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CS/HB 7081, Engrossed 1

2014 Legislature

1
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; amending s.
7 212.03, F.S.; providing that certain charges for the
8 impoundment of an aircraft, boat, or motor vehicle by
9 a law enforcement agency are not subject to taxation;
10 amending s. 212.07, F.S.; conforming a cross-
11 reference; providing that a dealer who willfully fails
12 to collect certain taxes or fees after the Department
13 of Revenue provides notice commits a criminal offense;
14 providing civil and criminal penalties; amending s.
15 212.12, F.S.; deleting provisions providing criminal
16 and civil penalties for failing to register a business
17 as a dealer and for failing to collect specified taxes
18 after the department provides notice; amending s.
19 212.14, F.S.; authorizing the department to adopt
20 rules; defining the term "person"; amending s. 212.18,
21 F.S.; providing that a person who engages in acts
22 requiring a certificate of registration and willfully
23 fails to register after the department provides notice
24 commits a criminal offense; providing criminal
25 penalties; reenacting s. 212.20(6)(c), F.S., relating
26 to the disposition of funds collected from the



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27 imposition of specified fees, to incorporate the
28 amendments made by the act to s. 212.18(3), F.S., in a
29 reference thereto; amending s. 213.0535, F.S.;
30 providing that certain tax data may be published as
31 statistics under certain circumstances; amending s.
32 213.13, F.S.; revising the date for transmitting
33 certain funds collected by the clerks of court to the
34 department; amending s. 213.21 F.S.; authorizing the
35 department to delegate to the executive director of
36 the department greater compromise authority for
37 closing agreements; creating s. 213.295, F.S.;
38 providing definitions; providing that a person who
39 knowingly sells, purchases, installs, transfers,
40 possesses, uses, or accesses an automated sales
41 suppression device, a zapper, or phantom-ware commits
42 a criminal offense; providing civil and criminal
43 penalties; providing that automated sales suppression
44 devices, zappers, and phantom-ware are contraband
45 articles; amending s. 443.131, F.S; requiring
46 employers to produce certain records in order to
47 receive a reduced contribution rate; amending s.
48 443.141, F.S.; revising the interest rate for unpaid
49 employer contributions or reimbursements; increasing
50 the number of days during which an employer may
51 protest a determination and assessment; providing that
52 certain local ordinances conveying ad valorem tax



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53 exemptions shall not be invalidated on specified
 54 grounds if the local governing body acted in
 55 accordance with this act; providing effective dates.
 56

57 Be It Enacted by the Legislature of the State of Florida:
 58

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

61 196.1995 Economic development ad valorem tax exemption.—

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



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79 question contained in subsection (3) appears on the ballot, the
80 authority of the board of county commissioners or the governing
81 authority of the municipality to grant exemptions is limited
82 solely to new businesses and expansions of existing businesses
83 that are located in an enterprise zone or brownfield area.
84 Property acquired to replace existing property shall not be
85 considered to facilitate a business expansion. The exemption
86 applies only to taxes levied by the respective unit of
87 government granting the exemption. The exemption does not apply,
88 however, to taxes levied for the payment of bonds or to taxes
89 authorized by a vote of the electors pursuant to s. 9(b) or s.
90 12, Art. VII of the State Constitution. Any such exemption shall
91 remain in effect for up to 10 years with respect to any
92 particular facility, regardless of any change in the authority
93 of the county or municipality to grant such exemptions. The
94 exemption shall not be prolonged or extended by granting
95 exemptions from additional taxes or by virtue of any
96 reorganization or sale of the business receiving the exemption.

97 Section 2. Subsection (6) of section 212.03, Florida
98 Statutes, is amended to read:

99 212.03 Transient rentals tax; rate, procedure,
100 enforcement, exemptions.—

101 (6) The Legislature finds ~~It is the legislative intent~~
102 ~~that every person is engaging in a taxable privilege who leases~~
103 ~~or rents parking or storage spaces for motor vehicles in parking~~
104 ~~lots or garages, including storage facilities for towed~~



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105 vehicles, who leases or rents docking or storage spaces for
 106 boats in boat docks or marinas, or who leases or rents tie-down
 107 or storage space for aircraft at airports is engaging in a
 108 taxable privilege.

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

111 (b) Charges for parking, docking, tie-down, or storage
 112 arising from a lawful impoundment are not subject to taxation
 113 under this subsection. As used in this paragraph, the term
 114 "lawful impoundment" means the storing of or having custody over
 115 an aircraft, boat, or motor vehicle by, or at the direction of,
 116 a local, state, or federal law enforcement agency which the
 117 owner or the owner's representative is not authorized to enter
 118 upon, have access to, or remove without the consent of the law
 119 enforcement agency.

120 Section 3. Effective July 1, 2014, paragraph (b) of
 121 subsection (1) and subsection (3) of section 212.07, Florida
 122 Statutes, are amended to read:

123 212.07 Sales, storage, use tax; tax added to purchase
 124 price; dealer not to absorb; liability of purchasers who cannot
 125 prove payment of the tax; penalties; general exemptions.—

126 (1)

127 (b) A resale must be in strict compliance with s. 212.18
 128 and the rules and regulations adopted thereunder. ~~A, and any~~
 129 dealer who makes a sale for resale that ~~which~~ is not in strict
 130 compliance with s. 212.18 and the rules and regulations adopted



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131 thereunder is ~~shall himself or herself be~~ liable for and must
132 pay the tax. A ~~Any~~ dealer who makes a sale for resale shall
133 document the exempt nature of the transaction, as established by
134 rules adopted ~~promulgated~~ by the department, by retaining a copy
135 of the purchaser's resale certificate. In lieu of maintaining a
136 copy of the certificate, a dealer may document, before ~~prior to~~
137 the time of sale, an authorization number provided
138 telephonically or electronically by the department, or by such
139 other means established by rule of the department. The dealer
140 may rely on a resale certificate issued pursuant to s.
141 212.18(3)(d) ~~s. 212.18(3)(c)~~, valid at the time of receipt from
142 the purchaser, without seeking annual verification of the resale
143 certificate if the dealer makes recurring sales to a purchaser
144 in the normal course of business on a continual basis. For
145 purposes of this paragraph, "recurring sales to a purchaser in
146 the normal course of business" refers to a sale in which the
147 dealer extends credit to the purchaser and records the debt as
148 an account receivable, or in which the dealer sells to a
149 purchaser who has an established cash or C.O.D. account, similar
150 to an open credit account. For purposes of this paragraph,
151 purchases are made from a selling dealer on a continual basis if
152 the selling dealer makes, in the normal course of business,
153 sales to the purchaser at least ~~no less frequently than~~ once in
154 every 12-month period. A dealer may, through the informal
155 protest provided for in s. 213.21 and the rules of the
156 department ~~of Revenue~~, provide the department with evidence of



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157 the exempt status of a sale. Consumer certificates of exemption
158 executed by those exempt entities that were registered with the
159 department at the time of sale, resale certificates provided by
160 purchasers who were active dealers at the time of sale, and
161 verification by the department of a purchaser's active dealer
162 status at the time of sale in lieu of a resale certificate shall
163 be accepted by the department when submitted during the protest
164 period, but may not be accepted in any proceeding under chapter
165 120 or any circuit court action instituted under chapter 72.

166 (3) (a) ~~A Any~~ dealer who fails, neglects, or refuses to
167 collect the tax or fees imposed under this chapter herein
168 ~~provided, either~~ by himself or herself or through the dealer's
169 agents or employees, ~~is,~~ in addition to the penalty of being
170 liable for ~~and~~ paying the tax or fee himself or herself, commits
171 ~~guilty of~~ a misdemeanor of the first degree, punishable as
172 provided in s. 775.082 or s. 775.083.

173 (b) A dealer who willfully fails to collect a tax or fee
174 after the department provides notice of the duty to collect the
175 tax or fee is liable for a specific penalty of 100 percent of
176 the uncollected tax or fee. This penalty is in addition to any
177 other penalty that may be imposed by law. A dealer who willfully
178 fails to collect taxes or fees totaling:

179 1. Less than \$300:

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



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

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
196 of the first degree, punishable as provided in s. 775.082, s.
197 775.083, or s. 775.084.

198 (c) The department shall provide written notice of the
199 duty to collect taxes or fees to the dealer by personal service
200 or by sending notice to the dealer's last known address by
201 registered mail. The department may provide written notice using
202 both methods described in this paragraph.

203 Section 4. Effective July 1, 2014, paragraph (d) of
204 subsection (2) of section 212.12, Florida Statutes, is amended
205 to read:

206 212.12 Dealer's credit for collecting tax; penalties for
207 noncompliance; powers of Department of Revenue in dealing with
208 delinquents; brackets applicable to taxable transactions;



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209 records required.—

210 (2)

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

228 1. Less than \$300:

229 a. For a first offense, commits a misdemeanor of the
230 second degree, punishable as provided in s. 775.082 or s.
231 775.083.

232 b. For a second offense, commits a misdemeanor of the
233 first degree, punishable as provided in s. 775.082 or s.
234 775.083.



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235 c. For a third or subsequent offense, commits a felony of
236 the third degree, punishable as provided in s. 775.082, s.
237 775.083, or s. 775.084.

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

241 3. An amount equal to \$20,000 or more, but less than
242 \$100,000, commits a felony of the second degree, punishable as
243 provided in s. 775.082, s. 775.083, or s. 775.084.

244 4. An amount equal to \$100,000 or more, commits a felony
245 of the first degree, punishable and, upon conviction, for fine
246 and punishment as provided in s. 775.082, s. 775.083, or s.
247 775.084. Delivery of written notice may be made by certified
248 mail, or by the use of such other method as is documented as
249 being necessary and reasonable under the circumstances. The
250 civil and criminal penalties imposed herein for failure to
251 comply with a written notice alerting the person of the
252 requirement to register the person's business as a dealer or to
253 collect tax on specific transactions shall not apply if the
254 person timely files a written challenge to such notice in
255 accordance with procedures established by the department by rule
256 or the notice fails to clearly advise that failure to comply
257 with or timely challenge the notice will result in the
258 imposition of the civil and criminal penalties imposed herein.

259 ~~1. If the total amount of unreported or uncollected taxes~~
260 ~~or fees is less than \$300, the first offense resulting in~~



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261 ~~conviction is a misdemeanor of the second degree, the second~~
262 ~~offense resulting in conviction is a misdemeanor of the first~~
263 ~~degree, and the third and all subsequent offenses resulting in~~
264 ~~conviction is a misdemeanor of the first degree, and the third~~
265 ~~and all subsequent offenses resulting in conviction are felonies~~
266 ~~of the third degree.~~

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

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

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

276 Section 5. Effective July 1, 2014, subsection (4) of
277 section 212.14, Florida Statutes, is amended to read:

278 212.14 Departmental powers; hearings; distress warrants;
279 bonds; subpoenas and subpoenas duces tecum.-

280 (4) In all cases where it is necessary to ensure
281 compliance with ~~the provisions of~~ this chapter, the department
282 shall require a cash deposit, bond, or other security as a
283 condition to a person obtaining or retaining a dealer's
284 certificate of registration under this chapter. Such bond must
285 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems
286 appropriate under the particular circumstances. A ~~Every~~ person



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



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313 (c) An individual or entity that acquired an ownership
314 interest or a controlling interest in a business that would
315 otherwise be liable for posting a cash deposit, bond, or other
316 security, unless the department has determined that the
317 individual or entity is not liable for the taxes, interest, or
318 penalties described in s. 213.758.

319 (d) An individual or entity seeking to obtain a dealer's
320 certificate of registration for a business that will be operated
321 at the same location as a previous business that would otherwise
322 have been liable for posting a cash deposit, bond, or other
323 security, if the individual or entity fails to provide evidence
324 that the business was acquired for consideration in an arms-
325 length transaction.

326 Section 6. Effective July 1, 2014, subsection (3) of
327 section 212.18, Florida Statutes, is amended to read:

328 212.18 Administration of law; registration of dealers;
329 rules.—

330 (3) (a) A ~~Every~~ person desiring to engage in or conduct
331 business in this state as a dealer, ~~as defined in this chapter,~~
332 or to lease, rent, or let or grant licenses in living quarters
333 or sleeping or housekeeping accommodations in hotels, apartment
334 houses, roominghouses, or tourist or trailer camps that are
335 subject to tax under s. 212.03, or to lease, rent, or let or
336 grant licenses in real property, ~~as defined in this chapter,~~ and
337 a every person who sells or receives anything of value by way of
338 admissions, must file with the department an application for a



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339 certificate of registration for each place of business. The
340 application must include, ~~showing~~ the names of the persons who
341 have interests in such business and their residences, the
342 address of the business, and ~~such~~ other data reasonably required
343 by ~~as~~ the department ~~may reasonably require~~. However, owners and
344 operators of vending machines or newspaper rack machines are
345 required to obtain only one certificate of registration for each
346 county in which such machines are located. The department, by
347 rule, may authorize a dealer that uses independent sellers to
348 sell its merchandise to remit tax on the retail sales price
349 charged to the ultimate consumer in lieu of having the
350 independent seller register as a dealer and remit the tax. The
351 department may appoint the county tax collector as the
352 department's agent to accept applications for registrations. The
353 application must be submitted ~~made~~ to the department before the
354 person, firm, copartnership, or corporation may engage in such
355 business, and it must be accompanied by a registration fee of
356 \$5. However, a registration fee is not required to accompany an
357 application to engage in or conduct business to make mail order
358 sales. The department may waive the registration fee for
359 applications submitted through the department's Internet
360 registration process.

361 (b) The department, upon receipt of such application,
362 shall ~~will~~ grant to the applicant a separate certificate of
363 registration for each place of business, which ~~certificate~~ may
364 be canceled by the department or its designated assistants for



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365 any failure by the certificateholder to comply with ~~any of the~~
 366 ~~provisions of~~ this chapter. The certificate is not assignable
 367 and is valid only for the person, firm, copartnership, or
 368 corporation to which it is issued. The certificate must be
 369 placed in a conspicuous place in the business or businesses for
 370 which it is issued and must be displayed at all times. Except as
 371 provided in this subsection, a ~~no~~ person may not ~~shall~~ engage in
 372 business as a dealer or in leasing, renting, or letting of or
 373 granting licenses in living quarters or sleeping or housekeeping
 374 accommodations in hotels, apartment houses, roominghouses,
 375 tourist or trailer camps, or real property, or as hereinbefore
 376 ~~defined, nor shall any person~~ sell or receive anything of value
 377 by way of admissions, without a valid ~~first having obtained such~~
 378 ~~a certificate. A or after such certificate has been canceled; no~~
 379 ~~person~~ may not ~~shall~~ receive a ~~any~~ license from any authority
 380 within the state to engage in any such business without a valid
 381 certificate ~~first having obtained such a certificate or after~~
 382 ~~such certificate has been canceled. A person may not engage~~ The
 383 ~~engaging~~ in the business of selling or leasing tangible personal
 384 property or services ~~or as a dealer; engage,~~ engage, ~~as defined in this~~
 385 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 386 granting licenses in living quarters or sleeping or housekeeping
 387 accommodations in hotels, apartment houses, roominghouses, or
 388 tourist or trailer camps that are taxable under this chapter, or
 389 real property; ~~or engage~~ engage ~~the engaging~~ in the business of
 390 selling or receiving anything of value by way of admissions;



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391 without a valid ~~such~~ certificate ~~first being obtained or after~~
392 ~~such certificate has been canceled by the department, is~~
393 ~~prohibited.~~

394 (c)1. A ~~The failure or refusal of any person who engages~~
395 in acts requiring a certificate of registration under this
396 subsection and who fails or refuses to register commits, firm,
397 partnership, or corporation to so qualify when required
398 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
399 provided in s. 775.082 or s. 775.083. Such acts are, or subject
400 to injunctive proceedings as provided by law. A person who
401 engages in acts requiring a certificate of registration and who
402 fails or refuses to register is also subject ~~Such failure or~~
403 ~~refusal also subjects the offender~~ to a \$100 initial
404 registration fee in lieu of the \$5 registration fee required by
405 ~~authorized in~~ paragraph (a). However, the department may waive
406 the increase in the registration fee if it finds ~~is determined~~
407 ~~by the department~~ that the failure to register was due to
408 reasonable cause and not to willful negligence, willful neglect,
409 or fraud.

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

414 b. The department shall provide written notice of the duty
415 to register to the person by personal service or by sending
416 notice by registered mail to the person's last known address.



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417 The department may provide written notice by both methods
418 described in this sub-subparagraph.

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

427 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's
428 certificate of registration if ~~when~~ the dealer fails to comply
429 with this chapter. Before ~~Prior to~~ revocation of a dealer's
430 certificate of registration, the department must schedule an
431 informal conference at which the dealer may present evidence
432 regarding the department's intended revocation or enter into a
433 compliance agreement with the department. The department must
434 notify the dealer of its intended action and the time, place,
435 and date of the scheduled informal conference by written
436 notification sent by United States mail to the dealer's last
437 known address of record furnished by the dealer on a form
438 prescribed by the department. The dealer is required to attend
439 the informal conference and present evidence refuting the
440 department's intended revocation or enter into a compliance
441 agreement with the department which resolves the dealer's
442 failure to comply with this chapter. The department shall issue



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443 an administrative complaint under s. 120.60 if the dealer fails
444 to attend the department's informal conference, fails to enter
445 into a compliance agreement with the department resolving the
446 dealer's noncompliance with this chapter, or fails to comply
447 with the executed compliance agreement.

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

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

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

461 3. An exhibitor whose agreement authorizes the retail sale
462 of tangible personal property or services subject to the tax
463 imposed by ~~in~~ this chapter must register as a dealer and collect
464 the tax ~~imposed under this chapter~~ on such sales.

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

467
468 A ~~Any~~ person who conducts a convention or a trade show must make



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469 his or her ~~their~~ exhibitor's agreements available to the
470 department for inspection and copying.

471 Section 7. Effective July 1, 2014, for the purpose of
472 incorporating the amendment made by this act to subsection (3)
473 of section 212.18, Florida Statutes, in a reference thereto,
474 paragraph (c) of subsection (6) of section 212.20, Florida
475 Statutes, is reenacted to read:

476 212.20 Funds collected, disposition; additional powers of
477 department; operational expense; refund of taxes adjudicated
478 unconstitutionally collected.—

479 (6) Distribution of all proceeds under this chapter and s.
480 202.18(1)(b) and (2)(b) shall be as follows:

481 (c) Proceeds from the fees imposed under ss.
482 212.05(1)(h)3. and 212.18(3) shall remain with the General
483 Revenue Fund.

484 Section 8. Subsection (5) of section 213.0535, Florida
485 Statutes, is amended to read:

486 213.0535 Registration Information Sharing and Exchange
487 Program.—

488 (5) A ~~Any~~ provision of law imposing confidentiality upon
489 data shared under this section, including, but not limited to, a
490 ~~any~~ provision imposing penalties for disclosure, applies to
491 recipients of this data and their employees. Data exchanged
492 under this section may not be provided to a ~~any~~ person or entity
493 other than a person or entity administering the tax or licensing
494 provisions of those provisions of law enumerated in paragraph



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495 (4) (a), and such data may not be used for any purpose other than
496 for enforcing those tax or licensing provisions. This section
497 does not prevent a level-two participant from publishing
498 statistics classified so as to prevent the identification of
499 particular accounts, reports, declarations, or returns. However,
500 statistics may not be published if they contain data pertaining
501 to fewer than three taxpayers or if the statistics are prepared
502 for geographic areas below the county level and contain data
503 pertaining to fewer than 10 taxpayers. Statistics published
504 under this subsection must relate only to tourist development
505 taxes imposed under s. 125.0104, the tourist impact tax imposed
506 under s. 125.0108, convention development taxes imposed under s.
507 212.0305, or the municipal resort tax authorized under chapter
508 67-930, Laws of Florida.

509 Section 9. Subsection (5) of section 213.13, Florida
510 Statutes, is amended to read:

511 213.13 Electronic remittance and distribution of funds
512 collected by clerks of the court.—

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

519 Section 10. Paragraph (a) of subsection (2) of section
520 213.21, Florida Statutes, is amended to read:



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521 213.21 Informal conferences; compromises.—
 522 (2) (a) The executive director of the department or his or
 523 her designee is authorized to enter into closing agreements with
 524 any taxpayer settling or compromising the taxpayer's liability
 525 for any tax, interest, or penalty assessed under any of the
 526 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
 527 be in writing if ~~when~~ the amount of tax, penalty, or interest
 528 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
 529 department deems it appropriate or if ~~when~~ requested by the
 530 taxpayer. When a written closing agreement has been approved by
 531 the department and signed by the executive director or his or
 532 her designee and the taxpayer, it shall be final and conclusive;
 533 and, except upon a showing of fraud or misrepresentation of
 534 material fact or except as to adjustments pursuant to ss. 198.16
 535 and 220.23, no additional assessment may be made by the
 536 department against the taxpayer for the tax, interest, or
 537 penalty specified in the closing agreement for the time period
 538 specified in the closing agreement, and the taxpayer is ~~shall~~
 539 not ~~be~~ entitled to institute any judicial or administrative
 540 proceeding to recover any tax, interest, or penalty paid
 541 pursuant to the closing agreement. The department is authorized
 542 to delegate to the executive director the authority to approve
 543 any such closing agreement resulting in a tax reduction of
 544 \$500,000 ~~\$250,000~~ or less.

545 Section 11. Effective July 1, 2014, section 213.295,
 546 Florida Statutes, is created to read:



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547 213.295 Automated sales suppression devices.—

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

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

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

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

568 (d) "Transaction data" includes:

- 569 1. The identification of items purchased by a customer.
570 2. The price charged for each item.
571 3. A taxability determination for each item.
572 4. A segregated tax amount for each of the taxed items.



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- 573 5. The amount of cash or credit tendered.
- 574 6. The net amount returned to the customer in change.
- 575 7. The date and time of the purchase.
- 576 8. The name, address, and identification number of the
 577 vendor.
- 578 9. The receipt or invoice number of the transaction.
- 579 (e) "Transaction report" means:
- 580 1. A report printed on cash register tape at the end of a
 581 day or shift that contains information including, but not
 582 limited to, the sales, taxes, or fees collected, media totals,
 583 and discount voids on an electronic cash register; or
- 584 2. A report that is stored electronically which documents
 585 every action on an electronic cash register.
- 586 (2) A person may not knowingly sell, purchase, install,
 587 transfer, possess, use, or access an automated sales suppression
 588 device, a zapper, or phantom-ware.
- 589 (3) A person who violates this section:
- 590 (a) Commits a felony of the third degree, punishable as
 591 provided in s. 775.082, s. 775.083, or s. 775.084.
- 592 (b) Is liable for all taxes, fees, penalties, and interest
 593 due the state which result from the use of an automated sales
 594 suppression device, a zapper, or phantom-ware.
- 595 (c) Shall forfeit to the state as an additional penalty
 596 all profits associated with the sale or use of an automated
 597 sales suppression device, a zapper, or phantom-ware.
- 598 (4) An automated sales suppression device, a zapper,



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599 phantom-ware, or any device containing such device or software
600 is a contraband article as provided in s. 932.701(2)(a) and may
601 be seized and forfeited pursuant to the Florida Contraband
602 Forfeiture Act.

603 Section 12. Paragraph (h) of subsection (3) of section
604 443.131, Florida Statutes, is amended to read:

605 443.131 Contributions.—

606 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
607 EXPERIENCE.—

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

611 1. All contributions, reimbursements, interest, and
612 penalties incurred by the employer for wages paid by him or her
613 in all previous calendar quarters, except the 4 calendar
614 quarters immediately preceding the calendar quarter or calendar
615 year for which the benefit ratio is computed, are paid; ~~and~~

616 2. The employer has produced for inspection and copying
617 all work records in his or her possession, custody, or control
618 which were requested by the Department of Economic Opportunity
619 or its tax collection service provider pursuant to s.

620 443.171(5). An employer shall have at least 60 days to provide
621 the requested work records before the employer is assigned the
622 standard rate; and

623 ~~3.2.~~ The employer entitled to a rate reduction must have
624 at least one annual payroll as defined in subparagraph (b)1.



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625 unless the employer is eligible for additional credit under the
 626 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 627 Act is amended or repealed in a manner affecting credit under
 628 the federal act, this section applies only to the extent that
 629 additional credit is allowed against the payment of the tax
 630 imposed by the ~~Federal Unemployment Tax~~ act.

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

639 Section 13. Effective January 1, 2015, paragraph (a) of
 640 subsection (1) and paragraph (b) of subsection (2) of section
 641 443.141, Florida Statutes, are amended to read:

642 443.141 Collection of contributions and reimbursements.—

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

645 (a) *Interest.*—Contributions or reimbursements unpaid on
 646 the date due bear interest at the rate of 1 percent per month
 647 through December 31, 2014. Beginning January 1, 2015, the
 648 interest rate shall be calculated in accordance with s. 213.235,
 649 except that the rate of interest may not exceed 1 percent per
 650 month from and after the ~~that~~ date due until payment plus



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651 accrued interest is received by the tax collection service
652 provider, unless the service provider finds that the employing
653 unit has good reason for failing to pay the contributions or
654 reimbursements when due. Interest collected under this
655 subsection must be paid into the Special Employment Security
656 Administration Trust Fund.

657 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

658 (b) *Hearings.*—The determination and assessment are final
659 20 ~~15~~ days after the date the assessment is mailed unless the
660 employer files with the tax collection service provider within
661 the 20 ~~15~~ days a written protest and petition for hearing
662 specifying the objections ~~thereto~~. The tax collection service
663 provider shall promptly review each petition and may reconsider
664 its determination and assessment in order to resolve the
665 petitioner's objections. The tax collection service provider
666 shall forward each unresolved petition ~~remaining unresolved~~ to
667 the department for a hearing on the objections. Upon receipt of
668 a petition, the department shall schedule a hearing and notify
669 the petitioner of the time and place of the hearing. The
670 department may appoint special deputies to conduct hearings who
671 shall ~~and to~~ submit their findings together with a transcript of
672 the proceedings before them and their recommendations to the
673 department for its final order. Special deputies are subject to
674 the prohibition against ex parte communications in s. 120.66. At
675 any hearing conducted by the department or its special deputy,
676 evidence may be offered to support the determination and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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677 assessment or to prove it is incorrect. In order to prevail,
678 however, the petitioner must ~~either~~ prove that the determination
679 and assessment are incorrect or file full and complete corrected
680 reports. Evidence may also be submitted ~~at the hearing~~ to rebut
681 the determination by the tax collection service provider that
682 the petitioner is an employer under this chapter. Upon evidence
683 taken before it or upon the transcript submitted to it with the
684 findings and recommendation of its special deputy, the
685 department shall ~~either~~ set aside the tax collection service
686 provider's determination that the petitioner is an employer
687 under this chapter or reaffirm the determination. The amounts
688 assessed under the final order, together with interest and
689 penalties, must be paid within 15 days after notice of the final
690 order is mailed to the employer, unless judicial review is
691 instituted in a case of status determination. Amounts due when
692 the status of the employer is in dispute are payable within 15
693 days after the entry of an order by the court affirming the
694 determination. However, a ~~any~~ determination that an employing
695 unit is not an employer under this chapter does not affect the
696 benefit rights of an ~~any~~ individual as determined by an appeals
697 referee or the commission unless:

- 698 1. The individual is made a party to the proceedings
699 before the special deputy; or
- 700 2. The decision of the appeals referee or the commission
701 has not become final or the employing unit and the department
702 were not made parties to the proceedings before the appeals



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703 referee or the commission.

704 Section 14. A local ordinance enacted pursuant to s.
705 196.1995, Florida Statutes, before the effective date of this
706 act shall not be invalidated on the ground that improvements to
707 real property were made or that tangible personal property was
708 added or increased before the date that such ordinance was
709 adopted, as long as the local governing body acted substantially
710 in accordance with s. 196.1995(5), Florida Statutes, as amended
711 by this act.

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