

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; revising a criminal  
 11                   penalty; amending s. 212.15, F.S.; providing that  
 12                   certain persons who unlawfully fail to remit absorbed  
 13                   sales taxes are guilty of theft of state funds;  
 14                   providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:  
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18                    Section 1. Subsections (4) and (8) of section 212.07,  
 19                    Florida Statutes, are amended, and subsection (2) of that  
 20                    section is republished, to read:

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

25                    (2) A dealer shall, as far as practicable, add the amount

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

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

45 |       (4) (a) A dealer engaged in any business taxable under this  
46 | chapter may not advertise or hold out to the public, in any  
47 | manner, directly or indirectly, that ~~he or she will absorb all~~  
48 | ~~or any part of the tax, or that he or she will relieve the~~  
49 | ~~purchaser of the payment of all or any part of the tax, or that~~  
50 | the tax will not be added to the selling price of the property

51 or services sold or released. However, such dealer may advertise  
52 or hold out to the public ~~or, when added,~~ that he or she will  
53 absorb all or any part of such tax or that it or any part  
54 thereof will be refunded to the purchaser subject to both of the  
55 following 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  
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) either  
66 ~~directly or indirectly by any method whatsoever.~~

67 (b) A person who violates this subsection provision with  
68 ~~respect to advertising or refund~~ is guilty of a misdemeanor of  
69 the second degree, punishable as provided in s. 775.082 or s.  
70 775.083. A second or subsequent offense constitutes a  
71 misdemeanor of the first degree, punishable as provided in s.  
72 775.082 or s. 775.083.

73 (8) Any person who has purchased at retail, used,  
74 consumed, distributed, or stored for use or consumption in this  
75 state tangible personal property, admissions, communication or

76 | other services taxable under this chapter, or leased tangible  
 77 | personal property, or who has leased, occupied, or used or was  
 78 | entitled to use any real property, space or spaces in parking  
 79 | lots or garages for motor vehicles, docking or storage space or  
 80 | spaces for boats in boat docks or marinas, and cannot prove that  
 81 | the tax levied by this chapter has been paid to his or her  
 82 | vendor, lessor, or other person, or was absorbed by a dealer  
 83 | pursuant to subsection (4), is directly liable to the state for  
 84 | any tax, interest, or penalty due on any such taxable  
 85 | transactions.

86 |       Section 2. Subsection (2) of section 212.15, Florida  
 87 | Statutes, is amended to read:

88 |       212.15 Taxes declared state funds; penalties for failure  
 89 | to remit taxes; due and delinquent dates; judicial review.—

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

94 |       (a) If the total amount of stolen revenue is less than  
 95 | \$300, the offense is a misdemeanor of the second degree,  
 96 | punishable as provided in s. 775.082 or s. 775.083. Upon a  
 97 | second conviction, the offender is guilty of a misdemeanor of  
 98 | the first degree, punishable as provided in s. 775.082 or s.  
 99 | 775.083. Upon a third or subsequent conviction, the offender is  
 100 | guilty of a felony of the third degree, punishable as provided

101 in s. 775.082, s. 775.083, or s. 775.084.

102 (b) If the total amount of stolen revenue is \$300 or more,  
103 but less than \$20,000, the offense is a felony of the third  
104 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
105 775.084.

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

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

113 Section 3. This act shall take effect July 1, 2019.