

By the Committee on Communications, Energy, and Public Utilities; and Senator Abruzzo

579-02095-14

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1 A bill to be entitled
2 An act relating to the communications services tax;
3 amending s. 202.11, F.S.; revising the definition of
4 the term "sales price" to exclude charges for the sale
5 of communications services between a franchisor and
6 its franchisee; defining the term "franchisee"
7 providing applicability; providing an effective date.
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9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Paragraph (b) of subsection (13) of section
12 202.11, Florida Statutes, is amended to read:

13 202.11 Definitions.—As used in this chapter, the term:

14 (13) "Sales price" means the total amount charged in money
15 or other consideration by a dealer for the sale of the right or
16 privilege of using communications services in this state,
17 including any property or other service, not described in
18 paragraph (a), which is part of the sale and for which the
19 charge is not separately itemized on a customer's bill or
20 separately allocated under subparagraph (b)8. The sales price of
21 communications services may not be reduced by any separately
22 identified components of the charge which constitute expenses of
23 the dealer, including, but not limited to, sales taxes on goods
24 or services purchased by the dealer, property taxes, taxes
25 measured by net income, and universal-service fund fees.

26 (b) The sales price of communications services does not
27 include charges for any of the following:

28 1. An excise tax, sales tax, or similar tax levied by the
29 United States or any state or local government on the purchase,

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30 sale, use, or consumption of any communications service,
31 including, but not limited to, a tax imposed under this chapter
32 or chapter 203 which is permitted or required to be added to the
33 sales price of such service, if the tax is stated separately.

34 2. A fee or assessment levied by the United States or any
35 state or local government, including, but not limited to,
36 regulatory fees and emergency telephone surcharges, which must
37 be added to the price of the service if the fee or assessment is
38 separately stated.

39 3. Communications services paid for by inserting coins into
40 coin-operated communications devices available to the public.

41 4. The sale or recharge of a prepaid calling arrangement.

42 5. The provision of air-to-ground communications services,
43 defined as a radio service provided to a purchaser while on
44 board an aircraft.

45 6. A dealer's internal use of communications services in
46 connection with its business of providing communications
47 services.

48 7. Charges for property or other services that are not part
49 of the sale of communications services, if such charges are
50 stated separately from the charges for communications services.

51 8. Charges for goods or services that are not subject to
52 tax under this chapter, including Internet access services but
53 excluding any item described in paragraph (a), which ~~that~~ are
54 not separately itemized on a customer's bill, but which ~~that~~ can
55 be reasonably identified from the selling dealer's books and
56 records kept in the regular course of business. The dealer may
57 support the allocation of charges with books and records kept in
58 the regular course of business covering the dealer's entire

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59 service area, including territories outside this state.

60 9. The sale of communications services between a franchisor
61 and its franchisee. This exclusion does not apply to the sale of
62 communications services to a franchisor for its own use. As used
63 in this subparagraph, the term "franchisee" means any entity,
64 including a related company as defined in s. 495.011, using the
65 franchisor's service mark as defined in s. 495.011, whether by
66 license, management agreement, or by a subsidiary or affiliate
67 of the franchisor.

68 Section 2. This act is a clarification of existing law, and
69 no tax may be assessed or collected with respect to any charge
70 or portion thereof described in s. 202.11(13)(b), Florida
71 Statutes, as amended by this act, for periods before or after
72 the effective date of this act.

73 Section 3. This act shall take effect upon becoming a law.