

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WITHDRAWN	_____	(Y/N)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 Valdés offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

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

9 212.07 Sales, storage, use tax; tax added to purchase
 10 price; ~~dealer not to absorb~~; liability of purchasers who cannot
 11 prove payment of the tax; penalties; general exemptions.—

12 (2) A dealer shall, as far as practicable, add the amount
 13 of the tax imposed under this chapter to the sale price, and the
 14 amount of the tax shall be separately stated as Florida tax on
 15 any charge ticket, sales slip, invoice, or other tangible
 16 evidence of sale. Such tax shall constitute a part of such

Amendment No.1

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

32 (4) (a) Except as provided in paragraph (b), a dealer
33 engaged in any business taxable under this chapter may not
34 advertise or hold out to the public, in any manner, directly or
35 indirectly, that he or she will pay ~~absorb~~ all or any part of
36 the tax, or that he or she will relieve the purchaser of the
37 payment of all or any part of the tax, or that the tax will not
38 be added to the selling price of the property or services sold
39 or released or, when added, that it or any part thereof will be
40 refunded either directly or indirectly by any method whatsoever.

Amendment No.1

41 (b) Notwithstanding any provision of this chapter to the
42 contrary, a dealer may advertise or hold out to the public that
43 he or she will pay all or any part of the tax on behalf of the
44 purchaser, subject to both of the following conditions:

45 1. The dealer must expressly state on any charge ticket,
46 sales slip, invoice, or other tangible evidence of sale given to
47 the purchaser that the 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 the sale given to the purchaser must separately
53 state the sale price and the amount of the tax in accordance
54 with subsection (2).

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

Amendment No.1

66 entitled to use any real property, space or spaces in parking
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 paid on behalf of the
71 purchaser by a dealer pursuant to subsection (4) is directly
72 liable to the state for any tax, interest, or penalty due on any
73 such taxable 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 paid on behalf of a purchaser
81 under this chapter commits theft of state funds, punishable as
82 follows:

83 (a) If the total amount of stolen revenue is less than
84 \$1,000, the offense is a misdemeanor of the second degree,
85 punishable as provided in s. 775.082 or s. 775.083. Upon a
86 second conviction, the offender commits a misdemeanor of the
87 first degree, punishable as provided in s. 775.082 or s.
88 775.083. Upon a third or subsequent conviction, the offender
89 commits a felony of the third degree, punishable as provided in
90 s. 775.082, s. 775.083, or s. 775.084.

228287 - HB 429 Valdes Strike-All.docx

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Amendment No.1

91 (b) If the total amount of stolen revenue is \$1,000 or
92 more, but less than \$20,000, the offense is a felony of the
93 third degree, punishable as provided in s. 775.082, s. 775.083,
94 or s. 775.084.

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

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

102 Section 3. This act shall take effect July 1, 2020.
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106 **T I T L E A M E N D M E N T**

107 Remove everything before the enacting clause and insert:

108 A bill to be entitled

109 An act relating to sales tax absorption; amending s.
110 212.07, F.S.; authorizing dealers, subject to certain
111 conditions, to advertise or hold out to the public
112 that they will pay sales tax on behalf of the
113 purchaser; conforming a provision to changes made by
114 the act; amending s. 212.15, F.S.; conforming a

Amendment No.1

115 | provision to changes made by the act; providing an
116 | effective date.