

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Valdes offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (4) and (8) of section 212.07, Florida Statutes, are amended, and subsection (2) of that section is republished, to read:

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

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible

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17 evidence of sale. Such tax shall constitute a part of such
18 price, charge, or proof of sale which shall be a debt from the
19 purchaser or consumer to the dealer, until paid, and shall be
20 recoverable at law in the same manner as other debts. Where it
21 is impracticable, due to the nature of the business practices
22 within an industry, to separately state Florida tax on any
23 charge ticket, sales slip, invoice, or other tangible evidence
24 of sale, the department may establish an effective tax rate for
25 such industry. The department may also amend this effective tax
26 rate as the industry's pricing or practices change. Except as
27 otherwise specifically provided, any dealer who neglects, fails,
28 or refuses to collect the tax herein provided upon any, every,
29 and all retail sales made by the dealer or the dealer's agents
30 or employees of tangible personal property or services which are
31 subject to the tax imposed by this chapter shall be liable for
32 and pay the tax himself or herself.

33 (4) (a) A dealer engaged in any business taxable under this
34 chapter may not advertise or hold out to the public, in any
35 manner, directly or indirectly, that ~~he or she will absorb all~~
36 ~~or any part of the tax, or that he or she will relieve the~~
37 ~~purchaser of the payment of all or any part of the tax, or that~~
38 the tax will not be added to the selling price of the property
39 or services sold or released. However, such dealer may advertise
40 or hold out to the public ~~or, when added, that he or she will~~
41 absorb all or any part of such tax or that ~~it or any part~~

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42 | thereof will be refunded to the purchaser subject to both of the
43 | following conditions:

44 | 1. In so advertising or holding out to the public, the
45 | dealer shall expressly state on any charge ticket, sales slip,
46 | invoice, or other tangible evidence of sale given to the
47 | purchaser that such dealer will pay the tax imposed by this
48 | chapter to the state. The dealer may not indicate or imply that
49 | the transaction is exempt or excluded from the tax imposed by
50 | this chapter.

51 | 2. A charge ticket, sales slip, invoice, or other tangible
52 | evidence of sale given to the purchaser must separately state
53 | the amount of such tax in accordance with subsection (2) either
54 | directly or indirectly by any method whatsoever.

55 | (b) A person who violates this subsection provision with
56 | respect to advertising or refund is guilty of a misdemeanor of
57 | the second degree, punishable as provided in s. 775.082 or s.
58 | 775.083. A second or subsequent offense constitutes a
59 | misdemeanor of the first degree, punishable as provided in s.
60 | 775.082 or s. 775.083.

61 | (8) Any person who has purchased at retail, used,
62 | consumed, distributed, or stored for use or consumption in this
63 | state tangible personal property, admissions, communication or
64 | other services taxable under this chapter, or leased tangible
65 | personal property, or who has leased, occupied, or used or was
66 | entitled to use any real property, space or spaces in parking

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67 lots or garages for motor vehicles, docking or storage space or
68 spaces for boats in boat docks or marinas, and cannot prove that
69 the tax levied by this chapter has been paid to his or her
70 vendor, lessor, or other person, or was absorbed by a dealer
71 pursuant to subsection (4), is directly liable to the state for
72 any tax, interest, or penalty due on any such taxable
73 transactions.

74 Section 2. Subsection (2) of section 212.15, Florida
75 Statutes, is amended to read:

76 212.15 Taxes declared state funds; penalties for failure
77 to remit taxes; due and delinquent dates; judicial review.—

78 (2) Any person who, with intent to unlawfully deprive or
79 defraud the state of its moneys or the use or benefit thereof,
80 fails to remit taxes collected or absorbed under this chapter is
81 guilty of theft of state funds, punishable as follows:

82 (a) If the total amount of stolen revenue is less than
83 \$300, the offense is a misdemeanor of the second degree,
84 punishable as provided in s. 775.082 or s. 775.083. Upon a
85 second conviction, the offender is guilty of a misdemeanor of
86 the first degree, punishable as provided in s. 775.082 or s.
87 775.083. Upon a third or subsequent conviction, the offender is
88 guilty of a felony of the third degree, punishable as provided
89 in s. 775.082, s. 775.083, or s. 775.084.

90 (b) If the total amount of stolen revenue is \$300 or more,
91 but less than \$20,000, the offense is a felony of the third

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92 degree, punishable as provided in s. 775.082, s. 775.083, or s.
93 775.084.

94 (c) If the total amount of stolen revenue is \$20,000 or
95 more, but less than \$100,000, the offense is a felony of the
96 second degree, punishable as provided in s. 775.082, s. 775.083,
97 or s. 775.084.

98 (d) If the total amount of stolen revenue is \$100,000 or
99 more, the offense is a felony of the first degree, punishable as
100 provided in s. 775.082, s. 775.083, or s. 775.084.

101 Section 3. This act shall take July 1, 2019.

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

106

A bill to be entitled

107

An act relating to sales tax absorption; amending s.

108

212.07, F.S.; deleting prohibitions against a dealer

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advertising or holding out to the public that he or

110

she will absorb all or part of the sales and use tax

111

or will relieve the purchaser of all or part of the

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tax; authorizing dealers, subject to specified

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conditions, to advertise or hold out to the public

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that they will absorb all or part of the tax or refund

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any part thereof to the purchaser; providing that such

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dealers are solely responsible and liable for the tax;

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117 | revising a criminal penalty; amending s. 212.15, F.S.;

118 | providing that certain persons who unlawfully deprive

119 | or defraud the state by failing to remit absorbed

120 | sales taxes are guilty of theft of state funds;

121 | providing an effective date.