

1 A bill to be entitled
 2 An act relating to sales tax absorption; amending s.
 3 212.07, F.S.; authorizing dealers, subject to certain
 4 conditions, to advertise or hold out to the public
 5 that they will pay sales tax on behalf of the
 6 purchaser; amending s. 212.15, F.S.; conforming a
 7 provision to changes made by the act; providing an
 8 effective date.

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 10 Be It Enacted by the Legislature of the State of Florida:

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

15 212.07 Sales, storage, use tax; tax added to purchase
 16 price; ~~dealer not to absorb~~; liability of purchasers who cannot
 17 prove payment of the tax; penalties; general exemptions.—

18 (2) A dealer shall, as far as practicable, add the amount
 19 of the tax imposed under this chapter to the sale price, and the
 20 amount of the tax shall be separately stated as Florida tax on
 21 any charge ticket, sales slip, invoice, or other tangible
 22 evidence of sale. Such tax shall constitute a part of such
 23 price, charge, or proof of sale which shall be a debt from the
 24 purchaser or consumer to the dealer, until paid, and shall be
 25 recoverable at law in the same manner as other debts. Where it

26 | is impracticable, due to the nature of the business practices
27 | within an industry, to separately state Florida tax on any
28 | charge ticket, sales slip, invoice, or other tangible evidence
29 | of sale, the department may establish an effective tax rate for
30 | such industry. The department may also amend this effective tax
31 | rate as the industry's pricing or practices change. Except as
32 | otherwise specifically provided, any dealer who neglects, fails,
33 | or refuses to collect the tax herein provided upon any, every,
34 | and all retail sales made by the dealer or the dealer's agents
35 | or employees of tangible personal property or services which are
36 | subject to the tax imposed by this chapter shall be liable for
37 | and pay the tax himself or herself.

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

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

51 1. The dealer must expressly state on any charge ticket,
52 sales slip, invoice, or other tangible evidence of sale given to
53 the purchaser that the dealer will pay to the state the tax
54 imposed by this chapter. The dealer may not indicate or imply
55 that the transaction is exempt or excluded from the tax imposed
56 by this chapter.

57 2. A charge ticket, sales slip, invoice, or other tangible
58 evidence of the sale given to the purchaser must separately
59 state the sale price and the amount of the tax in accordance
60 with subsection (2).

61 (c) A person who violates this subsection commits
62 ~~provision with respect to advertising or refund is guilty of a~~
63 misdemeanor of the second degree, punishable as provided in s.
64 775.082 or s. 775.083. A second or subsequent offense
65 constitutes a misdemeanor of the first degree, punishable as
66 provided in s. 775.082 or s. 775.083.

67 (8) Any person who has purchased at retail, used,
68 consumed, distributed, or stored for use or consumption in this
69 state tangible personal property, admissions, communication or
70 other services taxable under this chapter, or leased tangible
71 personal property, or who has leased, occupied, or used or was
72 entitled to use any real property, space or spaces in parking
73 lots or garages for motor vehicles, docking or storage space or
74 spaces for boats in boat docks or marinas, and cannot prove that
75 the tax levied by this chapter has been paid to his or her

76 | vendor, lessor, or other person or was paid on behalf of the
 77 | purchaser by a dealer under subsection (4) is directly liable to
 78 | the state for any tax, interest, or penalty due on any such
 79 | taxable transactions.

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

82 | 212.15 Taxes declared state funds; penalties for failure
 83 | to remit taxes; due and delinquent dates; judicial review.—

84 | (2) Any person who, with intent to unlawfully deprive or
 85 | defraud the state of its moneys or the use or benefit thereof,
 86 | fails to remit taxes collected or paid on behalf of a purchaser
 87 | under this chapter commits theft of state funds, punishable as
 88 | follows:

89 | (a) If the total amount of stolen revenue is less than
 90 | \$1,000, the offense is a misdemeanor of the second degree,
 91 | punishable as provided in s. 775.082 or s. 775.083. Upon a
 92 | second conviction, the offender commits a misdemeanor of the
 93 | first degree, punishable as provided in s. 775.082 or s.
 94 | 775.083. Upon a third or subsequent conviction, the offender
 95 | commits a felony of the third degree, punishable as provided in
 96 | s. 775.082, s. 775.083, or s. 775.084.

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

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

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

108 Section 3. This act shall take effect July 1, 2020.