

By Senator Baxley

12-00824-20

2020508__

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
4 specified conditions, to advertise or hold out to the
5 public that they will absorb all or part of the sales
6 and use tax on taxable transactions, or refund any
7 part thereof to the purchaser; revising a criminal
8 penalty; conforming provisions to changes made by the
9 act; amending s. 212.15, F.S.; providing that certain
10 persons who unlawfully fail to remit absorbed sales
11 taxes commit theft of state funds; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsections (4) and (8) of section 212.07,
17 Florida Statutes, are amended, and subsection (2) of that
18 section is republished, to read:

19 212.07 Sales, storage, use tax; tax added to purchase
20 price; tax absorption ~~dealer not to absorb~~; liability of
21 purchasers who cannot prove payment of the tax; penalties;
22 general exemptions.—

23 (2) A dealer shall, as far as practicable, add the amount
24 of the tax imposed under this chapter to the sale price, and the
25 amount of the tax shall be separately stated as Florida tax on
26 any charge ticket, sales slip, invoice, or other tangible
27 evidence of sale. Such tax shall constitute a part of such
28 price, charge, or proof of sale which shall be a debt from the
29 purchaser or consumer to the dealer, until paid, and shall be

12-00824-20

2020508__

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

43 (4) (a) A dealer engaged in any business taxable under this
44 chapter may not advertise or hold out to the public, in any
45 manner, directly or indirectly, that ~~he or she will absorb all~~
46 ~~or any part of the tax, or that he or she will relieve the~~
47 ~~purchaser of the payment of all or any part of the tax, or that~~
48 the tax will not be added to the selling price of the property
49 or services sold or released. However, such dealer may advertise
50 or hold out to the public ~~or, when added,~~ that he or she will
51 absorb all or any part of such tax or that it or any part
52 thereof will be refunded to the purchaser subject to both of the
53 following conditions:

54 1. In so advertising or holding out to the public, the
55 dealer shall expressly state on any charge ticket, sales slip,
56 invoice, or other tangible evidence of sale given to the
57 purchaser that such dealer will pay the tax imposed by this
58 chapter to the state. The dealer may not indicate or imply that

12-00824-20

2020508__

59 the transaction is exempt or excluded from the tax imposed by
60 this chapter.

61 2. A charge ticket, sales slip, invoice, or other tangible
62 evidence of sale given to the purchaser must separately state
63 the amount of such tax in accordance with subsection (2) either
64 directly or indirectly by any method whatsoever.

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

71 (8) Any person who has purchased at retail, used, consumed,
72 distributed, or stored for use or consumption in this state
73 tangible personal property, admissions, communication or other
74 services taxable under this chapter, or leased tangible personal
75 property, or who has leased, occupied, or used or was entitled
76 to use any real property, space or spaces in parking lots or
77 garages for motor vehicles, docking or storage space or spaces
78 for boats in boat docks or marinas, and cannot prove that the
79 tax levied by this chapter has been paid to his or her vendor,
80 lessor, or other person, or was absorbed by a dealer pursuant to
81 subsection (4), is directly liable to the state for any tax,
82 interest, or penalty due on any such taxable transactions.

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

85 212.15 Taxes declared state funds; penalties for failure to
86 remit taxes; due and delinquent dates; judicial review.—

87 (2) Any person who, with intent to unlawfully deprive or

12-00824-20

2020508__

88 defraud the state of its moneys or the use or benefit thereof,
89 fails to remit taxes collected or absorbed under this chapter
90 commits theft of state funds, punishable as follows:

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

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

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

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

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