under the Florida Contraband
45 Forfeiture Act; amending s. 443.131, F.S.; requiring
46 employers to produce records for the Department of
47 Economic Opportunity or its tax collection service
48 provider as a prerequisite for a reduction in the
49 employers' rate of unemployment tax; amending s.
50 443.141, F.S.; providing a method for calculating the
51 interest rate for past due contributions and
52 reimbursements, and delinquent, erroneous, incomplete,
53 or insufficient reports; providing effective dates.

54
55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Effective upon this act becoming a law and
 58 operating retroactively to January 1, 2013, subsection (4) of
 59 section 198.13, Florida Statutes, is amended to read:

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

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

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

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

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

78 Section 2. Effective upon this act becoming a law,
 79 paragraph (c) of subsection (6) of section 211.3103, Florida
 80 Statutes, is amended to read:

81 211.3103 Levy of tax on severance of phosphate rock; rate,
 82 basis, and distribution of tax.—

83 (6)

84 (c) For purposes of this section, "phosphate-related

85 | expenses" means those expenses that provide for infrastructure
86 | or services in support of the phosphate industry, including
87 | environmental education, reclamation or restoration of phosphate
88 | lands, maintenance and restoration of reclaimed lands and
89 | county-owned environmental lands which were formerly phosphate
90 | lands, community infrastructure on such reclaimed lands and
91 | county-owned environmental lands which were formerly phosphate
92 | lands, and similar expenses directly related to support of the
93 | industry.

94 | Section 3. Effective upon this act becoming a law,
95 | subsections (1) and (3) of section 212.07, Florida Statutes, are
96 | amended to read:

97 | 212.07 Sales, storage, use tax; tax added to purchase
98 | price; dealer not to absorb; liability of purchasers who cannot
99 | prove payment of the tax; penalties; general exemptions.—

100 | (1) (a) The privilege tax herein levied measured by retail
101 | sales shall be collected by the dealers from the purchaser or
102 | consumer.

103 | (b) A resale must be in strict compliance with s. 212.18
104 | and the rules and regulations, and any dealer who makes a sale
105 | for resale which is not in strict compliance with s. 212.18 and
106 | the rules and regulations shall himself or herself be liable for
107 | and pay the tax. Any dealer who makes a sale for resale shall
108 | document the exempt nature of the transaction, as established by
109 | rules promulgated by the department, by retaining a copy of the
110 | purchaser's resale certificate. In lieu of maintaining a copy of
111 | the certificate, a dealer may document, before ~~prior to~~ the time
112 | of sale, an authorization number provided telephonically or

113 | electronically by the department, or by such other means
114 | established by rule of the department. The dealer may rely on a
115 | resale certificate issued pursuant to s. 212.18(3)(d)
116 | ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,
117 | without seeking annual verification of the resale certificate if
118 | the dealer makes recurring sales to a purchaser in the normal
119 | course of business on a continual basis. For purposes of this
120 | paragraph, "recurring sales to a purchaser in the normal course
121 | of business" refers to a sale in which the dealer extends credit
122 | to the purchaser and records the debt as an account receivable,
123 | or in which the dealer sells to a purchaser who has an
124 | established cash or C.O.D. account, similar to an open credit
125 | account. For purposes of this paragraph, purchases are made from
126 | a selling dealer on a continual basis if the selling dealer
127 | makes, in the normal course of business, sales to the purchaser
128 | no less frequently than once in every 12-month period. A dealer
129 | may, through the informal protest provided for in s. 213.21 and
130 | the rules of the Department of Revenue, provide the department
131 | with evidence of the exempt status of a sale. Consumer
132 | certificates of exemption executed by those exempt entities that
133 | were registered with the department at the time of sale, resale
134 | certificates provided by purchasers who were active dealers at
135 | the time of sale, and verification by the department of a
136 | purchaser's active dealer status at the time of sale in lieu of
137 | a resale certificate shall be accepted by the department when
138 | submitted during the protest period, but may not be accepted in
139 | any proceeding under chapter 120 or any circuit court action
140 | instituted under chapter 72.

141 (c) Unless the purchaser of tangible personal property
 142 that is incorporated into tangible personal property
 143 manufactured, produced, compounded, processed, or fabricated for
 144 one's own use and subject to the tax imposed under s.
 145 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)1.
 146 extends a certificate in compliance with the rules of the
 147 department, the dealer shall himself or herself be liable for
 148 and pay the tax.

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

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

- 162 1. Less than \$300:
- 163 a. For a first offense, commits a misdemeanor of the
 164 second degree, punishable as provided in s. 775.082 or s.
 165 775.083.
- 166 b. For a second offense, commits a misdemeanor of the
 167 first degree, punishable as provided in s. 775.082 or s.
 168 775.083.

169 c. For a third or subsequent offense, commits a felony of
 170 the third degree, punishable as provided in s. 775.082, s.
 171 775.083, or s. 775.084.

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

175 3. An amount equal to \$20,000 or more, but less than
 176 \$100,000, commits a felony of the second degree, punishable as
 177 provided in s. 775.082, s. 775.083, or s. 775.084.

178 4. An amount equal to \$100,000 or more, commits a felony
 179 of the first degree, punishable as provided in s. 775.082, s.
 180 775.083, or s. 775.084.

181 (c) The department shall provide written notice of the
 182 duty to collect taxes or fees to the dealer by personal service,
 183 by sending notice to the dealer's last known address by
 184 registered mail, or by both personal service and registered
 185 mail.

186 Section 4. Effective upon this act becoming a law,
 187 paragraph (d) of subsection (2) of section 212.12, Florida
 188 Statutes, is amended to read:

189 212.12 Dealer's credit for collecting tax; penalties for
 190 noncompliance; powers of Department of Revenue in dealing with
 191 delinquents; brackets applicable to taxable transactions;
 192 records required.—

193 (2)

194 (d) A ~~Any~~ person who makes a false or fraudulent return
 195 with a willful intent to evade payment of any tax or fee imposed
 196 under this chapter is; ~~any person who, after the department's~~

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197 ~~delivery of a written notice to the person's last known address~~
198 ~~specifically alerting the person of the requirement to register~~
199 ~~the person's business as a dealer, intentionally fails to~~
200 ~~register the business; and any person who, after the~~
201 ~~department's delivery of a written notice to the person's last~~
202 ~~known address specifically alerting the person of the~~
203 ~~requirement to collect tax on specific transactions,~~
204 ~~intentionally fails to collect such tax, shall, in addition to~~
205 ~~the other penalties provided by law, be liable for a specific~~
206 ~~penalty of 100 percent of any unreported or any uncollected tax~~
207 ~~or fee. This penalty is in addition to any other penalty~~
208 provided by law. A person who makes a false or fraudulent return
209 with a willful intent to evade payment of taxes or fees
210 totaling:

211 1. Less than \$300:

212 a. For a first offense, commits a misdemeanor of the
213 second degree, punishable as provided in s. 775.082 or s.
214 775.083.

215 b. For a second offense, commits a misdemeanor of the
216 first degree, punishable as provided in s. 775.082 or s.
217 775.083.

218 c. For a third or subsequent offense, commits a felony of
219 the third degree, punishable as provided in s. 775.082, s.
220 775.083, or s. 775.084.

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

224 3. An amount equal to \$20,000 or more, but less than

225 \$100,000, commits a felony of the second degree, punishable as
226 provided in s. 775.082, s. 775.083, or s. 775.084.

227 4. An amount equal to \$100,000 or more, commits a felony
228 of the first degree, punishable and, upon conviction, for fine
229 and punishment as provided in s. 775.082, s. 775.083, or s.
230 775.084. Delivery of written notice may be made by certified
231 mail, or by the use of such other method as is documented as
232 being necessary and reasonable under the circumstances. The
233 civil and criminal penalties imposed herein for failure to
234 comply with a written notice alerting the person of the
235 requirement to register the person's business as a dealer or to
236 collect tax on specific transactions shall not apply if the
237 person timely files a written challenge to such notice in
238 accordance with procedures established by the department by rule
239 or the notice fails to clearly advise that failure to comply
240 with or timely challenge the notice will result in the
241 imposition of the civil and criminal penalties imposed herein.

242 1. If the total amount of unreported or uncollected taxes
243 or fees is less than \$300, the first offense resulting in
244 conviction is a misdemeanor of the second degree, the second
245 offense resulting in conviction is a misdemeanor of the first
246 degree, and the third and all subsequent offenses resulting in
247 conviction is a misdemeanor of the first degree, and the third
248 and all subsequent offenses resulting in conviction are felonies
249 of the third degree.

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

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

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

259 Section 5. Subsection (4) of section 212.14, Florida
 260 Statutes, is amended to read:

261 212.14 Departmental powers; hearings; distress warrants;
 262 bonds; subpoenas and subpoenas duces tecum.-

263 (4) In all cases where it is necessary to ensure
 264 compliance with ~~the provisions of~~ this chapter, the department
 265 shall require a cash deposit, bond, or other security as a
 266 condition to a person obtaining or retaining a dealer's
 267 certificate of registration under this chapter. Such bond shall
 268 be in the form and such amount as the department deems
 269 appropriate under the particular circumstances. Every person
 270 failing to produce such cash deposit, bond, or other security as
 271 provided for herein shall not be entitled to obtain or retain a
 272 dealer's certificate of registration under this chapter, and the
 273 Department of Legal Affairs is hereby authorized to proceed by
 274 injunction, when so requested by the Department of Revenue, to
 275 prevent such person from doing business subject to ~~the~~
 276 ~~provisions of~~ this chapter until such cash deposit, bond, or
 277 other security is posted with the department, and any temporary
 278 injunction for this purpose may be granted by any judge or
 279 chancellor authorized by law to grant injunctions. Any security
 280 required to be deposited may be sold by the department at public

281 sale if it becomes necessary so to do in order to recover any
282 tax, interest, or penalty due. Notice of such sale may be served
283 personally or by mail upon the person who deposited ~~the such~~
284 security. If by mail, notice sent to the last known address as
285 the same appears on the records of the department shall be
286 sufficient for the purpose of this requirement. Upon such sale,
287 the surplus, if any, above the amount due under this chapter
288 shall be returned to the person who deposited the security. The
289 department may adopt rules necessary to administer this
290 subsection. For the purpose of the cash deposit, bond, or other
291 security required by this subsection, the term "person" includes
292 those entities defined in s. 212.02(12), as well as:

293 (a) An individual or entity owning a controlling interest
294 in an entity;

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

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

308 Section 6. Effective upon this act becoming a law,

309 subsection (3) of section 212.18, Florida Statutes, is amended
 310 to read:

311 212.18 Administration of law; registration of dealers;
 312 rules.—

313 (3) (a) Every person desiring to engage in or conduct
 314 business in this state as a dealer, ~~as defined in this chapter,~~
 315 or to lease, rent, or let or grant licenses in living quarters
 316 or sleeping or housekeeping accommodations in hotels, apartment
 317 houses, roominghouses, or tourist or trailer camps that are
 318 subject to tax under s. 212.03, or to lease, rent, or let or
 319 grant licenses in real property, ~~as defined in this chapter,~~ and
 320 every person who sells or receives anything of value by way of
 321 admissions, must file with the department an application for a
 322 certificate of registration for each place of business. The
 323 application must include, ~~showing~~ the names of the persons who
 324 have interests in such business and their residences, the
 325 address of the business, and ~~such~~ other data reasonably required
 326 by ~~as~~ the department ~~may reasonably require~~. However, owners and
 327 operators of vending machines or newspaper rack machines are
 328 required to obtain only one certificate of registration for each
 329 county in which such machines are located. The department, by
 330 rule, may authorize a dealer that uses independent sellers to
 331 sell its merchandise to remit tax on the retail sales price
 332 charged to the ultimate consumer in lieu of having the
 333 independent seller register as a dealer and remit the tax. The
 334 department may appoint the county tax collector as the
 335 department's agent to accept applications for registrations. The
 336 application must be made to the department before the person,

337 firm, copartnership, or corporation may engage in such business,
338 and it must be accompanied by a registration fee of \$5. However,
339 a registration fee is not required to accompany an application
340 to engage in or conduct business to make mail order sales. The
341 department may waive the registration fee for applications
342 submitted through the department's Internet registration
343 process.

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

365 ~~such certificate has been canceled. A person may not engage~~ The
 366 ~~engaging~~ in the business of selling or leasing tangible personal
 367 property or services ~~or as a dealer; engage, as defined in this~~
 368 ~~chapter, or the engaging~~ in the business of leasing, renting, or
 369 letting of or granting licenses in living quarters or sleeping
 370 or housekeeping accommodations in hotels, apartment houses,
 371 roominghouses, or tourist or trailer camps that are taxable
 372 under this chapter, or real property;; ~~or engage the engaging~~ in
 373 the business of selling or receiving anything of value by way of
 374 admissions, without a valid ~~such~~ certificate ~~first being~~
 375 ~~obtained or after such certificate has been canceled by the~~
 376 ~~department, is prohibited.~~

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

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

397 b. The department shall provide written notice of the duty
 398 to register to the person by personal service, by sending notice
 399 by registered mail to the person's last known address, or by
 400 both personal service and registered mail.

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

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

421 the informal conference and present evidence refuting the
422 department's intended revocation or enter into a compliance
423 agreement with the department which resolves the dealer's
424 failure to comply with this chapter. The department shall issue
425 an administrative complaint under s. 120.60 if the dealer fails
426 to attend the department's informal conference, fails to enter
427 into a compliance agreement with the department resolving the
428 dealer's noncompliance with this chapter, or fails to comply
429 with the executed compliance agreement.

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

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

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

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

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

449
450 Any person who conducts a convention or a trade show must make
451 his or her ~~their~~ exhibitor's agreements available to the
452 department for inspection and copying.

453 Section 7. Effective upon this act becoming a law and
454 operating retroactively to July 1, 2010, subsection (5) of
455 section 213.13, Florida Statutes, is amended to read:

456 213.13 Electronic remittance and distribution of funds
457 collected by clerks of the court.—

458 (5) All court-related collections, including fees, fines,
459 reimbursements, court costs, and other court-related funds that
460 the clerks must remit to the state pursuant to law, must be
461 transmitted electronically by the 10th ~~20th~~ day of the month
462 immediately following the month in which the funds are
463 collected.

464 Section 8. Effective upon this act becoming a law,
465 paragraph (a) of subsection (2) of section 213.21, Florida
466 Statutes, is amended to read:

467 213.21 Informal conferences; compromises.—

468 (2) (a) The executive director of the department or his or
469 her designee is authorized to enter into closing agreements with
470 any taxpayer settling or compromising the taxpayer's liability
471 for any tax, interest, or penalty assessed under any of the
472 chapters specified in s. 72.011(1). Such agreements shall be in
473 writing when the amount of tax, penalty, or interest compromised
474 exceeds \$30,000 or for lesser amounts when the department deems
475 it appropriate or when requested by the taxpayer. When a written
476 closing agreement has been approved by the department and signed

477 by the executive director or his or her designee and the
478 taxpayer, it shall be final and conclusive; and, except upon a
479 showing of fraud or misrepresentation of material fact or except
480 as to adjustments pursuant to ss. 198.16 and 220.23, no
481 additional assessment may be made by the department against the
482 taxpayer for the tax, interest, or penalty specified in the
483 closing agreement for the time period specified in the closing
484 agreement, and the taxpayer shall not be entitled to institute
485 any judicial or administrative proceeding to recover any tax,
486 interest, or penalty paid pursuant to the closing agreement. The
487 department is authorized to delegate to the executive director
488 the authority to approve any such closing agreement resulting in
489 a tax reduction of \$500,000 ~~\$250,000~~ or less.

490 Section 9. Effective upon this act becoming a law, section
491 213.295, Florida Statutes, is created to read:

492 213.295 Automated sales suppression devices.—

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

494 (a) "Automated sales suppression device" or "zapper" means
495 a software program that falsifies the electronic records of
496 electronic cash registers or other point-of-sale systems,
497 including, but not limited to, transaction data and transaction
498 reports. The term includes the software program, any device that
499 carries the software program, or an Internet link to the
500 software program.

501 (b) "Electronic cash register" means a device that keeps a
502 register or supporting documents through the use of an
503 electronic device or computer system designed to record
504 transaction data for the purpose of computing, compiling, or

505 processing retail sales transaction data in whatever manner.

506 (c) "Phantom-ware" means a hidden programming option
507 embedded in the operating system of an electronic cash register
508 or hardwired into the electronic cash register that may be used
509 to create a second set of records or eliminate or manipulate
510 transaction records, which records may or may not be preserved
511 in digital formats, to represent the true or manipulated record
512 of transactions in the electronic cash register.

513 (d) "Transaction data" includes items purchased by a
514 customer; the price of each item; a taxability determination for
515 each item; a segregated tax amount for each of the taxed items;
516 the amount of cash or credit tendered; the net amount returned
517 to the customer in change; the date and time of the purchase;
518 the name, address, and identification number of the vendor; and
519 the receipt or invoice number of the transaction.

520 (e) "Transaction report" means a report that documents,
521 but is not limited to documenting, the sales, taxes, or fees
522 collected; media totals; and discount voids at an electronic
523 cash register that is printed on a cash register tape at the end
524 of a day or a shift, or a report that documents every action at
525 an electronic cash register and that is stored electronically.

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

529 (3) (a) A person who violates this section commits a felony
530 of the third degree, punishable as provided in s. 775.082, s.
531 775.083, or s. 775.084.

532 (b) A person who violates this section is liable for all

533 taxes, fees, penalties, and interest due the state as a result
534 of the use of an automated sales suppression device, zapper, or
535 phantom-ware and shall forfeit to the state as an additional
536 penalty all profits associated with the sale or use of an
537 automated sales suppression device, zapper, or phantom-ware.

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

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

545 443.131 Contributions.—

546 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
547 EXPERIENCE.—

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

551 1. All contributions, reimbursements, interest, and
552 penalties incurred by the employer for wages paid by him or her
553 in all previous calendar quarters, except the 4 calendar
554 quarters immediately preceding the calendar quarter or calendar
555 year for which the benefit ratio is computed, are paid; ~~and~~

556 2. The employer has produced for inspection and copying
557 all work records in his or her possession, custody, or control
558 that were requested by the Department of Economic Opportunity or
559 its tax collection service provider pursuant to s. 443.171(5).

560 An employer shall have at least 60 days to provide the requested

561 work records before the employer is assigned the standard rate;

562 and

563 ~~3.2.~~ The employer entitled to a rate reduction must have
 564 at least one annual payroll as defined in subparagraph (b)1.
 565 unless the employer is eligible for additional credit under the
 566 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 567 Act is amended or repealed in a manner affecting credit under
 568 the federal act, this section applies only to the extent that
 569 additional credit is allowed against the payment of the tax
 570 imposed by the Federal Unemployment Tax Act.

571
 572 The tax collection service provider shall assign an earned
 573 contribution rate to an employer ~~under subparagraph 1.~~ the
 574 quarter immediately after the quarter in which all
 575 contributions, reimbursements, interest, and penalties are paid
 576 in full and all work records requested pursuant to s. 443.171(5)
 577 have been provided to the Department of Economic Opportunity or
 578 the tax collection service provider for inspection and copying.

579 Section 11. Effective January 1, 2014, paragraph (a) of
 580 subsection (1) of section 443.141, Florida Statutes, is amended
 581 to read:

582 443.141 Collection of contributions and reimbursements.—

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

585 (a) Interest.—Contributions or reimbursements unpaid on
 586 the date due bear interest at the rate of 1 percent per month
 587 through December 31, 2013. Beginning January 1, 2014, the
 588 interest rate shall be calculated in accordance with s. 213.235,

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589 | except that the rate of interest shall never be greater than 1
590 | percent per month, from and after the ~~that~~ date due until
591 | payment plus accrued interest is received by the tax collection
592 | service provider, unless the service provider finds that the
593 | employing unit has good reason for failing to pay the
594 | contributions or reimbursements when due. Interest collected
595 | under this subsection must be paid into the Special Employment
596 | Security Administration Trust Fund.

597 | Section 12. Except as otherwise expressly provided in this
598 | act and except for this section, which shall take effect upon
599 | this act becoming a law, this act shall take effect July 1,
600 | 2013.