

By Senator Baxley

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1 A bill to be entitled
2 An act relating to sales tax absorption; amending s.
3 212.07, F.S.; deleting prohibitions against a dealer
4 advertising or holding out to the public that he or
5 she will absorb all or part of the sales and use tax
6 or will relieve the purchaser of all or part of the
7 tax; authorizing dealers, subject to specified
8 conditions, to advertise or hold out to the public
9 that they will absorb all or part of the tax or refund
10 any part thereof to the purchaser; providing that such
11 dealers are solely responsible and liable for the tax;
12 revising a criminal penalty; providing an effective
13 date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (4) of section 212.07, Florida
18 Statutes, is amended, and subsection (2) of that section is
19 republished, to read:

20 212.07 Sales, storage, use tax; tax added to purchase
21 price; tax absorption ~~dealer not to absorb~~; liability of
22 purchasers who cannot prove payment of the tax; penalties;
23 general exemptions.—

24 (2) A dealer shall, as far as practicable, add the amount
25 of the tax imposed under this chapter to the sale price, and the
26 amount of the tax shall be separately stated as Florida tax on
27 any charge ticket, sales slip, invoice, or other tangible
28 evidence of sale. Such tax shall constitute a part of such
29 price, charge, or proof of sale which shall be a debt from the

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30 purchaser or consumer to the dealer, until paid, and shall be
31 recoverable at law in the same manner as other debts. Where it
32 is impracticable, due to the nature of the business practices
33 within an industry, to separately state Florida tax on any
34 charge ticket, sales slip, invoice, or other tangible evidence
35 of sale, the department may establish an effective tax rate for
36 such industry. The department may also amend this effective tax
37 rate as the industry's pricing or practices change. Except as
38 otherwise specifically provided, any dealer who neglects, fails,
39 or refuses to collect the tax herein provided upon any, every,
40 and all retail sales made by the dealer or the dealer's agents
41 or employees of tangible personal property or services which are
42 subject to the tax imposed by this chapter shall be liable for
43 and pay the tax himself or herself.

44 (4) (a) A dealer engaged in any business taxable under this
45 chapter may not advertise or hold out to the public, in any
46 manner, directly or indirectly, that ~~he or she will absorb all~~
47 ~~or any part of the tax, or that he or she will relieve the~~
48 ~~purchaser of the payment of all or any part of the tax, or that~~
49 ~~the tax will not be added to the selling price of the property~~
50 ~~or services sold or released. However, such dealer may advertise~~
51 ~~or hold out to the public, directly or indirectly~~ or, when
52 added, that he or she will absorb all or any part of such tax or
53 that it or any part thereof will be refunded to the purchaser,
54 either directly or indirectly, subject to both of the following
55 conditions:

56 1. In so advertising or holding out to the public, the
57 dealer shall expressly state on any charge ticket, sales slip,
58 invoice, or other tangible evidence of sale given to the

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59 purchaser that such dealer will pay the tax imposed by this
60 chapter to the state. The dealer may not indicate or imply that
61 the transaction is exempt or excluded from the tax imposed by
62 this chapter.

63 2. A charge ticket, sales slip, invoice, or other tangible
64 evidence of sale given to the purchaser must separately state
65 the amount of such tax in accordance with subsection (2).

66 (b) Notwithstanding any law to the contrary, if a dealer
67 directly or indirectly advertises or holds out to the public
68 that the dealer will pay the tax to the purchaser subject to the
69 conditions in subparagraphs (a)1. and 2., the dealer is solely
70 responsible and liable for any tax imposed by this chapter
71 either directly or indirectly by any method whatsoever.

72 (c) A person who violates this subsection provision with
73 respect to failing to add the tax to the selling price
74 advertising or refund is guilty of a misdemeanor of the second
75 degree, punishable as provided in s. 775.082 or s. 775.083. A
76 second or subsequent offense constitutes a misdemeanor of the
77 first degree, punishable as provided in s. 775.082 or s.
78 775.083.

79 Section 2. This act shall take effect July 1, 2019.