



406954

LEGISLATIVE ACTION

| Senate     | . | House |
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| Comm: RCS  | . |       |
| 02/13/2020 | . |       |
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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.-



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.

102

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.