

FOR CONSIDERATION By the Committee on Appropriations

576-01940E-13

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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. 212.07, F.S.; conforming a cross-reference
6 to changes made by the act; providing monetary and
7 criminal penalties for a dealer's willful failure to
8 collect certain taxes or fees after receiving notice
9 of such duty to collect from the Department of
10 Revenue; amending s. 212.12, F.S.; deleting provisions
11 relating to the imposition of criminal penalties after
12 department notice of requirements to register as a
13 dealer or to collect taxes; making technical and
14 grammatical changes to provisions specifying penalties
15 for making a false or fraudulent return with the
16 intent to evade payment of a tax or fee; amending s.
17 212.14, F.S.; modifying the definition of the term
18 "person"; authorizing the department to adopt rules
19 relating to requirements for a person to deposit cash,
20 a bond, or other security with the department in order
21 to ensure compliance with sales tax laws; making
22 technical and grammatical changes; amending s. 212.18,
23 F.S.; providing criminal penalties for a person who
24 willfully fails to register as a dealer after
25 receiving notice of such duty by the department;
26 making technical and grammatical changes; reenacting
27 s. 212.20, F.S., relating to the disposition of funds
28 collected; amending s. 213.13, F.S.; revising the due
29 date for transmitting funds collected by the clerks of

576-01940E-13

20137126__

30 court to the department; providing retroactive
31 application; amending s. 213.21, F.S.; increasing
32 dollar threshold of compromise authority that can be
33 delegated to the executive director; creating s.
34 213.295, F.S., relating to automated sales suppression
35 devices; providing definitions; subjecting a person to
36 criminal penalties and monetary penalties for
37 knowingly selling or engaging in certain other actions
38 involving a zapper or phantom-ware; providing that
39 sales suppression devices and phantom-ware are
40 contraband articles under the Florida Contraband
41 Forfeiture Act; amending s. 322.142, F.S.; authorizing
42 the Department of Highway Safety and Motor Vehicles to
43 release photographs or digital images to the
44 Department of Revenue in order to identify individuals
45 for purposes of tax administration; amending s.
46 443.131, F.S.; imposing a requirement on employers to
47 produce records for the Department of Economic
48 Opportunity or its tax collection service provider as
49 a prerequisite for a reduction in the rate of
50 reemployment tax; amending s. 443.141, F.S.; providing
51 a method to calculate the interest rate for past due
52 contributions and reimbursements, and delinquent,
53 erroneous, incomplete, or insufficient reports;
54 providing effective dates.

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

57
58 Section 1. Operating retroactively to January 1, 2013,

576-01940E-13

20137126__

59 subsection (4) of section 198.13, Florida Statutes, is amended
60 to read:

61 198.13 Tax return to be made in certain cases; certificate
62 of nonliability.-

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

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

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

76

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

79 Section 2. Paragraph (b) of subsection (1) and subsection
80 (3) of section 212.07, Florida Statutes, are amended to read:

81 212.07 Sales, storage, use tax; tax added to purchase
82 price; dealer not to absorb; liability of purchasers who cannot
83 prove payment of the tax; penalties; general exemptions.-

84 (1)

85 (b) A resale must be in strict compliance with s. 212.18
86 and the rules and regulations, and any dealer who makes a sale
87 for resale which is not in strict compliance with s. 212.18 and

576-01940E-13

20137126__

88 the rules and regulations shall himself or herself be liable for
89 and pay the tax. Any dealer who makes a sale for resale shall
90 document the exempt nature of the transaction, as established by
91 rules adopted ~~promulgated~~ by the department, by retaining a copy
92 of the purchaser's resale certificate. In lieu of maintaining a
93 copy of the certificate, a dealer may document, before ~~prior to~~
94 the time of sale, an authorization number provided
95 telephonically or electronically by the department, or by such
96 other means established by rule of the department. The dealer
97 may rely on a resale certificate issued pursuant to s.
98 212.18(3)(d) ~~212.18(3)(e)~~, valid at the time of receipt from the
99 purchaser, without seeking annual verification of the resale
100 certificate if the dealer makes recurring sales to a purchaser
101 in the normal course of business on a continual basis. For
102 purposes of this paragraph, "recurring sales to a purchaser in
103 the normal course of business" refers to a sale in which the
104 dealer extends credit to the purchaser and records the debt as
105 an account receivable, or in which the dealer sells to a
106 purchaser who has an established cash or C.O.D. account, similar
107 to an open credit account. For purposes of this paragraph,
108 purchases are made from a selling dealer on a continual basis if
109 the selling dealer makes, in the normal course of business,
110 sales to the purchaser no less frequently than once in every 12-
111 month period. A dealer may, through the informal protest
112 provided for in s. 213.21 and the rules of the department ~~of~~
113 ~~Revenue~~, provide the department with evidence of the exempt
114 status of a sale. Consumer certificates of exemption executed by
115 those exempt entities that were registered with the department
116 at the time of sale, resale certificates provided by purchasers

576-01940E-13

20137126__

117 who were active dealers at the time of sale, and verification by
118 the department of a purchaser's active dealer status at the time
119 of sale in lieu of a resale certificate shall be accepted by the
120 department when submitted during the protest period, but may not
121 be accepted in any proceeding under chapter 120 or any circuit
122 court action instituted under chapter 72.

123 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
124 collect the tax or fees imposed under this chapter herein
125 ~~provided, either~~ by himself or herself or through the dealer's
126 agents or employees, ~~is,~~ in addition to the penalty of being
127 liable for ~~and~~ paying the tax ~~himself or herself,~~ commits guilty
128 ~~of~~ a misdemeanor of the first degree, punishable as provided in
129 s. 775.082 or s. 775.083.

130 (b) A dealer who willfully fails to collect a tax or fee
131 after the department provides notice of the duty to collect the
132 tax or fee is liable for a specific penalty of 100 percent of
133 the uncollected tax or fee. This penalty is in addition to any
134 other penalty that may be imposed by law. A dealer who willfully
135 fails to collect taxes or fees totaling:

136 1. Less than \$300:

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

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

141 c. For a third or subsequent offense, commits a felony of
142 the third degree, punishable as provided in s. 775.082, s.
143 775.083, or s. 775.084.

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

576-01940E-13

20137126__

146 s. 775.082, s. 775.083, or s. 775.084.

147 3. An amount equal to \$20,000 or more, but less than
148 \$100,000, commits a felony of the second degree, punishable as
149 provided in s. 775.082, s. 775.083, or s. 775.084.

150 4. An amount equal to \$100,000 or more, commits a felony of
151 the first degree, punishable as provided in s. 775.082, s.
152 775.083, or s. 775.084.

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

157 Section 3. Paragraph (d) of subsection (2) of section
158 212.12, Florida Statutes, is amended to read:

159 212.12 Dealer's credit for collecting tax; penalties for
160 noncompliance; powers of Department of Revenue in dealing with
161 delinquents; brackets applicable to taxable transactions;
162 records required.-

163 (2)

164 (d) A Any person who makes a false or fraudulent return and
165 who has with a willful intent to evade payment of any tax or fee
166 imposed under this chapter is; any person who, after the
167 department's delivery of a written notice to the person's last
168 known address specifically alerting the person of the
169 requirement to register the person's business as a dealer,
170 intentionally fails to register the business; and any person
171 who, after the department's delivery of a written notice to the
172 person's last known address specifically alerting the person of
173 the requirement to collect tax on specific transactions,
174 intentionally fails to collect such tax, shall, in addition to

576-01940E-13

20137126__

175 ~~the other penalties provided by law, be liable for a specific~~
176 ~~penalty of 100 percent of any unreported or any uncollected tax~~
177 ~~or fee. This penalty is in addition to any other penalty~~
178 ~~provided by law. A person who makes a false or fraudulent return~~
179 ~~with a willful intent to evade payment of taxes or fees~~
180 ~~totaling:~~

181 1. Less than \$300:

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

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

186 c. For a third or subsequent offense, commits a felony of
187 the third degree, punishable as provided in s. 775.082, s.
188 775.083, or s. 775.084.

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

192 3. An amount equal to \$20,000 or more, but less than
193 \$100,000, commits a felony of the second degree, punishable as
194 provided in s. 775.082, s. 775.083, or s. 775.084.

195 4. An amount equal to \$100,000 or more, commits a felony of
196 the first degree, punishable and, upon conviction, for fine and
197 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

198 ~~Delivery of written notice may be made by certified mail, or by~~
199 ~~the use of such other method as is documented as being necessary~~
200 ~~and reasonable under the circumstances. The civil and criminal~~
201 ~~penalties imposed herein for failure to comply with a written~~
202 ~~notice alerting the person of the requirement to register the~~
203 ~~person's business as a dealer or to collect tax on specific~~

576-01940E-13

20137126__

204 ~~transactions shall not apply if the person timely files a~~
205 ~~written challenge to such notice in accordance with procedures~~
206 ~~established by the department by rule or the notice fails to~~
207 ~~clearly advise that failure to comply with or timely challenge~~
208 ~~the notice will result in the imposition of the civil and~~
209 ~~criminal penalties imposed herein.~~

210 ~~1. If the total amount of unreported or uncollected taxes~~
211 ~~or fees is less than \$300, the first offense resulting in~~
212 ~~conviction is a misdemeanor of the second degree, the second~~
213 ~~offense resulting in conviction is a misdemeanor of the first~~
214 ~~degree, and the third and all subsequent offenses resulting in~~
215 ~~conviction is a misdemeanor of the first degree, and the third~~
216 ~~and all subsequent offenses resulting in conviction are felonies~~
217 ~~of the third degree.~~

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

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

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

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

229 212.14 Departmental powers; hearings; distress warrants;
230 bonds; subpoenas and subpoenas duces tecum.-

231 (4) In all cases where it is necessary to ensure
232 compliance with ~~the provisions of this chapter,~~ the department

576-01940E-13

20137126__

233 shall require a cash deposit, bond, or other security as a
234 condition to a person obtaining or retaining a dealer's
235 certificate of registration under this chapter. Such bond must
236 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems
237 appropriate under the particular circumstances. A ~~Every~~ person
238 failing to produce such cash deposit, bond, or other security is
239 ~~as provided for herein shall~~ not be entitled to obtain or retain
240 a dealer's certificate of registration under this chapter, and
241 the Department of Legal Affairs is hereby authorized to proceed
242 by injunction, if ~~when so~~ requested by the Department of
243 Revenue, to prevent such person from doing business subject to
244 ~~the provisions of~~ this chapter until such cash deposit, bond, or
245 other security is posted with the department, and any temporary
246 injunction for this purpose may be granted by any judge or
247 chancellor authorized by law to grant injunctions. Any security
248 required to be deposited may be sold by the department at public
249 sale if ~~it becomes~~ necessary ~~so to do~~ in order to recover any
250 tax, interest, or penalty due. Notice of such sale may be served
251 personally or by mail upon the person who deposited the ~~such~~
252 security. If by mail, notice sent to the last known address as
253 it ~~the same~~ appears on the records of the department is ~~shall be~~
254 sufficient for the purpose of this requirement. Upon such sale,
255 the surplus, if any, above the amount due under this chapter
256 shall be returned to the person who deposited the security. The
257 department may adopt rules necessary to administer this
258 subsection. For the purpose of the cash deposit, bond, or other
259 security required by this subsection, the term "person" includes
260 those entities defined in s. 212.02(12), as well as:

261 (a) An individual or entity owning a controlling interest

576-01940E-13

20137126__

262 in an entity;

263 (b) An individual or entity that has acquired an ownership
264 interest or a controlling interest in a business that would
265 otherwise be liable for posting a cash deposit, bond, or other
266 security, unless the department has determined that the
267 individual or entity is not liable for taxes, interest, or
268 penalties as set forth in s. 213.758; or

269 (c) An individual or entity seeking to obtain a dealer's
270 certificate of registration for a business that will be operated
271 at the same location as a previous business that would otherwise
272 have been liable for posting a cash deposit, bond, or other
273 security, if the individual or entity fails to provide evidence
274 that the business was acquired for consideration in an arms-
275 length transaction.

276 Section 5. Subsection (3) of section 212.18, Florida
277 Statutes, is amended to read:

278 212.18 Administration of law; registration of dealers;
279 rules.-

280 (3) (a) A ~~Every~~ person desiring to engage in or conduct
281 business in this state as a dealer, ~~as defined in this chapter,~~
282 or to lease, rent, or let or grant licenses in living quarters
283 or sleeping or housekeeping accommodations in hotels, apartment
284 houses, roominghouses, or tourist or trailer camps that are
285 subject to tax under s. 212.03, or to lease, rent, or let or
286 grant licenses in real property, ~~as defined in this chapter,~~ and
287 every person who sells or receives anything of value by way of
288 admissions, must file with the department an application for a
289 certificate of registration for each place of business. The
290 application must include, ~~showing~~ the names of the persons who

576-01940E-13

20137126__

291 have interests in such business and their residences, the
292 address of the business, and ~~such~~ other data reasonably required
293 by ~~as~~ the department ~~may reasonably require~~. However, owners and
294 operators of vending machines or newspaper rack machines are
295 required to obtain only one certificate of registration for each
296 county in which such machines are located. The department, by
297 rule, may authorize a dealer that uses independent sellers to
298 sell its merchandise to remit tax on the retail sales price
299 charged to the ultimate consumer in lieu of having the
300 independent seller register as a dealer and remit the tax. The
301 department may appoint the county tax collector as the
302 department's agent to accept applications for registrations. The
303 application must be submitted ~~made~~ to the department before the
304 person, firm, copartnership, or corporation may engage in such
305 business, and it must be accompanied by a registration fee of
306 \$5. However, a registration fee is not required to accompany an
307 application to engage in or conduct business to make mail order
308 sales. The department may waive the registration fee for
309 applications submitted through the department's Internet
310 registration process.

311 (b) The department, upon receipt of such application, shall
312 ~~will~~ grant to the applicant a separate certificate of
313 registration for each place of business, which certificate may
314 be canceled by the department or its designated assistants for
315 any failure by the certificateholder to comply with ~~any of the~~
316 ~~provisions of~~ this chapter. The certificate is not assignable
317 and is valid only for the person, firm, copartnership, or
318 corporation to which issued. The certificate must be placed in a
319 conspicuous place in the business or businesses for which it is

576-01940E-13

20137126__

320 issued and must be displayed at all times. Except as provided in
 321 this subsection, a no person may not shall engage in business as
 322 a dealer or in leasing, renting, or letting of or granting
 323 licenses in living quarters or sleeping or housekeeping
 324 accommodations in hotels, apartment houses, roominghouses,
 325 tourist or trailer camps, or real property, or as hereinbefore
 326 ~~defined, nor shall any person~~ sell or receive anything of value
 327 by way of admissions, without a valid first having obtained such
 328 a certificate. A or after such certificate has been canceled; no
 329 person may not shall receive a any license from any authority
 330 within the state to engage in any such business without a valid
 331 certificate first having obtained such a certificate or after
 332 such certificate has been canceled. A person may not engage The
 333 ~~engaging~~ in the business of selling or leasing tangible personal
 334 property or services or as a dealer; engage, ~~as defined in this~~
 335 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 336 granting licenses in living quarters or sleeping or housekeeping
 337 accommodations in hotels, apartment houses, roominghouses, or
 338 tourist or trailer camps that are taxable under this chapter, or
 339 real property; or engage the engaging in the business of
 340 selling or receiving anything of value by way of admissions,
 341 without a valid such certificate first being obtained or after
 342 ~~such certificate has been canceled by the department, is~~
 343 ~~prohibited.~~

344 (c)1. A The failure or refusal of any person who engages in
 345 acts requiring a certificate of registration under this
 346 subsection who fails or refuses to register commits, ~~firm,~~
 347 ~~copartnership, or corporation to so qualify when required~~
 348 ~~hereunder is~~ a misdemeanor of the first degree, punishable as

576-01940E-13

20137126

349 provided in s. 775.082 or s. 775.083. Such acts are,~~or~~ subject
350 to injunctive proceedings as provided by law. A person who
351 engages in acts requiring a certificate of registration and who
352 fails or refuses to register is also subject ~~Such failure or~~
353 ~~refusal also subjects the offender~~ to a \$100 initial
354 registration fee in lieu of the \$5 registration fee required by
355 ~~authorized in~~ paragraph (a). However, the department may waive
356 the increase in the registration fee if it finds ~~is determined~~
357 ~~by the department~~ that the failure to register was due to
358 reasonable cause and not to willful negligence, willful neglect,
359 or fraud.

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

364 b. The department shall provide written notice of the duty
365 to register to the person by personal service, by sending notice
366 by registered mail to the person's last known address, or by
367 both personal service and mail.

368 ~~(d)(e)~~ In addition to the certificate of registration, the
369 department shall provide to each newly registered dealer an
370 initial resale certificate that will be valid for the remainder
371 of the period of issuance. The department shall provide each
372 active dealer with an annual resale certificate. For purposes of
373 this section, the term "active dealer" means a person who is
374 currently registered with the department and who is required to
375 file at least once during each applicable reporting period.

376 ~~(e)(d)~~ The department may revoke a any dealer's certificate
377 of registration if ~~when~~ the dealer fails to comply with this

576-01940E-13

20137126__

378 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of
379 registration, the department must schedule an informal
380 conference at which the dealer may present evidence regarding
381 the department's intended revocation or enter into a compliance
382 agreement with the department. The department must notify the
383 dealer of its intended action and the time, place, and date of
384 the scheduled informal conference by written notification sent
385 by United States mail to the dealer's last known address of
386 record furnished by the dealer on a form prescribed by the
387 department. The dealer is required to attend the informal
388 conference and present evidence refuting the department's
389 intended revocation or enter into a compliance agreement with
390 the department which resolves the dealer's failure to comply
391 with this chapter. The department shall issue an administrative
392 complaint under s. 120.60 if the dealer fails to attend the
393 department's informal conference, fails to enter into a
394 compliance agreement with the department resolving the dealer's
395 noncompliance with this chapter, or fails to comply with the
396 executed compliance agreement.

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

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

405 2. An exhibitor whose agreement provides for the sale at
406 wholesale only of tangible personal property or services subject

576-01940E-13

20137126__

407 to the tax imposed under ~~in~~ this chapter must obtain a resale
408 certificate from the purchasing dealer but is not required to
409 register as a dealer.

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

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

416

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

420 Section 6. For the purpose of incorporating the amendment
421 made by this act to subsection (3) of section 212.18, Florida
422 Statutes, in a reference thereto, paragraph (c) of subsection
423 (6) of section 212.20, Florida Statutes, is reenacted to read:

424 212.20 Funds collected, disposition; additional powers of
425 department; operational expense; refund of taxes adjudicated
426 unconstitutionally collected.—

427 (6) Distribution of all proceeds under this chapter and s.
428 202.18(1)(b) and (2)(b) shall be as follows:

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

431 Section 7. Operating retroactively to July 1, 2010,
432 subsection (5) of section 213.13, Florida Statutes, is amended
433 to read:

434 213.13 Electronic remittance and distribution of funds
435 collected by clerks of the court.—

576-01940E-13

20137126__

436 (5) All court-related collections, including fees, fines,
437 reimbursements, court costs, and other court-related funds that
438 the clerks must remit to the state pursuant to law, must be
439 transmitted electronically by the 10th ~~20th~~ day of the month
440 immediately following the month in which the funds are
441 collected.

442 Section 8. Paragraph (a) of subsection (2) of section
443 213.21, Florida Statutes, is amended to read:

444 213.21 Informal conferences; compromises.-

445 (2) (a) The executive director of the department or his or
446 her designee is authorized to enter into closing agreements with
447 any taxpayer settling or compromising the taxpayer's liability
448 for any tax, interest, or penalty assessed under any of the
449 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
450 be in writing if ~~when~~ the amount of tax, penalty, or interest
451 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
452 department deems it appropriate or if ~~when~~ requested by the
453 taxpayer. When a written closing agreement has been approved by
454 the department and signed by the executive director or his or
455 her designee and the taxpayer, it shall be final and conclusive;
456 and, except upon a showing of fraud or misrepresentation of
457 material fact or except as to adjustments pursuant to ss. 198.16
458 and 220.23, no additional assessment may be made by the
459 department against the taxpayer for the tax, interest, or
460 penalty specified in the closing agreement for the time period
461 specified in the closing agreement, and the taxpayer is ~~shall~~
462 not ~~be~~ entitled to institute any judicial or administrative
463 proceeding to recover any tax, interest, or penalty paid
464 pursuant to the closing agreement. The department is authorized

576-01940E-13

20137126__

465 to delegate to the executive director the authority to approve
466 any such closing agreement resulting in a tax reduction of
467 \$500,000 ~~\$250,000~~ or less.

468 Section 9. Section 213.295, Florida Statutes, is created to
469 read:

470 213.295 Automated sales suppression devices.—

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

472 (a) "Automated sales suppression device" or "zapper" means
473 a software program that falsifies the electronic records of
474 electronic cash registers or other point-of-sale systems,
475 including, but not limited to, transaction data and transaction
476 reports. The term includes the software program, any device that
477 carries the software program, or an Internet link to the
478 software program.

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

484 (c) "Phantom-ware" means a hidden programming option
485 embedded in the operating system of an electronic cash register
486 or hardwired into the electronic cash register which may be used
487 to create a second set of records or eliminate or manipulate
488 transaction records, which may or may not be preserved in
489 digital formats, to represent the true or manipulated record of
490 transactions in the electronic cash register.

491 (d) "Transaction data" includes items purchased by a
492 customer; the price for each item; a taxability determination
493 for each item; a segregated tax amount for each of the taxed

576-01940E-13

20137126__

494 items; the amount of cash or credit tendered; the net amount
495 returned to the customer in change; the date and time of the
496 purchase; the name, address, and identification number of the
497 vendor; and the receipt or invoice number of the transaction.

498 (e) "Transaction report" means a report that documents, but
499 is not limited to documenting, the sales, taxes, or fees
500 collected, media totals, and discount voids at an electronic
501 cash register which is printed on a cash register tape at the
502 end of a day or a shift, or a report that documents every action
503 at an electronic cash register and which is stored
504 electronically.

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

508 (3) A person who violates this section:

509 (a) Commits a felony of the third degree, punishable as
510 provided in s. 775.082, s. 775.083, or s. 775.084.

511 (b) Is liable for all taxes, fees, penalties, and interest
512 due the state as a result of the use of an automated sales
513 suppression device, zapper, or phantom-ware and shall forfeit to
514 the state as an additional penalty all profits associated with
515 the sale or use of an automated sales suppression device,
516 zapper, or phantom-ware.

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

521 Section 10. Effective July 1, 2013, subsection (4) of
522 section 322.142, Florida Statutes, is amended to read:

576-01940E-13

20137126__

523 322.142 Color photographic or digital imaged licenses.—

524 (4) The department may maintain a film negative or print
525 file. The department shall maintain a record of the digital
526 image and signature of the licensees, together with other data
527 required by the department for identification and retrieval.
528 Reproductions from the file or digital record are exempt from
529 ~~the provisions of s. 119.07(1)~~ and shall be made and issued only
530 for departmental administrative purposes; for the issuance of
531 duplicate licenses; in response to law enforcement agency
532 requests; to the Department of Business and Professional
533 Regulation pursuant to an interagency agreement for the purpose
534 of accessing digital images for reproduction of licenses issued
535 by the Department of Business and Professional Regulation; to
536 the Department of State pursuant to an interagency agreement to
537 facilitate determinations of eligibility of voter registration
538 applicants and registered voters in accordance with ss. 98.045
539 and 98.075; to the Department of Revenue pursuant to an
540 interagency agreement for use in establishing paternity and
541 establishing, modifying, or enforcing support obligations in
542 Title IV-D cases; to the Department of Revenue for use in
543 establishing positive identification for tax administration
544 purposes; to the Department of Children and Family Services
545 pursuant to an interagency agreement to conduct protective
546 investigations under part III of chapter 39 and chapter 415; to
547 the Department of Children and Family Services pursuant to an
548 interagency agreement specifying the number of employees in each
549 of that department's regions to be granted access to the records
550 for use as verification of identity to expedite the
551 determination of eligibility for public assistance and for use

576-01940E-13

20137126__

552 in public assistance fraud investigations; to the Department of
553 Financial Services pursuant to an interagency agreement to
554 facilitate the location of owners of unclaimed property, the
555 validation of unclaimed property claims, and the identification
556 of fraudulent or false claims; or to District medical examiners
557 pursuant to an interagency agreement for the purpose of
558 identifying a deceased individual, determining cause of death,
559 and notifying next of kin of any investigations, including
560 autopsies and other laboratory examinations, authorized in s.
561 406.11 ~~s. 406.011~~.

562 Section 11. Paragraph (h) of subsection (3) of section
563 443.131, Florida Statutes, is amended to read:

564 443.131 Contributions.—

565 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
566 EXPERIENCE.—

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

570 1. All contributions, reimbursements, interest, and
571 penalties incurred by the employer for wages paid by him or her
572 in all previous calendar quarters, except the 4 calendar
573 quarters immediately preceding the calendar quarter or calendar
574 year for which the benefit ratio is computed, are paid; ~~and~~

575 2. The employer has produced for inspection and copying all
576 work records in his or her possession, custody, or control which
577 were requested by the Department of Economic Opportunity or its
578 tax collection service provider pursuant to s. 443.171(5); and

579 ~~3.2.~~ The employer entitled to a rate reduction must have at
580 least one annual payroll as defined in subparagraph (b)1. unless

576-01940E-13

20137126__

581 the employer is eligible for additional credit under the Federal
582 Unemployment Tax Act. If the Federal Unemployment Tax Act is
583 amended or repealed in a manner affecting credit under the
584 federal act, this section applies only to the extent that
585 additional credit is allowed against the payment of the tax
586 imposed by the ~~Federal Unemployment Tax~~ act.

587
588 The tax collection service provider shall assign an earned
589 contribution rate to an employer for ~~under subparagraph 1.~~ the
590 quarter immediately after the quarter in which all
591 contributions, reimbursements, interest, and penalties are paid
592 in full and all work records requested pursuant to s. 443.171(5)
593 have been produced for inspection and copying to the Department
594 of Economic Opportunity or the tax collection service provider.

595 Section 12. Effective January 1, 2014, paragraph (a) of
596 subsection (1) of section 443.141, Florida Statutes, is amended
597 to read:

598 443.141 Collection of contributions and reimbursements.—

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

601 (a) *Interest.*—Contributions or reimbursements unpaid on the
602 date due bear interest at the rate of 1 percent per month
603 through December 31, 2013. Beginning January 1, 2014, the
604 interest rate shall be calculated in accordance with s. 213.235,
605 except that the rate of interest may not exceed 1 percent per
606 month from and after the ~~that~~ date due until payment plus
607 accrued interest is received by the tax collection service
608 provider, unless the service provider finds that the employing
609 unit has good reason for failing to pay the contributions or

576-01940E-13

20137126__

610 reimbursements when due. Interest collected under this
611 subsection must be paid into the Special Employment Security
612 Administration Trust Fund.

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