

By the Committees on Commerce and Tourism; and Appropriations

577-02740A-14

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1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 196.1995, F.S.; requiring certain real property
4 improvements and tangible personal property additions
5 to occur within a specified period in order to qualify
6 for a specified ad valorem tax exemption; providing
7 that certain local ordinances conveying ad valorem tax
8 exemptions may not be invalidated if the local
9 governing body acted in accordance with this act;
10 amending s. 212.03, F.S.; providing that charges for
11 the storage of towed vehicles that are impounded by a
12 local, state, or federal law enforcement agency are
13 not taxable; amending s. 212.07, F.S.; conforming a
14 cross-reference to changes made by the act; providing
15 monetary and criminal penalties for a dealer's willful
16 failure to collect certain taxes or fees after
17 receiving notice of such duty to collect from the
18 Department of Revenue; amending s. 212.12, F.S.;
19 deleting provisions relating to the imposition of
20 criminal penalties after Department of Revenue notice
21 of requirements to register as a dealer or to collect
22 taxes; making technical and grammatical changes to
23 provisions specifying penalties for making a false or
24 fraudulent return with the intent to evade payment of
25 a tax or fee; amending s. 212.14, F.S.; modifying the
26 definition of the term "person"; authorizing the
27 department to adopt rules relating to requirements for
28 a person to deposit cash, a bond, or other security
29 with the department in order to ensure compliance with

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30 sales tax laws; making technical and grammatical
31 changes; amending s. 212.18, F.S.; providing criminal
32 penalties for a person who willfully fails to register
33 as a dealer after receiving notice of such duty by the
34 department; making technical and grammatical changes;
35 reenacting s. 212.20, F.S., relating to the
36 disposition of funds collected, to incorporate changes
37 made by the act; amending s. 213.0535, F.S.;

38 clarifying that confidential tax data may be published
39 as statistics under certain circumstances; amending s.
40 213.13, F.S.; revising the date for transmitting funds
41 collected by the clerks of court to the department;
42 amending s. 213.21, F.S.; increasing the compromise
43 authority for closing agreements with taxpayers which
44 can be delegated to and approved by the executive
45 director; creating s. 213.295, F.S., relating to
46 automated sales suppression devices; defining terms;
47 subjecting a person to criminal penalties and monetary
48 penalties for knowingly selling or engaging in certain
49 other actions involving a sales suppression device or
50 phantom-ware; providing that sales suppression devices
51 and phantom-ware are contraband articles under the
52 Florida Contraband Forfeiture Act; amending s.
53 443.131, F.S.; imposing a requirement on employers to
54 produce records for the Department of Economic
55 Opportunity or its tax collection service provider as
56 a prerequisite for a reduction in the rate of
57 reemployment tax; amending s. 443.141, F.S.; providing
58 a method to calculate the interest rate for past due

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59 employer contributions and reimbursements, and
60 delinquent, erroneous, incomplete, or insufficient
61 reports; increasing the number of days for an employer
62 to protest an assessment; providing effective dates.
63

64 Be It Enacted by the Legislature of the State of Florida:
65

66 Section 1. Subsection (5) of section 196.1995, Florida
67 Statutes, is amended to read:

68 196.1995 Economic development ad valorem tax exemption.—

69 (5) Upon a majority vote in favor of such authority, the
70 board of county commissioners or the governing authority of the
71 municipality, at its discretion, may, by ordinance, ~~may~~ exempt
72 from ad valorem taxation up to 100 percent of the assessed value
73 of all improvements to real property made by or for the use of a
74 new business and of all tangible personal property of such new
75 business, or up to 100 percent of the assessed value of all
76 added improvements to real property made to facilitate the
77 expansion of an existing business and of the net increase in all
78 tangible personal property acquired to facilitate such expansion
79 of an existing business. To qualify for the exemption, provided
80 ~~that~~ the improvements to real property must be ~~are~~ made or the
81 tangible personal property must be ~~is~~ added or increased after
82 approval by motion or resolution of the local governing body,
83 subject to the adoption of the ordinance, or on or after the day
84 the ordinance is adopted. However, if the authority to grant
85 exemptions is approved in a referendum in which the ballot
86 question contained in subsection (3) appears on the ballot, the
87 authority of the board of county commissioners or the governing

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88 authority of the municipality to grant exemptions is limited
89 solely to new businesses and expansions of existing businesses
90 that are located in an enterprise zone or brownfield area.
91 Property acquired to replace existing property is ~~shall~~ not be
92 considered to facilitate a business expansion. The exemption
93 applies only to taxes levied by the respective unit of
94 government granting the exemption. The exemption does not apply,
95 however, to taxes levied for the payment of bonds or to taxes
96 authorized by a vote of the electors pursuant to s. 9(b) or s.
97 12, Art. VII of the State Constitution. Any such exemption shall
98 remain in effect for up to 10 years with respect to any
99 particular facility, regardless of any change in the authority
100 of the county or municipality to grant such exemptions. The
101 exemption may ~~shall~~ not be prolonged or extended by granting
102 exemptions from additional taxes or by virtue of a ~~any~~
103 reorganization or sale of the business receiving the exemption.

104 Section 2. A local ordinance enacted pursuant to s.
105 196.1995, Florida Statutes, before the effective date of this
106 act may not be invalidated on the ground that improvements to
107 real property were made or that tangible personal property was
108 added or increased before the date that such ordinance was
109 adopted if the local governing body acted substantially in
110 accordance with s. 196.1995(5), Florida Statutes, as amended by
111 this act.

112 Section 3. Subsection (6) of section 212.03, Florida
113 Statutes, is amended to read:

114 212.03 Transient rentals tax; rate, procedure, enforcement,
115 exemptions.-

116 (6) It is the legislative intent that a ~~every~~ person is

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117 engaging in a taxable privilege who leases or rents parking or
118 storage spaces for motor vehicles in parking lots or garages,
119 including storage facilities for towed vehicles, who leases or
120 rents docking or storage spaces for boats in boat docks or
121 marinas, or who leases or rents tie-down or storage space for
122 aircraft at airports.

123 (a) For the exercise of this privilege, a tax is hereby
124 levied at the rate of 6 percent on the total rental charged.

125 (b) Charges for parking, docking, tie-down, or storage
126 arising from a lawful impoundment are not taxable. As used in
127 this paragraph, the term "lawful impoundment" means the storing
128 of or having custody over an aircraft, boat, or motor vehicle
129 by, or at the direction of, a local, state, or federal law
130 enforcement agency which the owner or the owner's representative
131 is not authorized to enter upon, have access to, or remove
132 without the consent of the law enforcement agency.

133 Section 4. Effective July 1, 2014, paragraph (b) of
134 subsection (1) and subsection (3) of section 212.07, Florida
135 Statutes, are amended to read:

136 212.07 Sales, storage, use tax; tax added to purchase
137 price; dealer not to absorb; liability of purchasers who cannot
138 prove payment of the tax; penalties; general exemptions.-

139 (1)

140 (b) A resale must be in strict compliance with s. 212.18
141 and the rules and regulations, and any dealer who makes a sale
142 for resale which is not in strict compliance is ~~with s. 212.18~~
143 ~~and the rules and regulations shall himself or herself be liable~~
144 for and must pay the tax. Any dealer who makes a sale for resale
145 shall document the exempt nature of the transaction, as

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146 established by rules adopted ~~promulgated~~ by the department, by
147 retaining a copy of the purchaser's resale certificate. In lieu
148 of maintaining a copy of the certificate, a dealer may document,
149 before ~~prior to~~ the time of sale, an authorization number
150 provided telephonically or electronically by the department, or
151 by such other means established by rule of the department. The
152 dealer may rely on a resale certificate issued pursuant to s.
153 212.18(3)(d) ~~s. 212.18(3)(e)~~, valid at the time of receipt from
154 the purchaser, without seeking annual verification of the resale
155 certificate if the dealer makes recurring sales to a purchaser
156 in the normal course of business on a continual basis. For
157 purposes of this paragraph, "recurring sales to a purchaser in
158 the normal course of business" refers to a sale in which the
159 dealer extends credit to the purchaser and records the debt as
160 an account receivable, or in which the dealer sells to a
161 purchaser who has an established cash or C.O.D. account, similar
162 to an open credit account. For purposes of this paragraph,
163 purchases are made from a selling dealer on a continual basis if
164 the selling dealer makes, in the normal course of business,
165 sales to the purchaser at least ~~no less frequently than~~ once in
166 every 12-month period. A dealer may, through the informal
167 protest provided for in s. 213.21 and the rules of the
168 department ~~of Revenue~~, provide the department with evidence of
169 the exempt status of a sale. Consumer certificates of exemption
170 executed by those exempt entities that were registered with the
171 department at the time of sale, resale certificates provided by
172 purchasers who were active dealers at the time of sale, and
173 verification by the department of a purchaser's active dealer
174 status at the time of sale in lieu of a resale certificate shall

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175 be accepted by the department when submitted during the protest
176 period, but may not be accepted in any proceeding under chapter
177 120 or any circuit court action instituted under chapter 72.

178 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
179 collect the tax or fees imposed under this chapter ~~herein~~
180 ~~provided, either~~ by himself or herself or through the dealer's
181 agents or employees, ~~is,~~ in addition to the penalty of being
182 liable for ~~and~~ paying the tax or fee ~~himself or herself,~~ commits
183 ~~guilty of~~ a misdemeanor of the first degree, punishable as
184 provided in s. 775.082 or s. 775.083.

185 (b) A dealer who willfully fails to collect a tax or fee
186 after the department provides notice of the duty to collect the
187 tax or fee is liable for a specific penalty of 100 percent of
188 the uncollected tax or fee. This penalty is in addition to any
189 other penalty that may be imposed by law. A dealer who willfully
190 fails to collect taxes or fees totaling:

191 1. Less than \$300:

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

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

196 c. For a third or subsequent offense, commits a felony of
197 the third degree, punishable as provided in s. 775.082, s.
198 775.083, or s. 775.084.

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

202 3. An amount equal to \$20,000 or more, but less than
203 \$100,000, commits a felony of the second degree, punishable as

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

205 4. An amount equal to \$100,000 or more, commits a felony of
 206 the first degree, punishable as provided in s. 775.082, s.
 207 775.083, or s. 775.084.

208 (c) The department shall give written notice of the duty to
 209 collect taxes or fees to the dealer by personal service, by
 210 sending notice to the dealer's last known address by registered
 211 mail, or both.

212 Section 5. Effective July 1, 2014, paragraph (d) of
 213 subsection (2) of section 212.12, Florida Statutes, is amended
 214 to read:

215 212.12 Dealer's credit for collecting tax; penalties for
 216 noncompliance; powers of Department of Revenue in dealing with
 217 delinquents; brackets applicable to taxable transactions;
 218 records required.-

219 (2)

220 (d) A Any person who makes a false or fraudulent return and
 221 who has ~~with~~ a willful intent to evade payment of any tax or fee
 222 imposed under this chapter is; ~~any person who, after the~~
 223 ~~department's delivery of a written notice to the person's last~~
 224 ~~known address specifically alerting the person of the~~
 225 ~~requirement to register the person's business as a dealer,~~
 226 ~~intentionally fails to register the business; and any person~~
 227 ~~who, after the department's delivery of a written notice to the~~
 228 ~~person's last known address specifically alerting the person of~~
 229 ~~the requirement to collect tax on specific transactions,~~
 230 ~~intentionally fails to collect such tax, shall, in addition to~~
 231 ~~the other penalties provided by law, be liable for a specific~~
 232 penalty of 100 percent of any unreported ~~or any uncollected~~ tax

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233 or fee. This penalty is in addition to any other penalty
234 provided by law. A person who makes a false or fraudulent return
235 with a willful intent to evade payment of taxes or fees
236 totaling:

237 1. Less than \$300:

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

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

242 c. For a third or subsequent offense, commits a felony of
243 the third degree, punishable as provided in s. 775.082, s.
244 775.083, or s. 775.084.

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

248 3. An amount equal to \$20,000 or more, but less than
249 \$100,000, commits a felony of the second degree, punishable as
250 provided in s. 775.082, s. 775.083, or s. 775.084.

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

254 ~~Delivery of written notice may be made by certified mail, or by~~
255 ~~the use of such other method as is documented as being necessary~~
256 ~~and reasonable under the circumstances. The civil and criminal~~
257 ~~penalties imposed herein for failure to comply with a written~~
258 ~~notice alerting the person of the requirement to register the~~
259 ~~person's business as a dealer or to collect tax on specific~~
260 ~~transactions shall not apply if the person timely files a~~
261 ~~written challenge to such notice in accordance with procedures~~

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262 ~~established by the department by rule or the notice fails to~~
263 ~~clearly advise that failure to comply with or timely challenge~~
264 ~~the notice will result in the imposition of the civil and~~
265 ~~criminal penalties imposed herein.~~

266 ~~1. If the total amount of unreported or uncollected taxes~~
267 ~~or fees is less than \$300, the first offense resulting in~~
268 ~~conviction is a misdemeanor of the second degree, the second~~
269 ~~offense resulting in conviction is a misdemeanor of the first~~
270 ~~degree, and the third and all subsequent offenses resulting in~~
271 ~~conviction is a misdemeanor of the first degree, and the third~~
272 ~~and all subsequent offenses resulting in conviction are felonies~~
273 ~~of the third degree.~~

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

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

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

283 Section 6. Effective July 1, 2014, subsection (4) of
284 section 212.14, Florida Statutes, is amended to read:

285 212.14 Departmental powers; hearings; distress warrants;
286 bonds; subpoenas and subpoenas duces tecum.—

287 (4) In all cases where it is necessary to ensure compliance
288 with ~~the provisions of~~ this chapter, the department shall
289 require a cash deposit, bond, or other security as a condition
290 to a person obtaining or retaining a dealer's certificate of

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291 registration under this chapter. Such bond must ~~shall~~ be in the
292 form and ~~such~~ amount ~~as~~ the department deems appropriate under
293 the particular circumstances. A ~~Every~~ person failing to produce
294 such cash deposit, bond, or other security is ~~as provided for~~
295 ~~herein shall~~ not be entitled to obtain or retain a dealer's
296 certificate of registration under this chapter, and the
297 Department of Legal Affairs is hereby authorized to proceed by
298 injunction, if ~~when so~~ requested by the Department of Revenue,
299 to prevent such person from doing business subject to ~~the~~
300 ~~provisions of~~ this chapter until such cash deposit, bond, or
301 other security is posted with the department, and any temporary
302 injunction for this purpose may be granted by any judge or
303 chancellor authorized by law to grant injunctions. Any security
304 required to be deposited may be sold by the department at public
305 sale if ~~it becomes~~ necessary ~~so to do~~ in order to recover any
306 tax, interest, or penalty due. Notice of such sale may be served
307 personally or by mail upon the person who deposited the ~~such~~
308 security. If by mail, notice sent to the last known address as
309 it ~~the same~~ appears on the records of the department is ~~shall be~~
310 sufficient for the purpose of this requirement. Upon such sale,
311 the surplus, if any, above the amount due under this chapter
312 shall be returned to the person who deposited the security. The
313 department may adopt rules necessary to administer this
314 subsection. For the purpose of the cash deposit, bond, or other
315 security required by this subsection, the term "person" includes
316 those entities defined in s. 212.02(12), as well as:
317 (a) An individual or entity owning a controlling interest
318 in a business;
319 (b) An individual or entity that acquired an ownership

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320 interest or a controlling interest in a business that would
321 otherwise be liable for posting a cash deposit, bond, or other
322 security, unless the department has determined that the
323 individual or entity is not liable for the taxes, interest, or
324 penalties described in s. 213.758; or

325 (c) An individual or entity seeking to obtain a dealer's
326 certificate of registration for a business that will be operated
327 at the same location as a previous business that would otherwise
328 have been liable for posting a cash deposit, bond, or other
329 security, if the individual or entity fails to provide evidence
330 that the business was acquired for consideration in an arms-
331 length transaction.

332 Section 7. Effective July 1, 2014, subsection (3) of
333 section 212.18, Florida Statutes, is amended to read:

334 212.18 Administration of law; registration of dealers;
335 rules.-

336 (3) (a) A ~~Every~~ person desiring to engage in or conduct
337 business in this state as a dealer, ~~as defined in this chapter,~~
338 or to lease, rent, or let or grant licenses in living quarters
339 or sleeping or housekeeping accommodations in hotels, apartment
340 houses, roominghouses, or tourist or trailer camps that are
341 subject to tax under s. 212.03, or to lease, rent, or let or
342 grant licenses in real property, ~~as defined in this chapter,~~ and
343 a ~~every~~ person who sells or receives anything of value by way of
344 admissions, must file with the department an application for a
345 certificate of registration for each place of business. The
346 application must include, ~~showing~~ the names of the persons who
347 have interests in such business and their residences, the
348 address of the business, and ~~such~~ other data reasonably required

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349 ~~by as~~ the department ~~may reasonably require~~. However, owners and
350 operators of vending machines or newspaper rack machines are
351 required to obtain only one certificate of registration for each
352 county in which such machines are located. The department, by
353 rule, may authorize a dealer that uses independent sellers to
354 sell its merchandise to remit tax on the retail sales price
355 charged to the ultimate consumer in lieu of having the
356 independent seller register as a dealer and remit the tax. The
357 department may appoint the county tax collector as the
358 department's agent to accept applications for registrations. The
359 application must be submitted ~~made~~ to the department before the
360 person, firm, copartnership, or corporation may engage in such
361 business, and it must be accompanied by a registration fee of
362 \$5. However, a registration fee is not required to accompany an
363 application to engage in or conduct business to make mail order
364 sales. The department may waive the registration fee for
365 applications submitted through the department's Internet
366 registration process.

367 (b) The department, upon receipt of such application, shall
368 ~~will~~ grant to the applicant a separate certificate of
369 registration for each place of business, which certificate may
370 be canceled by the department or its designated assistants for
371 any failure by the certificateholder to comply with ~~any of the~~
372 ~~provisions of~~ this chapter. The certificate is not assignable
373 and is valid only for the person, firm, copartnership, or
374 corporation to which issued. The certificate must be placed in a
375 conspicuous place in the business or businesses for which it is
376 issued and must be displayed at all times. Except as provided in
377 this subsection, a no person may not ~~shall~~ engage in business as

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378 a dealer or in leasing, renting, or letting of or granting
 379 licenses in living quarters or sleeping or housekeeping
 380 accommodations in hotels, apartment houses, roominghouses,
 381 tourist or trailer camps, or real property, or as hereinbefore
 382 ~~defined, nor shall any person~~ sell or receive anything of value
 383 by way of admissions, without a valid ~~first having obtained such~~
 384 ~~a certificate. A or after such certificate has been canceled; no~~
 385 ~~person may not shall~~ receive a any license from any authority
 386 within the state to engage in any such business without a valid
 387 certificate ~~first having obtained such a certificate or after~~
 388 ~~such certificate has been canceled. A person may not engage~~ The
 389 ~~engaging~~ in the business of selling or leasing tangible personal
 390 property or services ~~or as a dealer; engage, as defined in this~~
 391 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 392 granting licenses in living quarters or sleeping or housekeeping
 393 accommodations in hotels, apartment houses, roominghouses, or
 394 tourist or trailer camps that are taxable under this chapter, or
 395 real property; ~~or engage the engaging~~ in the business of
 396 selling or receiving anything of value by way of admissions, ~~or~~
 397 without a valid ~~such certificate first being obtained or after~~
 398 ~~such certificate has been canceled by the department, is~~
 399 ~~prohibited.~~

400 (c)1. A ~~The failure or refusal of any person who engages in~~
 401 acts requiring a certificate of registration under this
 402 subsection and who fails or refuses to register commits, firm,
 403 copartnership, or corporation to so qualify when required
 404 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
 405 provided in s. 775.082 or s. 775.083. Such acts are, or subject
 406 to injunctive proceedings as provided by law. A person who

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407 engages in acts requiring a certificate of registration and who
408 fails or refuses to register is also subject ~~Such failure or~~
409 ~~refusal also subjects the offender~~ to a \$100 initial
410 registration fee in lieu of the \$5 registration fee required by
411 ~~authorized in~~ paragraph (a). However, the department may waive
412 the increase in the registration fee if it finds ~~is determined~~
413 ~~by the department~~ that the failure to register was due to
414 reasonable cause and not to willful negligence, willful neglect,
415 or fraud.

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

420 b. The department shall provide written notice of the duty
421 to register to the person by personal service, by sending notice
422 by registered mail to the person's last known address, or both.

423 (d) ~~(e)~~ In addition to the certificate of registration, the
424 department shall provide to each newly registered dealer an
425 initial resale certificate that will be valid for the remainder
426 of the period of issuance. The department shall provide each
427 active dealer with an annual resale certificate. For purposes of
428 this section, the term "active dealer" means a person who is
429 currently registered with the department and who is required to
430 file at least once during each applicable reporting period.

431 (e) ~~(d)~~ The department may revoke a ~~any~~ dealer's certificate
432 of registration if ~~when~~ the dealer fails to comply with this
433 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of
434 registration, the department must schedule an informal
435 conference at which the dealer may present evidence regarding

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436 the department's intended revocation or enter into a compliance
437 agreement with the department. The department must notify the
438 dealer of its intended action and the time, place, and date of
439 the scheduled informal conference by written notification sent
440 by United States mail to the dealer's last known address of
441 record furnished by the dealer on a form prescribed by the
442 department. The dealer is required to attend the informal
443 conference and present evidence refuting the department's
444 intended revocation or enter into a compliance agreement with
445 the department which resolves the dealer's failure to comply
446 with this chapter. The department shall issue an administrative
447 complaint under s. 120.60 if the dealer fails to attend the
448 department's informal conference, fails to enter into a
449 compliance agreement with the department resolving the dealer's
450 noncompliance with this chapter, or fails to comply with the
451 executed compliance agreement.

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

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

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

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

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

471

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

475 Section 8. Effective July 1, 2014, for the purpose of
476 incorporating the amendment made by this act to subsection (3)
477 of section 212.18, Florida Statutes, in a reference thereto,
478 paragraph (c) of subsection (6) of section 212.20, Florida
479 Statutes, is reenacted to read:

480 212.20 Funds collected, disposition; additional powers of
481 department; operational expense; refund of taxes adjudicated
482 unconstitutionally collected.—

483 (6) Distribution of all proceeds under this chapter and s.
484 202.18(1)(b) and (2)(b) shall be as follows:

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

487 Section 9. Subsection (5) of section 213.0535, Florida
488 Statutes, is amended to read:

489 213.0535 Registration Information Sharing and Exchange
490 Program.—

491 (5) Any provision of law imposing confidentiality upon data
492 shared under this section, including, but not limited to, a ~~any~~
493 provision imposing penalties for disclosure, applies to

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494 recipients of this data and their employees. Data exchanged
 495 under this section may not be provided to any person or entity
 496 other than a person or entity administering the tax or licensing
 497 provisions of those provisions of law enumerated in paragraph
 498 (4) (a), and such data may not be used for any purpose other than
 499 for enforcing those tax or licensing provisions. This section
 500 does not prevent a level-two participant from publishing
 501 statistics classified so as to prevent the identification of
 502 particular accounts, reports, declarations, or returns. However,
 503 statistics may not be published if the statistics contain data
 504 pertaining to fewer than three taxpayers or if the statistics
 505 are prepared for geographic areas below the county level and
 506 contain data pertaining to fewer than ten taxpayers. Statistics
 507 published under this subsection must relate only to tourist
 508 development taxes imposed under s. 125.0104, the tourist impact
 509 tax imposed under s. 125.0108, convention development taxes
 510 imposed under s. 212.0305, or the municipal resort tax
 511 authorized under chapter 67-930, Laws of Florida.

512 Section 10. Subsection (5) of section 213.13, Florida
 513 Statutes, is amended to read:

514 213.13 Electronic remittance and distribution of funds
 515 collected by clerks of the court.—

516 (5) All court-related collections, including fees, fines,
 517 reimbursements, court costs, and other court-related funds that
 518 the clerks must remit to the state pursuant to law, must be
 519 transmitted electronically by the 10th ~~20th~~ day of the month
 520 immediately following the month in which the funds are
 521 collected.

522 Section 11. Paragraph (a) of subsection (2) of section

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523 213.21, Florida Statutes, is amended to read:

524 213.21 Informal conferences; compromises.—

525 (2) (a) The executive director of the department or his or
526 her designee is authorized to enter into closing agreements with
527 any taxpayer settling or compromising the taxpayer's liability
528 for any tax, interest, or penalty assessed under any of the
529 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
530 be in writing if ~~when~~ the amount of tax, penalty, or interest
531 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
532 department deems it appropriate or if ~~when~~ requested by the
533 taxpayer. When a written closing agreement has been approved by
534 the department and signed by the executive director or his or
535 her designee and the taxpayer, it shall be final and conclusive;
536 and, except upon a showing of fraud or misrepresentation of
537 material fact or except as to adjustments pursuant to ss. 198.16
538 and 220.23, no additional assessment may be made by the
539 department against the taxpayer for the tax, interest, or
540 penalty specified in the closing agreement for the time period
541 specified in the closing agreement, and the taxpayer is ~~shall~~
542 not ~~be~~ entitled to institute any judicial or administrative
543 proceeding to recover any tax, interest, or penalty paid
544 pursuant to the closing agreement. The department is authorized
545 to delegate to the executive director the authority to approve
546 any such closing agreement resulting in a tax reduction of
547 \$500,000 ~~\$250,000~~ or less.

548 Section 12. Effective July 1, 2014, section 213.295,
549 Florida Statutes, is created to read:

550 213.295 Automated sales suppression devices.—

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

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552 (a) "Automated sales suppression device" or "zapper" means
553 a software program that falsifies the electronic records of
554 electronic cash registers or other point-of-sale systems,
555 including, but not limited to, transaction data and transaction
556 reports. The term includes the software program, any device that
557 carries the software program, or an Internet link to the
558 software program.

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

564 (c) "Phantom-ware" means a hidden programming option
565 embedded in the operating system of an electronic cash register
566 or hardwired into the electronic cash register which may be used
567 to create a second set of records or eliminate or manipulate
568 transaction records, which may or may not be preserved in
569 digital formats, to represent the true or manipulated record of
570 transactions in the electronic cash register.

571 (d) "Transaction data" includes the identification of items
572 purchased by a customer; the price for each item; a taxability
573 determination for each item; a segregated tax amount for each of
574 the taxed items; the amount of cash or credit tendered; the net
575 amount returned to the customer in change; the date and time of
576 the purchase; the name, address, and identification number of
577 the vendor; and the receipt or invoice number of the
578 transaction.

579 (e) "Transaction report" means a report that documents, but
580 is not limited to documenting, the sales, taxes, or fees

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581 collected, media totals, and discount voids at an electronic
582 cash register and is printed on a cash register tape at the end
583 of a day or a shift, or a report that documents every action at
584 an electronic cash register and is stored electronically.

585 (2) A person may not knowingly sell, purchase, install,
586 transfer, possess, use, or access an automated sales suppression
587 device, a zapper, or phantom-ware.

588 (3) A person who violates this section:

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

591 (b) Is liable for all taxes, fees, penalties, and interest
592 due the state which result from the use of an automated sales
593 suppression device, a zapper, or phantom-ware and shall forfeit
594 to the state as an additional penalty all profits associated
595 with the sale or use of an automated sales suppression device, a
596 zapper, or phantom-ware.

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

601 Section 13. Paragraph (h) of subsection (3) of section
602 443.131, Florida Statutes, is amended to read:

603 443.131 Contributions.—

604 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
605 EXPERIENCE.—

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

609 1. All contributions, reimbursements, interest, and

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610 penalties incurred by the employer for wages paid by him or her
611 in all previous calendar quarters, except the 4 calendar
612 quarters immediately preceding the calendar quarter or calendar
613 year for which the benefit ratio is computed, are paid; ~~and~~

614 2. The employer has produced for inspection and copying all
615 work records in his or her possession, custody, or control which
616 were requested by the Department of Economic Opportunity or its
617 tax collection service provider pursuant to s. 443.171(5). An
618 employer shall have at least 60 days to provide the requested
619 work records before the employer is assigned the standard rate;
620 and

621 3.2. The employer entitled to a rate reduction must have at
622 least one annual payroll as defined in subparagraph (b)1. unless
623 the employer is eligible for additional credit under the Federal
624 Unemployment Tax Act. If the Federal Unemployment Tax Act is
625 amended or repealed in a manner affecting credit under the
626 federal act, this section applies only to the extent that
627 additional credit is allowed against the payment of the tax
628 imposed by the ~~Federal Unemployment Tax~~ act.

629
630 The tax collection service provider shall assign an earned
631 contribution rate to an employer for ~~under subparagraph 1.~~ the
632 quarter immediately after the quarter in which all
633 contributions, reimbursements, interest, and penalties are paid
634 in full and all work records requested pursuant to s. 443.171(5)
635 have been produced for inspection and copying by the Department
636 of Economic Opportunity or the tax collection service provider.

637 Section 14. Effective January 1, 2015, paragraph (a) of
638 subsection (1) and paragraph (b) of subsection (2) of section

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639 443.141, Florida Statutes, are amended to read:

640 443.141 Collection of contributions and reimbursements.—

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

643 (a) *Interest*.—Contributions or reimbursements unpaid on the
644 date due bear interest at the rate of 1 percent per month
645 through December 31, 2014. Beginning January 1, 2015, the
646 interest rate shall be calculated in accordance with s. 213.235,
647 except that the rate of interest may not exceed 1 percent per
648 month from and after the ~~that~~ date due until payment plus
649 accrued interest is received by the tax collection service
650 provider, unless the service provider finds that the employing
651 unit has good reason for failing to pay the contributions or
652 reimbursements when due. Interest collected under this
653 subsection must be paid into the Special Employment Security
654 Administration Trust Fund.

655 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

656 (b) *Hearings*.—The determination and assessment are final 20
657 ~~15~~ days after the date the assessment is mailed unless the
658 employer files with the tax collection service provider within
659 the 20 ~~15~~ days a written protest and petition for hearing
660 specifying the objections ~~thereto~~. The tax collection service
661 provider shall promptly review each petition and may reconsider
662 its determination and assessment in order to resolve the
663 petitioner's objections. The tax collection service provider
664 shall forward each unresolved petition ~~remaining unresolved~~ to
665 the department for a hearing on the objections. Upon receipt of
666 a petition, the department shall schedule a hearing and notify
667 the petitioner of the time and place of the hearing. The

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668 department may appoint special deputies to conduct hearings who
669 shall ~~and to~~ submit their findings together with a transcript of
670 the proceedings before them and their recommendations to the
671 department for its final order. Special deputies are subject to
672 the prohibition against ex parte communications in s. 120.66. At
673 any hearing conducted by the department or its special deputy,
674 evidence may be offered to support the determination and
675 assessment or to prove it is incorrect. In order to prevail,
676 however, the petitioner must ~~either~~ prove that the determination
677 and assessment are incorrect or file full and complete corrected
678 reports. Evidence may also be submitted ~~at the hearing~~ to rebut
679 the determination by the tax collection service provider that
680 the petitioner is an employer under this chapter. Upon evidence
681 taken before it or upon the transcript submitted to it with the
682 findings and recommendation of its special deputy, the
683 department shall ~~either~~ set aside the tax collection service
684 provider's determination that the petitioner is an employer
685 under this chapter or reaffirm the determination. The amounts
686 assessed under the final order, together with interest and
687 penalties, must be paid within 15 days after notice of the final
688 order is mailed to the employer, unless judicial review is
689 instituted in a case of status determination. Amounts due when
690 the status of the employer is in dispute are payable within 15
691 days after the entry of an order by the court affirming the
692 determination. However, a ~~any~~ determination that an employing
693 unit is not an employer under this chapter does not affect the
694 benefit rights of an ~~any~~ individual as determined by an appeals
695 referee or the commission unless:

696 1. The individual is made a party to the proceedings before

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697 the special deputy; or

698 2. The decision of the appeals referee or the commission
699 has not become final or the employing unit and the department
700 were not made parties to the proceedings before the appeals
701 referee or the commission.

702 Section 15. Except as otherwise expressly provided in this
703 act, this act shall take effect upon becoming a law.