

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Eskamani offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 205-2048 and insert:

5 (a)1.a. At the rate of 5.75 ~~6~~ percent of the sales price
6 of each item or article of tangible personal property when sold
7 at retail in this state, computed on each taxable sale for the
8 purpose of remitting the amount of tax due the state, and
9 including each and every retail sale.

10 b. Each occasional or isolated sale of an aircraft, boat,
11 mobile home, or motor vehicle of a class or type which is
12 required to be registered, licensed, titled, or documented in
13 this state or by the United States Government shall be subject

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14 to tax at the rate provided in this paragraph. The department
15 shall by rule adopt any nationally recognized publication for
16 valuation of used motor vehicles as the reference price list for
17 any used motor vehicle which is required to be licensed pursuant
18 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
19 party to an occasional or isolated sale of such a vehicle
20 reports to the tax collector a sales price which is less than 80
21 percent of the average loan price for the specified model and
22 year of such vehicle as listed in the most recent reference
23 price list, the tax levied under this paragraph shall be
24 computed by the department on such average loan price unless the
25 parties to the sale have provided to the tax collector an
26 affidavit signed by each party, or other substantial proof,
27 stating the actual sales price. Any party to such sale who
28 reports a sales price less than the actual sales price is guilty
29 of a misdemeanor of the first degree, punishable as provided in
30 s. 775.082 or s. 775.083. The department shall collect or
31 attempt to collect from such party any delinquent sales taxes.
32 In addition, such party shall pay any tax due and any penalty
33 and interest assessed plus a penalty equal to twice the amount
34 of the additional tax owed. Notwithstanding any other provision
35 of law, the Department of Revenue may waive or compromise any
36 penalty imposed pursuant to this subparagraph.

37 2. This paragraph does not apply to the sale of a boat or
38 aircraft by or through a registered dealer under this chapter to

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39 a purchaser who, at the time of taking delivery, is a
40 nonresident of this state, does not make his or her permanent
41 place of abode in this state, and is not engaged in carrying on
42 in this state any employment, trade, business, or profession in
43 which the boat or aircraft will be used in this state, or is a
44 corporation none of the officers or directors of which is a
45 resident of, or makes his or her permanent place of abode in,
46 this state, or is a noncorporate entity that has no individual
47 vested with authority to participate in the management,
48 direction, or control of the entity's affairs who is a resident
49 of, or makes his or her permanent abode in, this state. For
50 purposes of this exemption, either a registered dealer acting on
51 his or her own behalf as seller, a registered dealer acting as
52 broker on behalf of a seller, or a registered dealer acting as
53 broker on behalf of the purchaser may be deemed to be the
54 selling dealer. This exemption shall not be allowed unless:

55 a. The purchaser removes a qualifying boat, as described
56 in sub-subparagraph f., from the state within 90 days after the
57 date of purchase or extension, or the purchaser removes a
58 nonqualifying boat or an aircraft from this state within 10 days
59 after the date of purchase or, when the boat or aircraft is
60 repaired or altered, within 20 days after completion of the
61 repairs or alterations; or if the aircraft will be registered in
62 a foreign jurisdiction and:

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63 (I) Application for the aircraft's registration is
64 properly filed with a civil airworthiness authority of a foreign
65 jurisdiction within 10 days after the date of purchase;

66 (II) The purchaser removes the aircraft from the state to
67 a foreign jurisdiction within 10 days after the date the
68 aircraft is registered by the applicable foreign airworthiness
69 authority; and

70 (III) The aircraft is operated in the state solely to
71 remove it from the state to a foreign jurisdiction.

72
73 For purposes of this sub-subparagraph, the term "foreign
74 jurisdiction" means any jurisdiction outside of the United
75 States or any of its territories;

76 b. The purchaser, within 90 days from the date of
77 departure, provides the department with written proof that the
78 purchaser licensed, registered, titled, or documented the boat
79 or aircraft outside the state. If such written proof is
80 unavailable, within 90 days the purchaser shall provide proof
81 that the purchaser applied for such license, title,
82 registration, or documentation. The purchaser shall forward to
83 the department proof of title, license, registration, or
84 documentation upon receipt;

85 c. The purchaser, within 30 days after removing the boat
86 or aircraft from Florida, furnishes the department with proof of
87 removal in the form of receipts for fuel, dockage, slippage,

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88 tie-down, or hangaring from outside of Florida. The information
89 so provided must clearly and specifically identify the boat or
90 aircraft;

91 d. The selling dealer, within 30 days after the date of
92 sale, provides to the department a copy of the sales invoice,
93 closing statement, bills of sale, and the original affidavit
94 signed by the purchaser attesting that he or she has read the
95 provisions of this section;

96 e. The seller makes a copy of the affidavit a part of his
97 or her record for as long as required by s. 213.35; and

98 f. Unless the nonresident purchaser of a boat of 5 net
99 tons of admeasurement or larger intends to remove the boat from
100 this state within 10 days after the date of purchase or when the
101 boat is repaired or altered, within 20 days after completion of
102 the repairs or alterations, the nonresident purchaser applies to
103 the selling dealer for a decal which authorizes 90 days after
104 the date of purchase for removal of the boat. The nonresident
105 purchaser of a qualifying boat may apply to the selling dealer
106 within 60 days after the date of purchase for an extension decal
107 that authorizes the boat to remain in this state for an
108 additional 90 days, but not more than a total of 180 days,
109 before the nonresident purchaser is required to pay the tax
110 imposed by this chapter. The department is authorized to issue
111 decals in advance to dealers. The number of decals issued in
112 advance to a dealer shall be consistent with the volume of the

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113 dealer's past sales of boats which qualify under this sub-
114 subparagraph. The selling dealer or his or her agent shall mark
115 and affix the decals to qualifying boats in the manner
116 prescribed by the department, before delivery of the boat.

117 (I) The department is hereby authorized to charge dealers
118 a fee sufficient to recover the costs of decals issued, except
119 the extension decal shall cost \$425.

120 (II) The proceeds from the sale of decals will be
121 deposited into the administrative trust fund.

122 (III) Decals shall display information to identify the
123 boat as a qualifying boat under this sub-subparagraph,
124 including, but not limited to, the decal's date of expiration.

125 (IV) The department is authorized to require dealers who
126 purchase decals to file reports with the department and may
127 prescribe all necessary records by rule. All such records are
128 subject to inspection by the department.

129 (V) Any dealer or his or her agent who issues a decal
130 falsely, fails to affix a decal, mismarks the expiration date of
131 a decal, or fails to properly account for decals will be
132 considered prima facie to have committed a fraudulent act to
133 evade the tax and will be liable for payment of the tax plus a
134 mandatory penalty of 200 percent of the tax, and shall be liable
135 for fine and punishment as provided by law for a conviction of a
136 misdemeanor of the first degree, as provided in s. 775.082 or s.
137 775.083.

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138 (VI) Any nonresident purchaser of a boat who removes a
139 decal before permanently removing the boat from the state, or
140 defaces, changes, modifies, or alters a decal in a manner
141 affecting its expiration date before its expiration, or who
142 causes or allows the same to be done by another, will be
143 considered prima facie to have committed a fraudulent act to
144 evade the tax and will be liable for payment of the tax plus a
145 mandatory penalty of 200 percent of the tax, and shall be liable
146 for fine and punishment as provided by law for a conviction of a
147 misdemeanor of the first degree, as provided in s. 775.082 or s.
148 775.083.

149 (VII) The department is authorized to adopt rules
150 necessary to administer and enforce this subparagraph and to
151 publish the necessary forms and instructions.

152 (VIII) The department is hereby authorized to adopt
153 emergency rules pursuant to s. 120.54(4) to administer and
154 enforce the provisions of this subparagraph.

155
156 If the purchaser fails to remove the qualifying boat from this
157 state within the maximum 180 days after purchase or a
158 nonqualifying boat or an aircraft from this state within 10 days
159 after purchase or, when the boat or aircraft is repaired or
160 altered, within 20 days after completion of such repairs or
161 alterations, or permits the boat or aircraft to return to this
162 state within 6 months from the date of departure, except as

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163 provided in s. 212.08(7) (fff), or if the purchaser fails to
164 furnish the department with any of the documentation required by
165 this subparagraph within the prescribed time period, the
166 purchaser shall be liable for use tax on the cost price of the
167 boat or aircraft and, in addition thereto, payment of a penalty
168 to the Department of Revenue equal to the tax payable. This
169 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
170 The maximum 180-day period following the sale of a qualifying
171 boat tax-exempt to a nonresident may not be tolled for any
172 reason.

173 (b) At the rate of 6 percent of the cost price of each
174 item or article of tangible personal property when the same is
175 not sold but is used, consumed, distributed, or stored for use
176 or consumption in this state; however, for tangible property
177 originally purchased exempt from tax for use exclusively for
178 lease and which is converted to the owner's own use, tax may be
179 paid on the fair market value of the property at the time of
180 conversion. If the fair market value of the property cannot be
181 determined, use tax at the time of conversion shall be based on
182 the owner's acquisition cost. Under no circumstances may the
183 aggregate amount of sales tax from leasing the property and use
184 tax due at the time of conversion be less than the total sales
185 tax that would have been due on the original acquisition cost
186 paid by the owner.

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187 (c) At the rate of 6 percent of the gross proceeds derived
188 from the lease or rental of tangible personal property, as
189 defined herein; however, the following special provisions apply
190 to the lease or rental of motor vehicles:

191 1. When a motor vehicle is leased or rented for a period
192 of less than 12 months:

193 a. If the motor vehicle is rented in Florida, the entire
194 amount of such rental is taxable, even if the vehicle is dropped
195 off in another state.

196 b. If the motor vehicle is rented in another state and
197 dropped off in Florida, the rental is exempt from Florida tax.

198 2. Except as provided in subparagraph 3., for the lease or
199 rental of a motor vehicle for a period of not less than 12
200 months, sales tax is due on the lease or rental payments if the
201 vehicle is registered in this state; provided, however, that no
202 tax shall be due if the taxpayer documents use of the motor
203 vehicle outside this state and tax is being paid on the lease or
204 rental payments in another state.

205 3. The tax imposed by this chapter does not apply to the
206 lease or rental of a commercial motor vehicle as defined in s.
207 316.003(13)(a) to one lessee or rentee for a period of not less
208 than 12 months when tax was paid on the purchase price of such
209 vehicle by the lessor. To the extent tax was paid with respect
210 to the purchase of such vehicle in another state, territory of
211 the United States, or the District of Columbia, the Florida tax

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212 payable shall be reduced in accordance with the provisions of s.
213 212.06(7). This subparagraph shall only be available when the
214 lease or rental of such property is an established business or
215 part of an established business or the same is incidental or
216 germane to such business.

217 (d) At the rate of 6 percent of the lease or rental price
218 paid by a lessee or rentee, or contracted or agreed to be paid
219 by a lessee or rentee, to the owner of the tangible personal
220 property.

221 (e)1. At the rate of 6 percent on charges for:

222 a. Prepaid calling arrangements. The tax on charges for
223 prepaid calling arrangements shall be collected at the time of
224 sale and remitted by the selling dealer.

225 (I) "Prepaid calling arrangement" has the same meaning as
226 provided in s. 202.11.

227 (II) If the sale or recharge of the prepaid calling
228 arrangement does not take place at the dealer's place of
229 business, it shall be deemed to have taken place at the
230 customer's shipping address or, if no item is shipped, at the
231 customer's address or the location associated with the
232 customer's mobile telephone number.

233 (III) The sale or recharge of a prepaid calling
234 arrangement shall be treated as a sale of tangible personal
235 property for purposes of this chapter, regardless of whether a
236 tangible item evidencing such arrangement is furnished to the

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237 purchaser, and such sale within this state subjects the selling
238 dealer to the jurisdiction of this state for purposes of this
239 subsection.

240 (IV) No additional tax under this chapter or chapter 202
241 is due or payable if a purchaser of a prepaid calling
242 arrangement who has paid tax under this chapter on the sale or
243 recharge of such arrangement applies one or more units of the
244 prepaid calling arrangement to obtain communications services as
245 described in s. 202.11(9)(b)3., other services that are not
246 communications services, or products.

247 b. The installation of telecommunication and telegraphic
248 equipment.

249 c. Electrical power or energy, except that the tax rate
250 for charges for electrical power or energy is 4.35 percent.
251 Charges for electrical power and energy do not include taxes
252 imposed under ss. 166.231 and 203.01(1)(a)3.

253 2. Section 212.17(3), regarding credit for tax paid on
254 charges subsequently found to be worthless, is equally
255 applicable to any tax paid under this section on charges for
256 prepaid calling arrangements, telecommunication or telegraph
257 services, or electric power subsequently found to be
258 uncollectible. As used in this paragraph, the term "charges"
259 does not include any excise or similar tax levied by the Federal
260 Government, a political subdivision of this state, or a
261 municipality upon the purchase, sale, or recharge of prepaid

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262 calling arrangements or upon the purchase or sale of
263 telecommunication, television system program, or telegraph
264 service or electric power, which tax is collected by the seller
265 from the purchaser.

266 (f) At the rate of 6 percent on the sale, rental, use,
267 consumption, or storage for use in this state of machines and
268 equipment, and parts and accessories therefor, used in
269 manufacturing, processing, compounding, producing, mining, or
270 quarrying personal property for sale or to be used in furnishing
271 communications, transportation, or public utility services.

272 (g)1. At the rate of 6 percent on the retail price of
273 newspapers and magazines sold or used in Florida.

274 2. Notwithstanding other provisions of this chapter,
275 inserts of printed materials which are distributed with a
276 newspaper or magazine are a component part of the newspaper or
277 magazine, and neither the sale nor use of such inserts is
278 subject to tax when:

279 a. Printed by a newspaper or magazine publisher or
280 commercial printer and distributed as a component part of a
281 newspaper or magazine, which means that the items after being
282 printed are delivered directly to a newspaper or magazine
283 publisher by the printer for inclusion in editions of the
284 distributed newspaper or magazine;

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285 b. Such publications are labeled as part of the designated
286 newspaper or magazine publication into which they are to be
287 inserted; and

288 c. The purchaser of the insert presents a resale
289 certificate to the vendor stating that the inserts are to be
290 distributed as a component part of a newspaper or magazine.

291 (h)1. A tax is imposed at the rate of 4 percent on the
292 charges for the use of coin-operated amusement machines. The tax
293 shall be calculated by dividing the gross receipts from such
294 charges for the applicable reporting period by a divisor,
295 determined as provided in this subparagraph, to compute gross
296 taxable sales, and then subtracting gross taxable sales from
297 gross receipts to arrive at the amount of tax due. For counties
298 that do not impose a discretionary sales surtax, the divisor is
299 equal to 1.04; for counties that impose a 0.5 percent
300 discretionary sales surtax, the divisor is equal to 1.045; for
301 counties that impose a 1 percent discretionary sales surtax, the
302 divisor is equal to 1.050; and for counties that impose a 2
303 percent sales surtax, the divisor is equal to 1.060. If a county
304 imposes a discretionary sales surtax that is not listed in this
305 subparagraph, the department shall make the applicable divisor
306 available in an electronic format or otherwise. Additional
307 divisors shall bear the same mathematical relationship to the
308 next higher and next lower divisors as the new surtax rate bears
309 to the next higher and next lower surtax rates for which

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310 divisors have been established. When a machine is activated by a
311 slug, token, coupon, or any similar device which has been
312 purchased, the tax is on the price paid by the user of the
313 device for such device.

314 2. As used in this paragraph, the term "operator" means
315 any person who possesses a coin-operated amusement machine for
316 the purpose of generating sales through that machine and who is
317 responsible for removing the receipts from the machine.

318 a. If the owner of the machine is also the operator of it,
319 he or she shall be liable for payment of the tax without any
320 deduction for rent or a license fee paid to a location owner for
321 the use of any real property on which the machine is located.

322 b. If the owner or lessee of the machine is also its
323 operator, he or she shall be liable for payment of the tax on
324 the purchase or lease of the machine, as well as the tax on
325 sales generated through the machine.

326 c. If the proprietor of the business where the machine is
327 located does not own the machine, he or she shall be deemed to
328 be the lessee and operator of the machine and is responsible for
329 the payment of the tax on sales, unless such responsibility is
330 otherwise provided for in a written agreement between him or her
331 and the machine owner.

332 3.a. An operator of a coin-operated amusement machine may
333 not operate or cause to be operated in this state any such
334 machine until the operator has registered with the department

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335 and has conspicuously displayed an identifying certificate
336 issued by the department. The identifying certificate shall be
337 issued by the department upon application from the operator. The
338 identifying certificate shall include a unique number, and the
339 certificate shall be permanently marked with the operator's
340 name, the operator's sales tax number, and the maximum number of
341 machines to be operated under the certificate. An identifying
342 certificate shall not be transferred from one operator to
343 another. The identifying certificate must be conspicuously
344 displayed on the premises where the coin-operated amusement
345 machines are being operated.

346 b. The operator of the machine must obtain an identifying
347 certificate before the machine is first operated in the state
348 and by July 1 of each year thereafter. The annual fee for each
349 certificate shall be based on the number of machines identified
350 on the application times \$30 and is due and payable upon
351 application for the identifying device. The application shall
352 contain the operator's name, sales tax number, business address
353 where the machines are being operated, and the number of
354 machines in operation at that place of business by the operator.
355 No operator may operate more machines than are listed on the
356 certificate. A new certificate is required if more machines are
357 being operated at that location than are listed on the
358 certificate. The fee for the new certificate shall be based on

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359 the number of additional machines identified on the application
360 form times \$30.

361 c. A penalty of \$250 per machine is imposed on the
362 operator for failing to properly obtain and display the required
363 identifying certificate. A penalty of \$250 is imposed on the
364 lessee of any machine placed in a place of business without a
365 proper current identifying certificate. Such penalties shall
366 apply in addition to all other applicable taxes, interest, and
367 penalties.

368 d. Operators of coin-operated amusement machines must
369 obtain a separate sales and use tax certificate of registration
370 for each county in which such machines are located. One sales
371 and use tax certificate of registration is sufficient for all of
372 the operator's machines within a single county.

373 4. The provisions of this paragraph do not apply to coin-
374 operated amusement machines owned and operated by churches or
375 synagogues.

376 5. In addition to any other penalties imposed by this
377 chapter, a person who knowingly and willfully violates any
378 provision of this paragraph commits a misdemeanor of the second
379 degree, punishable as provided in s. 775.082 or s. 775.083.

380 6. The department may adopt rules necessary to administer
381 the provisions of this paragraph.

382 (i)1. At the rate of 6 percent on charges for all:

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383 a. Detective, burglar protection, and other protection
384 services (NAICS National Numbers 561611, 561612, 561613, and
385 561621). Fingerprint services required under s. 790.06 or s.
386 790.062 are not subject to the tax. Any law enforcement officer,
387 as defined in s. 943.10, who is performing approved duties as
388 determined by his or her local law enforcement agency in his or
389 her capacity as a law enforcement officer, and who is subject to
390 the direct and immediate command of his or her law enforcement
391 agency, and in the law enforcement officer's uniform as
392 authorized by his or her law enforcement agency, is performing
393 law enforcement and public safety services and is not performing
394 detective, burglar protection, or other protective services, if
395 the law enforcement officer is performing his or her approved
396 duties in a geographical area in which the law enforcement
397 officer has arrest jurisdiction. Such law enforcement and public
398 safety services are not subject to tax irrespective of whether
399 the duty is characterized as "extra duty," "off-duty," or
400 "secondary employment," and irrespective of whether the officer
401 is paid directly or through the officer's agency by an outside
402 source. The term "law enforcement officer" includes full-time or
403 part-time law enforcement officers, and any auxiliary law
404 enforcement officer, when such auxiliary law enforcement officer
405 is working under the direct supervision of a full-time or part-
406 time law enforcement officer.

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407 b. Nonresidential cleaning, excluding cleaning of the
408 interiors of transportation equipment, and nonresidential
409 building pest control services (NAICS National Numbers 561710
410 and 561720).

411 2. As used in this paragraph, "NAICS" means those
412 classifications contained in the North American Industry
413 Classification System, as published in 2007 by the Office of
414 Management and Budget, Executive Office of the President.

415 3. Charges for detective, burglar protection, and other
416 protection security services performed in this state but used
417 outside this state are exempt from taxation. Charges for
418 detective, burglar protection, and other protection security
419 services performed outside this state and used in this state are
420 subject to tax.

421 4. If a transaction involves both the sale or use of a
422 service taxable under this paragraph and the sale or use of a
423 service or any other item not taxable under this chapter, the
424 consideration paid must be separately identified and stated with
425 respect to the taxable and exempt portions of the transaction or
426 the entire transaction shall be presumed taxable. The burden
427 shall be on the seller of the service or the purchaser of the
428 service, whichever applicable, to overcome this presumption by
429 providing documentary evidence as to which portion of the
430 transaction is exempt from tax. The department is authorized to
431 adjust the amount of consideration identified as the taxable and

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432 exempt portions of the transaction; however, a determination
433 that the taxable and exempt portions are inaccurately stated and
434 that the adjustment is applicable must be supported by
435 substantial competent evidence.

436 5. Each seller of services subject to sales tax pursuant
437 to this paragraph shall maintain a monthly log showing each
438 transaction for which sales tax was not collected because the
439 services meet the requirements of subparagraph 3. for out-of-
440 state use. The log must identify the purchaser's name, location
441 and mailing address, and federal employer identification number,
442 if a business, or the social security number, if an individual,
443 the service sold, the price of the service, the date of sale,
444 the reason for the exemption, and the sales invoice number. The
445 monthly log shall be maintained pursuant to the same
446 requirements and subject to the same penalties imposed for the
447 keeping of similar records pursuant to this chapter.

448 (j)1. Notwithstanding any other provision of this chapter,
449 there is hereby levied a tax on the sale, use, consumption, or
450 storage for use in this state of any coin or currency, whether
451 in circulation or not, when such coin or currency:

452 a. Is not legal tender;

453 b. If legal tender, is sold, exchanged, or traded at a
454 rate in excess of its face value; or

455 c. Is sold, exchanged, or traded at a rate based on its
456 precious metal content.

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457 2. Such tax shall be at a rate of 6 percent of the price
458 at which the coin or currency is sold, exchanged, or traded,
459 except that, with respect to a coin or currency which is legal
460 tender of the United States and which is sold, exchanged, or
461 traded, such tax shall not be levied.

462 3. There are exempt from this tax exchanges of coins or
463 currency which are in general circulation in, and legal tender
464 of, one nation for coins or currency which are in general
465 circulation in, and legal tender of, another nation when
466 exchanged solely for use as legal tender and at an exchange rate
467 based on the relative value of each as a medium of exchange.

468 4. With respect to any transaction that involves the sale
469 of coins or currency taxable under this paragraph in which the
470 taxable amount represented by the sale of such coins or currency
471 exceeds \$500, the entire amount represented by the sale of such
472 coins or currency is exempt from the tax imposed under this
473 paragraph. The dealer must maintain proper documentation, as
474 prescribed by rule of the department, to identify that portion
475 of a transaction which involves the sale of coins or currency
476 and is exempt under this subparagraph.

477 (k) At the rate of 6 percent of the sales price of each
478 gallon of diesel fuel not taxed under chapter 206 purchased for
479 use in a vessel, except dyed diesel fuel that is exempt pursuant
480 to s. 212.08(4)(a)4.

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481 (1) Florists located in this state are liable for sales
482 tax on sales to retail customers regardless of where or by whom
483 the items sold are to be delivered. Florists located in this
484 state are not liable for sales tax on payments received from
485 other florists for items delivered to customers in this state.

486 (m) Operators of game concessions or other concessionaires
487 who customarily award tangible personal property as prizes may,
488 in lieu of paying tax on the cost price of such property, pay
489 tax on 25 percent of the gross receipts from such concession
490 activity.

491 (2) The tax shall be collected by the dealer, as defined
492 herein, and remitted by the dealer to the state at the time and
493 in the manner as hereinafter provided.

494 (3) The tax so levied is in addition to all other taxes,
495 whether levied in the form of excise, license, or privilege
496 taxes, and in addition to all other fees and taxes levied.

497 (4) The tax imposed pursuant to this chapter shall be due
498 and payable according to the algorithm provided ~~brackets set~~
499 ~~forth~~ in s. 212.12.

500 (5) Notwithstanding any other provision of this chapter,
501 the maximum amount of tax imposed under this chapter and
502 collected on each sale or use of a boat in this state may not
503 exceed \$18,000 and on each repair of a boat in this state may
504 not exceed \$60,000.

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505 Section 4. Paragraph (c) of subsection (4) of section
506 212.054, Florida Statutes, is amended to read:

507 212.054 Discretionary sales surtax; limitations,
508 administration, and collection.—

509 (4)

510 (c)1. Any dealer located in a county that does not impose
511 a discretionary sales surtax, any marketplace provider that is a
512 dealer under this chapter, or any person located outside this
513 state who is required to collect and remit sales tax on remote
514 sales ~~but~~ who collects the surtax due to sales of tangible
515 personal property or services delivered to a county imposing a
516 surtax ~~outside the county~~ shall remit monthly the proceeds of
517 the surtax to the department to be deposited into an account in
518 the Discretionary Sales Surtax Clearing Trust Fund which is
519 separate from the county surtax collection accounts. The
520 department shall distribute funds in this account using a
521 distribution factor determined for each county that levies a
522 surtax and multiplied by the amount of funds in the account and
523 available for distribution. The distribution factor for each
524 county equals the product of:

525 a. The county's latest official population determined
526 pursuant to s. 186.901;

527 b. The county's rate of surtax; and

528 c. The number of months the county has levied a surtax
529 during the most recent distribution period;

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530
531 divided by the sum of all such products of the counties levying
532 the surtax during the most recent distribution period.

533 2. The department shall compute distribution factors for
534 eligible counties once each quarter and make appropriate
535 quarterly distributions.

536 3. A county that fails to timely provide the information
537 required by this section to the department authorizes the
538 department, by such action, to use the best information
539 available to it in distributing surtax revenues to the county.
540 If this information is unavailable to the department, the
541 department may partially or entirely disqualify the county from
542 receiving surtax revenues under this paragraph. A county that
543 fails to provide timely information waives its right to
544 challenge the department's determination of the county's share,
545 if any, of revenues provided under this paragraph.

546 Section 5. Section 212.0596, Florida Statutes, is amended
547 to read:

548 (Substantial rewording of section. See

549 s. 212.0596, F.S., for present text.)

550 212.0596 Taxation of remote sales.-

551 (1) As used in this chapter, the term:

552 (a) "Remote sale" means a retail sale of tangible personal
553 property ordered by mail, telephone, the Internet, or other
554 means of communication from a person who receives the order

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555 outside of this state and transports the property or causes the
556 property to be transported from any jurisdiction, including this
557 state, to a location in this state. For purposes of this
558 paragraph, tangible personal property delivered to a location
559 within this state is presumed to be used, consumed, distributed,
560 or stored to be used or consumed in this state.

561 (b) "Substantial number of remote sales" means any number
562 of taxable remote sales in the previous calendar year in which
563 the sum of the sales prices, as defined in s. 212.02(16),
564 exceeded \$100,000.

565 (2) Every person making a substantial number of remote
566 sales is a dealer for purposes of this chapter.

567 (3) The department may establish by rule procedures for
568 collecting the use tax from unregistered persons who but for
569 their remote purchases would not be required to remit sales or
570 use tax directly to the department. The procedures may provide
571 for waiver of registration, provisions for irregular remittance
572 of tax, elimination of the collection allowance, and
573 nonapplication of local option surtaxes.

574 (4) A marketplace provider that is a dealer under this
575 chapter or a person who is required to collect and remit sales
576 tax on remote sales is required to collect surtax when the
577 taxable item of tangible personal property is delivered within a
578 county imposing a surtax as provided in s. 212.054(3)(a).

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579 Section 6. Section 212.05965, Florida Statutes, is created
580 to read:

581 212.05965 Taxation of marketplace sales.-

582 (1) As used in this chapter, the term:

583 (a) "Marketplace" means any physical place or electronic
584 medium through which tangible personal property is offered for
585 sale.

586 (b) "Marketplace provider" means a person who facilitates
587 a retail sale by a marketplace seller by listing or advertising
588 for sale by the marketplace seller tangible personal property in
589 a marketplace and who directly, or indirectly through agreements
590 or arrangements with third parties, collects payment from the
591 customer and transmits all or part of the payment to the
592 marketplace seller, regardless of whether the marketplace
593 provider receives compensation or other consideration in
594 exchange for its services.

595 1. The term does not include a person who solely provides
596 travel agency services. As used in this subparagraph, the term
597 "travel agency services" means arranging, booking, or otherwise
598 facilitating for a commission, fee, or other consideration
599 vacation or travel packages, rental cars, or other travel
600 reservations; tickets for domestic or foreign travel by air,
601 rail, ship, bus, or other mode of transportation; or hotel or
602 other lodging accommodations.

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603 2. The term does not include a person who is a delivery
604 network company unless the delivery network company is a
605 registered dealer for purposes of this chapter and the delivery
606 network company notifies all local merchants that sell through
607 the delivery network company's website or mobile application
608 that the delivery network company is subject to the requirements
609 of a marketplace provider under this section. As used in this
610 subparagraph, the term:

611 a. "Delivery network company" means a person who maintains
612 a website or mobile application used to facilitate delivery
613 services, the sale of local products, or both.

614 b. "Delivery network courier" means a person who provides
615 delivery services through a delivery network company website or
616 mobile application using a personal means of transportation,
617 such as a motor vehicle as defined in s. 320.01(1), bicycle,
618 scooter, or other similar means of transportation; using public
619 transportation; or by walking.

620 c. "Delivery services" means the pickup and delivery by a
621 delivery network courier of one or more local products from a
622 local merchant to a customer, which may include the selection,
623 collection, and purchase of the local product in connection with
624 the delivery. The term does not include any delivery requiring
625 more than 75 miles of travel from the local merchant to the
626 customer.

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627 d. "Local merchant" means a kitchen, a restaurant, or a
628 third-party merchant, including a grocery store, retail store,
629 convenience store, or business of another type, which is not
630 under common ownership or control of the delivery network
631 company.

632 e. "Local product" means any tangible personal property,
633 including food but excluding freight, mail, or a package to
634 which postage has been affixed.

635 3. The term does not include a payment processor business
636 that processes payment transactions from various channels, such
637 as charge cards, credit cards, or debit cards, and whose sole
638 activity with respect to marketplace sales is to process payment
639 transactions between two or more parties.

640 (c) "Marketplace seller" means a person who has an
641 agreement with a marketplace provider that is a dealer under
642 this chapter and who makes retail sales of tangible personal
643 property through a marketplace owned, operated, or controlled by
644 the marketplace provider.

645 (2) A marketplace provider that has a physical presence in
646 this state or who is making or facilitating through a
647 marketplace a substantial number of remote sales as defined in
648 s. 212.0596(1) is a dealer for purposes of this chapter.

649 (3) A marketplace provider that is a dealer under this
650 chapter shall certify to its marketplace sellers that it will
651 collect and remit the tax imposed under this chapter on taxable

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652 retail sales made through the marketplace. Such certification
653 may be included in the agreement between the marketplace
654 provider and the marketplace seller.

655 (4) (a) A marketplace seller may not collect and remit the
656 tax under this chapter on a taxable retail sale when the sale is
657 made through the marketplace and the marketplace provider
658 certifies, as required under subsection (3), that it will
659 collect and remit such tax. A marketplace seller shall exclude
660 such sales made through the marketplace from the marketplace
661 seller's tax return under s. 212.11.

662 (b)1. A marketplace seller who has a physical presence in
663 this state shall register and shall collect and remit the tax
664 imposed under this chapter on all taxable retail sales made
665 outside of the marketplace.

666 2. A marketplace seller who is not described under
667 subparagraph 1. but who makes a substantial number of remote
668 sales as defined in s. 212.0596(1) shall register and shall
669 collect and remit the tax imposed under this chapter on all
670 taxable retail sales made outside of the marketplace. For the
671 purpose of determining whether a marketplace seller made a
672 substantial number of remote sales, the marketplace seller shall
673 consider only those sales made outside of a marketplace.

674 (5) (a) A marketplace provider that is a dealer under this
675 chapter shall allow the department to examine and audit its
676 books and records pursuant to s. 212.13. For retail sales

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677 facilitated through a marketplace, the department may not
678 examine or audit the books and records of marketplace sellers,
679 nor may the department assess marketplace sellers except to the
680 extent that the marketplace provider seeks relief under
681 paragraph (b). The department may examine, audit, and assess a
682 marketplace seller for retail sales made outside of a
683 marketplace under paragraph (4) (b). This paragraph does not
684 provide relief to a marketplace seller who is under audit; has
685 been issued a bill, notice, or demand for payment; or is under
686 an administrative or judicial proceeding before July 1, 2021.

687 (b) The marketplace provider is relieved of liability for
688 the tax on the retail sale and the marketplace seller or
689 customer is liable for the tax imposed under this chapter if the
690 marketplace provider demonstrates to the department's
691 satisfaction that the marketplace provider made a reasonable
692 effort to obtain accurate information related to the retail
693 sales facilitated through the marketplace from the marketplace
694 seller, but that the failure to collect and remit the correct
695 amount of tax imposed under this chapter was due to the
696 provision of incorrect or incomplete information to the
697 marketplace provider by the marketplace seller. This paragraph
698 does not apply to a retail sale for which the marketplace
699 provider is the seller if the marketplace provider and the
700 marketplace seller are related parties or if transactions

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701 between a marketplace seller and marketplace buyer are not
702 conducted at arm's length.

703 (6) For purposes of registration pursuant to s. 212.18, a
704 marketplace is deemed a separate place of business.

705 (7) A marketplace provider and a marketplace seller may
706 agree by contract or otherwise that if a marketplace provider
707 pays the tax imposed under this chapter on a retail sale
708 facilitated through a marketplace for a marketplace seller as a
709 result of an audit or otherwise, the marketplace provider has
710 the right to recover such tax and any associated interest and
711 penalties from the marketplace seller.

712 (8) This section may not be construed to authorize the
713 state to collect sales tax from both the marketplace provider
714 and the marketplace seller on the same retail sale.

715 (9) Chapter 213 applies to the administration of this
716 section to the extent that chapter does not conflict with this
717 section.

718 Section 7. Effective April 1, 2022, subsections (10) and
719 (11) are added to section 212.05965, Florida Statutes, as
720 created by this act, to read:

721 212.05965 Taxation of marketplace sales.-

722 (10) Notwithstanding any other law, the marketplace
723 provider is also responsible for collecting and remitting any
724 prepaid wireless E911 fee under s. 365.172, waste tire fee under
725 s. 403.718, and lead-acid battery fee under s. 403.7185 at the

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726 time of sale for taxable retail sales made through its
727 marketplace.

728 (11) Notwithstanding paragraph (4) (a), the marketplace
729 provider and the marketplace seller may contractually agree to
730 have the marketplace seller collect and remit all applicable
731 taxes and fees if the marketplace seller:

732 (a) Has annual United States gross sales of more than \$1
733 billion, including the gross sales of any related entities, and
734 in the case of franchised entities, including the combined sales
735 of all franchisees of a single franchisor;

736 (b) Provides evidence to the marketplace provider that it
737 is registered under s. 212.18; and

738 (c) Notifies the department in a manner prescribed by the
739 department that the marketplace seller will collect and remit
740 all applicable taxes and fees on its sales through the
741 marketplace and is liable for failure to collect or remit
742 applicable taxes and fees on its sales.

743 Section 8. Paragraph (c) of subsection (2) and paragraph
744 (a) of subsection (5) of section 212.06, Florida Statutes, are
745 amended to read:

746 212.06 Sales, storage, use tax; collectible from dealers;
747 "dealer" defined; dealers to collect from purchasers;
748 legislative intent as to scope of tax.-

749 (2)

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750 (c) The term "dealer" is further defined to mean every
751 person, as used in this chapter, who sells at retail or who
752 offers for sale at retail, or who has in his or her possession
753 for sale at retail; or for use, consumption, or distribution; or
754 for storage to be used or consumed in this state, tangible
755 personal property as defined herein, including a retailer who
756 transacts a substantial number of remote sales or a marketplace
757 provider that has a physical presence in this state or that
758 makes or facilitates through its marketplace a substantial
759 number of remote sales ~~mail order sale.~~

760 (5) (a) 1. Except as provided in subparagraph 2., it is not
761 the intention of this chapter to levy a tax upon tangible
762 personal property imported, produced, or manufactured in this
763 state for export, provided that tangible personal property may
764 not be considered as being imported, produced, or manufactured
765 for export unless the importer, producer, or manufacturer
766 delivers the same to a licensed exporter for exporting or to a
767 common carrier for shipment outside the state or mails the same
768 by United States mail to a destination outside the state; or, in
769 the case of aircraft being exported under their own power to a
770 destination outside the continental limits of the United States,
771 by submission to the department of a duly signed and validated
772 United States customs declaration, showing the departure of the
773 aircraft from the continental United States; and further with
774 respect to aircraft, the canceled United States registry of said

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775 aircraft; or in the case of parts and equipment installed on
776 aircraft of foreign registry, by submission to the department of
777 documentation, the extent of which shall be provided by rule,
778 showing the departure of the aircraft from the continental
779 United States; nor is it the intention of this chapter to levy a
780 tax on any sale which the state is prohibited from taxing under
781 the Constitution or laws of the United States. Every retail sale
782 made to a person physically present at the time of sale shall be
783 presumed to have been delivered in this state.

784 2.a. Notwithstanding subparagraph 1., a tax is levied on
785 each sale of tangible personal property to be transported to a
786 cooperating state as defined in sub-subparagraph c., at the rate
787 specified in sub-subparagraph d. However, a Florida dealer will
788 be relieved from the requirements of collecting taxes pursuant
789 to this subparagraph if the Florida dealer obtains from the
790 purchaser an affidavit setting forth the purchaser's name,
791 address, state taxpayer identification number, and a statement
792 that the purchaser is aware of his or her state's use tax laws,
793 is a registered dealer in Florida or another state, or is
794 purchasing the tangible personal property for resale or is
795 otherwise not required to pay the tax on the transaction. The
796 department may, by rule, provide a form to be used for the
797 purposes set forth herein.

798 b. For purposes of this subparagraph, "a cooperating
799 state" is one determined by the executive director of the

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800 department to cooperate satisfactorily with this state in
801 collecting taxes on remote ~~mail-order~~ sales. No state shall be
802 so determined unless it meets all the following minimum
803 requirements:

804 (I) It levies and collects taxes on remote ~~mail-order~~
805 sales of property transported from that state to persons in this
806 state, as described in s. 212.0596, upon request of the
807 department.

808 (II) The tax so collected shall be at the rate specified
809 in s. 212.05, not including any local option or tourist or
810 convention development taxes collected pursuant to s. 125.0104
811 or this chapter.

812 (III) Such state agrees to remit to the department all
813 taxes so collected no later than 30 days from the last day of
814 the calendar quarter following their collection.

815 (IV) Such state authorizes the department to audit dealers
816 within its jurisdiction who make remote ~~mail-order~~ sales that
817 are the subject of s. 212.0596, or makes arrangements deemed
818 adequate by the department for auditing them with its own
819 personnel.

820 (V) Such state agrees to provide to the department records
821 obtained by it from retailers or dealers in such state showing
822 delivery of tangible personal property into this state upon
823 which no sales or use tax has been paid in a manner similar to
824 that provided in sub-subparagraph g.

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825 c. For purposes of this subparagraph, "sales of tangible
826 personal property to be transported to a cooperating state"
827 means remote ~~mail-order~~ sales to a person who is in the
828 cooperating state at the time the order is executed, from a
829 dealer who receives that order in this state.

830 d. The tax levied by sub-subparagraph a. shall be at the
831 rate at which such a sale would have been taxed pursuant to the
832 cooperating state's tax laws if consummated in the cooperating
833 state by a dealer and a purchaser, both of whom were physically
834 present in that state at the time of the sale.

835 e. The tax levied by sub-subparagraph a., when collected,
836 shall be held in the State Treasury in trust for the benefit of
837 the cooperating state and shall be paid to it at a time agreed
838 upon between the department, acting for this state, and the
839 cooperating state or the department or agency designated by it
840 to act for it; however, such payment shall in no event be made
841 later than 30 days from the last day of the calendar quarter
842 after the tax was collected. Funds held in trust for the benefit
843 of a cooperating state shall not be subject to the service
844 charges imposed by s. 215.20.

845 f. The department is authorized to perform such acts and
846 to provide such cooperation to a cooperating state with
847 reference to the tax levied by sub-subparagraph a. as is
848 required of the cooperating state by sub-subparagraph b.

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849 g. In furtherance of this act, dealers selling tangible
850 personal property for delivery in another state shall make
851 available to the department, upon request of the department,
852 records of all tangible personal property so sold. Such records
853 shall include a description of the property, the name and
854 address of the purchaser, the name and address of the person to
855 whom the property was sent, the purchase price of the property,
856 information regarding whether sales tax was paid in this state
857 on the purchase price, and such other information as the
858 department may by rule prescribe.

859 Section 9. Paragraph (b) of subsection (1) of section
860 212.07, Florida Statutes, is amended to read:

861 212.07 Sales, storage, use tax; tax added to purchase
862 price; dealer not to absorb; liability of purchasers who cannot
863 prove payment of the tax; penalties; general exemptions.—

864 (1)

865 (b) A resale must be in strict compliance with s. 212.18
866 and the rules and regulations adopted thereunder. A dealer who
867 makes a sale for resale that is not in strict compliance with s.
868 212.18 and the rules and regulations adopted thereunder is
869 liable for and must pay the tax. A dealer who makes a sale for
870 resale shall document the exempt nature of the transaction, as
871 established by rules adopted by the department, by retaining a
872 copy of the purchaser's resale certificate. In lieu of
873 maintaining a copy of the certificate, a dealer may document,

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874 before the time of sale, an authorization number provided
875 telephonically or electronically by the department, or by such
876 other means established by rule of the department. The dealer
877 may rely on a resale certificate issued pursuant to s.
878 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
879 the purchaser, without seeking annual verification of the resale
880 certificate if the dealer makes recurring sales to a purchaser
881 in the normal course of business on a continual basis. For
882 purposes of this paragraph, "recurring sales to a purchaser in
883 the normal course of business" refers to a sale in which the
884 dealer extends credit to the purchaser and records the debt as
885 an account receivable, or in which the dealer sells to a
886 purchaser who has an established cash or C.O.D. account, similar
887 to an open credit account. For purposes of this paragraph,
888 purchases are made from a selling dealer on a continual basis if
889 the selling dealer makes, in the normal course of business,
890 sales to the purchaser at least once in every 12-month period. A
891 dealer may, through the informal protest provided for in s.
892 213.21 and the rules of the department, provide the department
893 with evidence of the exempt status of a sale. Consumer
894 certificates of exemption executed by those exempt entities that
895 were registered with the department at the time of sale, resale
896 certificates provided by purchasers who were active dealers at
897 the time of sale, and verification by the department of a
898 purchaser's active dealer status at the time of sale in lieu of

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899 a resale certificate shall be accepted by the department when
900 submitted during the protest period, but may not be accepted in
901 any proceeding under chapter 120 or any circuit court action
902 instituted under chapter 72.

903 Section 10. Paragraph (f) is added to subsection (4) of
904 section 212.11, Florida Statutes, to read:

905 212.11 Tax returns and regulations.—

906 (4)

907 (f) A marketplace provider that is a dealer under this
908 chapter or a person who is required to collect and remit sales
909 tax on remote sales shall file returns and pay taxes by
910 electronic means under s. 213.755.

911 Section 11. Paragraph (a) of subsection (1), paragraph (a)
912 of subsection (5), and subsections (9), (10), (11), and (14) of
913 section 212.12, Florida Statutes, are amended to read:

914 212.12 Dealer's credit for collecting tax; penalties for
915 noncompliance; powers of Department of Revenue in dealing with
916 delinquents; rounding brackets applicable to taxable
917 transactions; records required.—

918 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose
919 of compensating persons granting licenses for and the lessors of
920 real and personal property taxed hereunder, for the purpose of
921 compensating dealers in tangible personal property, for the
922 purpose of compensating dealers providing communication services
923 and taxable services, for the purpose of compensating owners of

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924 places where admissions are collected, and for the purpose of
925 compensating remitters of any taxes or fees reported on the same
926 documents utilized for the sales and use tax, as compensation
927 for the keeping of prescribed records, filing timely tax
928 returns, and the proper accounting and remitting of taxes by
929 them, such seller, person, lessor, dealer, owner, and remitter
930 ~~(except dealers who make mail order sales)~~ who files the return
931 required pursuant to s. 212.11 only by electronic means and who
932 pays the amount due on such return only by electronic means
933 shall be allowed 2.5 percent of the amount of the tax due,
934 accounted for, and remitted to the department in the form of a
935 deduction. However, if the amount of the tax due and remitted to
936 the department by electronic means for the reporting period
937 exceeds \$1,200, an allowance is not allowed for all amounts in
938 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
939 the term "electronic means" has the same meaning as provided in
940 s. 213.755(2)(c).

941 ~~2. The executive director of the department is authorized~~
942 ~~to negotiate a collection allowance, pursuant to rules~~
943 ~~promulgated by the department, with a dealer who makes mail~~
944 ~~order sales. The rules of the department shall provide~~
945 ~~guidelines for establishing the collection allowance based upon~~
946 ~~the dealer's estimated costs of collecting the tax, the volume~~
947 ~~and value of the dealer's mail order sales to purchasers in this~~
948 ~~state, and the administrative and legal costs and likelihood of~~

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949 ~~achieving collection of the tax absent the cooperation of the~~
950 ~~dealer. However, in no event shall the collection allowance~~
951 ~~negotiated by the executive director exceed 10 percent of the~~
952 ~~tax remitted for a reporting period.~~

953 (5) (a) The department is authorized to audit or inspect
954 the records and accounts of dealers defined herein, including
955 audits or inspections of dealers who make remote ~~mail order~~
956 ~~sales to the extent permitted by another state~~, and to correct
957 by credit any overpayment of tax, and, in the event of a
958 deficiency, an assessment shall be made and collected. No
959 administrative finding of fact is necessary prior to the
960 assessment of any tax deficiency.

961 (9) Taxes imposed by this chapter upon the privilege of
962 the use, consumption, storage for consumption, or sale of
963 tangible personal property, admissions, license fees, rentals,
964 ~~communication services~~, and upon the sale or use of services as
965 herein taxed shall be collected upon the basis of an addition of
966 the tax imposed by this chapter to the total price of such
967 admissions, license fees, rentals, ~~communication~~ or ~~other~~
968 services, or sale price of such article or articles that are
969 purchased, sold, or leased at any one time by or to a customer
970 or buyer; the dealer, or person charged herein, is required to
971 pay a privilege tax in the amount of the tax imposed by this
972 chapter on the total of his or her gross sales of tangible
973 personal property, admissions, license fees, and rentals, ~~and~~

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974 ~~communication services~~ or to collect a tax upon the sale or use
975 of services, and such person or dealer shall add the tax imposed
976 by this chapter to the price, license fee, rental, ~~or~~
977 admissions, ~~and communication~~ or ~~other~~ services and collect the
978 total sum from the purchaser, admittee, licensee, lessee, or
979 consumer. ~~The department shall make available in an electronic~~
980 ~~format or otherwise the tax amounts and the following brackets~~
981 ~~applicable to all transactions taxable at the rate of 6 percent:~~
982 ~~(a) On single sales of less than 10 cents, no tax shall be~~
983 ~~added.~~
984 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
985 ~~both inclusive, 1 cent shall be added for taxes.~~
986 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
987 ~~inclusive, 2 cents shall be added for taxes.~~
988 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
989 ~~inclusive, 3 cents shall be added for taxes.~~
990 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
991 ~~inclusive, 4 cents shall be added for taxes.~~
992 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
993 ~~inclusive, 5 cents shall be added for taxes.~~
994 ~~(g) On sales in amounts from 84 cents to \$1, both~~
995 ~~inclusive, 6 cents shall be added for taxes.~~
996 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~
997 ~~be charged upon each dollar of price, plus the appropriate~~
998 ~~bracket charge upon any fractional part of a dollar.~~

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999 (10) (a) A dealer must calculate the tax due on the
1000 privilege of the use, consumption, storage for consumption, or
1001 sale of tangible personal property, admissions, license fees,
1002 rentals, and upon the sale or use of services, based on a
1003 rounding algorithm that meets the following criteria:

1004 1. The computation of the tax must be carried to the third
1005 decimal place.

1006 2. The tax must be rounded to the whole cent using a
1007 method that rounds up to the next cent whenever the third
1008 decimal place is greater than four.

1009 (b) A dealer may apply the rounding algorithm to the
1010 aggregate tax amount computed on all taxable items on an invoice
1011 or to the taxable amount on each individual item on the invoice
1012 ~~In counties which have adopted a discretionary sales surtax at~~
1013 ~~the rate of 1 percent, the department shall make available in an~~
1014 ~~electronic format or otherwise the tax amounts and the following~~
1015 ~~brackets applicable to all taxable transactions that would~~
1016 ~~otherwise have been transactions taxable at the rate of 6~~
1017 ~~percent:~~

1018 ~~(a) On single sales of less than 10 cents, no tax shall be~~
1019 ~~added.~~

1020 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
1021 ~~both inclusive, 1 cent shall be added for taxes.~~

1022 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
1023 ~~inclusive, 2 cents shall be added for taxes.~~

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1024 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
1025 ~~inclusive, 3 cents shall be added for taxes.~~

1026 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
1027 ~~inclusive, 4 cents shall be added for taxes.~~

1028 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
1029 ~~inclusive, 5 cents shall be added for taxes.~~

1030 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
1031 ~~inclusive, 6 cents shall be added for taxes.~~

1032 ~~(h) On sales in amounts from 86 cents to \$1, both~~
1033 ~~inclusive, 7 cents shall be added for taxes.~~

1034 ~~(i) On sales in amounts from \$1 up to, and including, the~~
1035 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
1036 ~~dollar of price, plus the appropriate bracket charge upon any~~
1037 ~~fractional part of a dollar.~~

1038 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
1039 ~~percent shall be added upon the first \$5,000 in price, and 6~~
1040 ~~percent shall be added upon each dollar of price in excess of~~
1041 ~~the first \$5,000 in price, plus the bracket charges upon any~~
1042 ~~fractional part of a dollar as provided for in subsection (9).~~

1043 ~~(11) The department shall make available in an electronic~~
1044 ~~format or otherwise the tax amounts and brackets applicable to~~
1045 ~~all taxable transactions that occur in counties that have a~~
1046 ~~surtax at a rate other than 1 percent which would otherwise have~~
1047 ~~been transactions taxable at the rate of 6 percent. Likewise,~~
1048 ~~the department shall make available in an electronic format or~~

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1049 ~~otherwise the tax amounts and brackets applicable to~~
1050 ~~transactions taxable at 4.35 percent pursuant to s.~~
1051 ~~212.05(1)(c)1.c. or the applicable tax rate pursuant to s.~~
1052 ~~212.031(1) and on transactions which would otherwise have been~~
1053 ~~so taxable in counties which have adopted a discretionary sales~~
1054 ~~surtax.~~

1055 ~~(14) If it is determined upon audit that a dealer has~~
1056 ~~collected and remitted taxes by applying the applicable tax rate~~
1057 ~~to each transaction as described in subsection (9) and rounding~~
1058 ~~the tax due to the nearest whole cent rather than applying the~~
1059 ~~appropriate bracket system provided by law or department rule,~~
1060 ~~the dealer shall not be held liable for additional tax, penalty,~~
1061 ~~and interest resulting from such failure if:~~

1062 ~~(a) The dealer acted in a good faith belief that rounding~~
1063 ~~to the nearest whole cent was the proper method of determining~~
1064 ~~the amount of tax due on each taxable transaction.~~

1065 ~~(b) The dealer timely reported and remitted all taxes~~
1066 ~~collected on each taxable transaction.~~

1067 ~~(c) The dealer agrees in writing to future compliance with~~
1068 ~~the laws and rules concerning brackets applicable to the~~
1069 ~~dealer's transactions.~~

1070 Section 12. Present paragraphs (c) through (f) of
1071 subsection (3) of section 212.18, Florida Statutes, are
1072 redesignated as paragraphs (d) through (g), respectively, a new

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1073 paragraph (c) is added to that subsection, and present paragraph
1074 (f) of that subsection is amended, to read:

1075 212.18 Administration of law; registration of dealers;
1076 rules.-

1077 (3)

1078 (c) A marketplace provider that is a dealer under this
1079 chapter or a person who is required to collect and remit sales
1080 tax on remote sales must file with the department an application
1081 for a certificate of registration electronically.

1082 (g)~~(f)~~ As used in this paragraph, the term "exhibitor"
1083 means a person who enters into an agreement authorizing the
1084 display of tangible personal property or services at a
1085 convention or a trade show. The following provisions apply to
1086 the registration of exhibitors as dealers under this chapter:

1087 1. An exhibitor whose agreement prohibits the sale of
1088 tangible personal property or services subject to the tax
1089 imposed in this chapter is not required to register as a dealer.

1090 2. An exhibitor whose agreement provides for the sale at
1091 wholesale only of tangible personal property or services subject
1092 to the tax imposed by this chapter must obtain a resale
1093 certificate from the purchasing dealer but is not required to
1094 register as a dealer.

1095 3. An exhibitor whose agreement authorizes the retail sale
1096 of tangible personal property or services subject to the tax

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1097 imposed by this chapter must register as a dealer and collect
1098 the tax on such sales.

1099 4. An exhibitor who makes a remote ~~mail-order~~ sale
1100 pursuant to s. 212.0596 must register as a dealer.

1101
1102 A person who conducts a convention or a trade show must make his
1103 or her exhibitor's agreements available to the department for
1104 inspection and copying.

1105

1106

1107

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

1108

Remove lines 7-111 and insert:

1109

reducing the sales and use tax rate; conforming

1110

provisions to changes made by the act; amending s.

1111

212.054, F.S.; requiring marketplace providers and

1112

persons located outside of this state to remit

1113

discretionary sales surtax when delivering tangible

1114

personal property to a county imposing a surtax;

1115

amending s. 212.0596, F.S.; replacing provisions

1116

relating to the taxation of mail order sales with

1117

provisions relating to the taxation of remote sales;

1118

defining the terms "remote sale" and "substantial

1119

number of remote sales"; providing that every person

1120

making a substantial number of remote sales is a

1121

dealer for purposes of the sales and use tax;

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1122 authorizing the Department of Revenue to adopt rules
1123 for collecting use taxes from unregistered persons;
1124 requiring marketplace providers and persons required
1125 to report remote sales to remit discretionary sales
1126 surtax when delivering tangible personal property to a
1127 county imposing a surtax; creating s. 212.05965, F.S.;
1128 defining terms; providing that certain marketplace
1129 providers are dealers for purposes of the sales and
1130 use tax; requiring certain marketplace providers to
1131 provide a certain certification to their marketplace
1132 sellers; specifying requirements for marketplace
1133 sellers; requiring certain marketplace providers to
1134 allow the Department of Revenue to examine and audit
1135 their books and records; specifying the examination
1136 and audit authority of the Department of Revenue;
1137 providing that a marketplace seller, rather than the
1138 marketplace provider, is liable for sales tax
1139 collection and remittance under certain circumstances;
1140 authorizing marketplace providers and marketplace
1141 sellers to enter into agreements for the recovery of
1142 certain taxes, interest, and penalties; providing
1143 construction and applicability; amending s. 212.05965,
1144 F.S.; requiring marketplace providers to collect and
1145 remit certain additional fees at the time of sale;
1146 authorizing marketplace providers and marketplace

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1147 sellers to contractually agree for marketplace sellers
1148 to collect applicable taxes and fees; specifying
1149 requirements for marketplace sellers who collect such
1150 taxes and fees; providing for liability of sellers who
1151 fail to collect or remit such taxes and fees; amending
1152 s. 212.06, F.S.; revising the definition of the term
1153 "dealer"; conforming provisions to changes made by the
1154 act; amending s. 212.07, F.S.; conforming a cross-
1155 reference; amending s. 212.11, F.S.; requiring certain
1156 marketplace providers or persons required to report
1157 remote sales to file returns and pay taxes
1158 electronically; amending s. 212.12, F.S.; deleting the
1159 authority of the Department of Revenue's executive
1160 director to negotiate a collection allowance with
1161 certain dealers; deleting the requirement that certain
1162 sales and use taxes on communications services be
1163 collected on the basis of a certain addition;
1164 requiring that certain sales and use taxes be
1165 calculated based on a specified rounding algorithm,
1166 rather than specified brackets; conforming provisions
1167 to changes made by the act; amending s. 212.18, F.S.;
1168 requiring certain marketplace providers or persons
1169 required to report remote sales to file a registration
1170 application electronically; conforming a provision to

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1171 | changes made by the act; amending ss. 212.04 and
1172 | 212.0506, F.S.;

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