



406954

LEGISLATIVE ACTION

Senate

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House

The Committee on Finance and Tax (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete 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; ~~dealer not to absorb~~; liability of purchasers who cannot
prove payment of the tax; penalties; general exemptions.—



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

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



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

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

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

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

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



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69 lessor, or other person or was paid on behalf of the purchaser
70 by a dealer pursuant to subsection (4) is directly liable to the
71 state for any tax, interest, or penalty due on any such taxable
72 transactions.

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

75 212.15 Taxes declared state funds; penalties for failure to
76 remit taxes; due and delinquent dates; judicial review.—

77 (2) Any person who, with intent to unlawfully deprive or
78 defraud the state of its moneys or the use or benefit thereof,
79 fails to remit taxes collected or paid on behalf of a purchaser
80 under this chapter commits theft of state funds, punishable as
81 follows:

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

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



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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 effect July 1, 2020.

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

104 And the title is amended as follows:

105 Delete everything before the enacting clause
106 and insert:

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