

By Senator Hooper

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1                   A bill to be entitled  
2       An act relating to sales tax; amending s. 212.05,  
3       F.S.; specifying the sales tax rate on mobile homes  
4       subject to sales tax as tangible personal property;  
5       providing an exception; providing an effective date.  
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7 Be It Enacted by the Legislature of the State of Florida:  
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9       Section 1. Paragraph (a) of subsection (1) of section  
10      212.05, Florida Statutes, is amended to read:

11       212.05 Sales, storage, use tax.—It is hereby declared to be  
12      the legislative intent that every person is exercising a taxable  
13      privilege who engages in the business of selling tangible  
14      personal property at retail in this state, including the  
15      business of making or facilitating remote sales; who rents or  
16      furnishes any of the things or services taxable under this  
17      chapter; or who stores for use or consumption in this state any  
18      item or article of tangible personal property as defined herein  
19      and who leases or rents such property within the state.

20       (1) For the exercise of such privilege, a tax is levied on  
21      each taxable transaction or incident, which tax is due and  
22      payable as follows:

23       (a)1.a. At the rate of 6 percent of the sales price of each  
24      item or article of tangible personal property when sold at  
25      retail in this state, computed on each taxable sale for the  
26      purpose of remitting the amount of tax due the state, and  
27      including each and every retail sale.

28       b. Each occasional or isolated sale of an aircraft, boat,  
29      mobile home, or motor vehicle of a class or type which is

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30 required to be registered, licensed, titled, or documented in  
31 this state or by the United States Government shall be subject  
32 to tax at the rate provided in this paragraph. A mobile home  
33 must be assessed sales tax at a rate of 6 percent on 50 percent  
34 of the sales price of the mobile home, if subject to sales tax  
35 as tangible personal property. However, a mobile home is not  
36 subject to sales tax if the mobile home will be permanently  
37 affixed to the land and the purchaser signs an affidavit stating  
38 that he or she intends to seek an "RP" series sticker pursuant  
39 to s. 320.0815(2). The department shall by rule adopt any  
40 nationally recognized publication for valuation of used motor  
41 vehicles as the reference price list for any used motor vehicle  
42 which is required to be licensed pursuant to s. 320.08(1), (2),  
43 (3)(a), (b), (c), or (e), or (9). If any party to an occasional  
44 or isolated sale of such a vehicle reports to the tax collector  
45 a sales price which is less than 80 percent of the average loan  
46 price for the specified model and year of such vehicle as listed  
47 in the most recent reference price list, the tax levied under  
48 this paragraph shall be computed by the department on such  
49 average loan price unless the parties to the sale have provided  
50 to the tax collector an affidavit signed by each party, or other  
51 substantial proof, stating the actual sales price. Any party to  
52 such sale who reports a sales price less than the actual sales  
53 price is guilty of a misdemeanor of the first degree, punishable  
54 as provided in s. 775.082 or s. 775.083. The department shall  
55 collect or attempt to collect from such party any delinquent  
56 sales taxes. In addition, such party shall pay any tax due and  
57 any penalty and interest assessed plus a penalty equal to twice  
58 the amount of the additional tax owed. Notwithstanding any other

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59 provision of law, the Department of Revenue may waive or  
60 compromise any penalty imposed pursuant to this subparagraph.

61 2. This paragraph does not apply to the sale of a boat or  
62 aircraft by or through a registered dealer under this chapter to  
63 a purchaser who, at the time of taking delivery, is a  
64 nonresident of this state, does not make his or her permanent  
65 place of abode in this state, and is not engaged in carrying on  
66 in this state any employment, trade, business, or profession in  
67 which the boat or aircraft will be used in this state, or is a  
68 corporation none of the officers or directors of which is a  
69 resident of, or makes his or her permanent place of abode in,  
70 this state, or is a noncorporate entity that has no individual  
71 vested with authority to participate in the management,  
72 direction, or control of the entity's affairs who is a resident  
73 of, or makes his or her permanent abode in, this state. For  
74 purposes of this exemption, either a registered dealer acting on  
75 his or her own behalf as seller, a registered dealer acting as  
76 broker on behalf of a seller, or a registered dealer acting as  
77 broker on behalf of the purchaser may be deemed to be the  
78 selling dealer. This exemption shall not be allowed unless:

79 a. The purchaser removes a qualifying boat, as described in  
80 sub-subparagraph f., from the state within 90 days after the  
81 date of purchase or extension, or the purchaser removes a  
82 nonqualifying boat or an aircraft from this state within 10 days  
83 after the date of purchase or, when the boat or aircraft is  
84 repaired or altered, within 20 days after completion of the  
85 repairs or alterations; or if the aircraft will be registered in  
86 a foreign jurisdiction and:

87 (I) Application for the aircraft's registration is properly

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88 filed with a civil airworthiness authority of a foreign  
89 jurisdiction within 10 days after the date of purchase;

90 (II) The purchaser removes the aircraft from the state to a  
91 foreign jurisdiction within 10 days after the date the aircraft  
92 is registered by the applicable foreign airworthiness authority;  
93 and

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

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97 For purposes of this sub-subparagraph, the term "foreign  
98 jurisdiction" means any jurisdiction outside of the United  
99 States or any of its territories;

100 b. The purchaser, within 90 days from the date of  
101 departure, provides the department with written proof that the  
102 purchaser licensed, registered, titled, or documented the boat  
103 or aircraft outside the state. If such written proof is  
104 unavailable, within 90 days the purchaser shall provide proof  
105 that the purchaser applied for such license, title,  
106 registration, or documentation. The purchaser shall forward to  
107 the department proof of title, license, registration, or  
108 documentation upon receipt;

109 c. The purchaser, within 30 days after removing the boat or  
110 aircraft from Florida, furnishes the department with proof of  
111 removal in the form of receipts for fuel, dockage, slippage,  
112 tie-down, or hangaring from outside of Florida. The information  
113 so provided must clearly and specifically identify the boat or  
114 aircraft;

115 d. The selling dealer, within 30 days after the date of  
116 sale, provides to the department a copy of the sales invoice,

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117 closing statement, bills of sale, and the original affidavit  
118 signed by the purchaser attesting that he or she has read the  
119 provisions of this section;

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

122 f. Unless the nonresident purchaser of a boat of 5 net tons  
123 of admeasurement or larger intends to remove the boat from this  
124 state within 10 days after the date of purchase or when the boat  
125 is repaired or altered, within 20 days after completion of the  
126 repairs or alterations, the nonresident purchaser applies to the  
127 selling dealer for a decal which authorizes 90 days after the  
128 date of purchase for removal of the boat. The nonresident  
129 purchaser of a qualifying boat may apply to the selling dealer  
130 within 60 days after the date of purchase for an extension decal  
131 that authorizes the boat to remain in this state for an  
132 additional 90 days, but not more than a total of 180 days,  
133 before the nonresident purchaser is required to pay the tax  
134 imposed by this chapter. The department is authorized to issue  
135 decals in advance to dealers. The number of decals issued in  
136 advance to a dealer shall be consistent with the volume of the  
137 dealer's past sales of boats which qualify under this sub-  
138 subparagraph. The selling dealer or his or her agent shall mark  
139 and affix the decals to qualifying boats in the manner  
140 prescribed by the department, before delivery of the boat.

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

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

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

149 (IV) The department is authorized to require dealers who  
150 purchase decals to file reports with the department and may  
151 prescribe all necessary records by rule. All such records are  
152 subject to inspection by the department.

153 (V) Any dealer or his or her agent who issues a decal  
154 falsely, fails to affix a decal, mismarks the expiration date of  
155 a decal, or fails to properly account for decals will be  
156 considered prima facie to have committed a fraudulent act to  
157 evade the tax and will be liable for payment of the tax plus a  
158 mandatory penalty of 200 percent of the tax, and shall be liable  
159 for fine and punishment as provided by law for a conviction of a  
160 misdemeanor of the first degree, as provided in s. 775.082 or s.  
161 775.083.

162 (VI) Any nonresident purchaser of a boat who removes a  
163 decal before permanently removing the boat from the state, or  
164 defaces, changes, modifies, or alters a decal in a manner  
165 affecting its expiration date before its expiration, or who  
166 causes or allows the same to be done by another, will be  
167 considered prima facie to have committed a fraudulent act to  
168 evade the tax and will be liable for payment of the tax plus a  
169 mandatory penalty of 200 percent of the tax, and shall be liable  
170 for fine and punishment as provided by law for a conviction of a  
171 misdemeanor of the first degree, as provided in s. 775.082 or s.  
172 775.083.

173 (VII) The department is authorized to adopt rules necessary  
174 to administer and enforce this subparagraph and to publish the

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175 necessary forms and instructions.

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

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180 If the purchaser fails to remove the qualifying boat from this  
181 state within the maximum 180 days after purchase or a  
182 nonqualifying boat or an aircraft from this state within 10 days  
183 after purchase or, when the boat or aircraft is repaired or  
184 altered, within 20 days after completion of such repairs or  
185 alterations, or permits the boat or aircraft to return to this  
186 state within 6 months from the date of departure, except as  
187 provided in s. 212.08(7) (fff), or if the purchaser fails to  
188 furnish the department with any of the documentation required by  
189 this subparagraph within the prescribed time period, the  
190 purchaser shall be liable for use tax on the cost price of the  
191 boat or aircraft and, in addition thereto, payment of a penalty  
192 to the Department of Revenue equal to the tax payable. This  
193 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
194 The maximum 180-day period following the sale of a qualifying  
195 boat tax-exempt to a nonresident may not be tolled for any  
196 reason.

197 Section 2. This act shall take effect upon becoming a law.