

By the Committee on Finance and Tax; and Senator Baxley

593-03616-20

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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; conforming a provision to changes made by
7 the act; amending s. 212.15, F.S.; conforming a
8 provision to changes made by the act; providing an
9 effective date.

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

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

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

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

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30 of sale, the department may establish an effective tax rate for
31 such industry. The department may also amend this effective tax
32 rate as the industry's pricing or practices change. Except as
33 otherwise specifically provided, any dealer who neglects, fails,
34 or refuses to collect the tax herein provided upon any, every,
35 and all retail sales made by the dealer or the dealer's agents
36 or employees of tangible personal property or services which are
37 subject to the tax imposed by this chapter shall be liable for
38 and pay the tax himself or herself.

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

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

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

58 2. A charge ticket, sales slip, invoice, or other tangible

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59 evidence of the sale given to the purchaser must separately
60 state the sale price and the amount of the tax in accordance
61 with subsection (2).

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

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

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

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

85 (2) Any person who, with intent to unlawfully deprive or
86 defraud the state of its moneys or the use or benefit thereof,
87 fails to remit taxes collected or paid on behalf of a purchaser

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88 under this chapter commits theft of state funds, punishable as
89 follows:

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

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

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

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

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