

1 A bill to be entitled
 2 An act relating to a sales tax exemption for certain
 3 investigation and security services; amending s.
 4 212.08, F.S.; exempting charges for investigation and
 5 personal background check services, security guards
 6 and patrol services, and armored car services from the
 7 sales and use tax; defining the term "NAICS"; amending
 8 ss. 212.05, 790.06, and 790.062, F.S.; conforming
 9 provisions to changes made by the act; providing an
 10 effective date.

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

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 14 Section 1. Paragraph (qqq) is added to subsection (7) of
 15 section 212.08, Florida Statutes, to read:

16 212.08 Sales, rental, use, consumption, distribution, and
 17 storage tax; specified exemptions.—The sale at retail, the
 18 rental, the use, the consumption, the distribution, and the
 19 storage to be used or consumed in this state of the following
 20 are hereby specifically exempt from the tax imposed by this
 21 chapter.

22 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 23 entity by this chapter do not inure to any transaction that is
 24 otherwise taxable under this chapter when payment is made by a
 25 representative or employee of the entity by any means,

26 including, but not limited to, cash, check, or credit card, even
 27 when that representative or employee is subsequently reimbursed
 28 by the entity. In addition, exemptions provided to any entity by
 29 this subsection do not inure to any transaction that is
 30 otherwise taxable under this chapter unless the entity has
 31 obtained a sales tax exemption certificate from the department
 32 or the entity obtains or provides other documentation as
 33 required by the department. Eligible purchases or leases made
 34 with such a certificate must be in strict compliance with this
 35 subsection and departmental rules, and any person who makes an
 36 exempt purchase with a certificate that is not in strict
 37 compliance with this subsection and the rules is liable for and
 38 shall pay the tax. The department may adopt rules to administer
 39 this subsection.

40 (qqq) Certain investigation and security services.—Charges
 41 for investigation and personal background check services under
 42 NAICS code 561611, security guards and patrol services under
 43 NAICS code 561612, and armored car services under NAICS code
 44 561613 are exempt from the tax imposed by this chapter. As used
 45 in this paragraph, the term "NAICS" means those classifications
 46 contained in the North American Industry Classification System,
 47 as published in 2007 by the Office of Management and Budget,
 48 Executive Office of the President.

49 Section 2. Paragraph (i) of subsection (1) of section
 50 212.05, Florida Statutes, is amended to read:

51 212.05 Sales, storage, use tax.—It is hereby declared to
52 be the legislative intent that every person is exercising a
53 taxable privilege who engages in the business of selling
54 tangible personal property at retail in this state, including
55 the business of making or facilitating remote sales; who rents
56 or furnishes any of the things or services taxable under this
57 chapter; or who stores for use or consumption in this state any
58 item or article of tangible personal property as defined herein
59 and who leases or rents such property within the state.

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

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

64 a. Security systems ~~Detective, burglar protection, and~~
65 ~~other protection services (NAICS code National Numbers 561611,~~
66 ~~561612, 561613, and 561621). Fingerprint services required under~~
67 ~~s. 790.06 or s. 790.062 are not subject to the tax.~~ Any law
68 enforcement officer, as defined in s. 943.10, who is performing
69 approved duties as determined by his or her local law
70 enforcement agency in his or her capacity as a law enforcement
71 officer, and who is subject to the direct and immediate command
72 of his or her law enforcement agency, and in the law enforcement
73 officer's uniform as authorized by his or her law enforcement
74 agency, is performing law enforcement and public safety services
75 and is not performing security systems ~~detective, burglar~~

76 ~~protection, or other protective~~ services, if the law enforcement
 77 officer is performing his or her approved duties in a
 78 geographical area in which the law enforcement officer has
 79 arrest jurisdiction. Such law enforcement and public safety
 80 services are not subject to tax irrespective of whether the duty
 81 is characterized as "extra duty," "off-duty," or "secondary
 82 employment," and irrespective of whether the officer is paid
 83 directly or through the officer's agency by an outside source.
 84 The term "law enforcement officer" includes full-time or part-
 85 time law enforcement officers, and any auxiliary law enforcement
 86 officer, when such auxiliary law enforcement officer is working
 87 under the direct supervision of a full-time or part-time law
 88 enforcement officer.

89 b. Nonresidential cleaning, excluding cleaning of the
 90 interiors of transportation equipment, and nonresidential
 91 building pest control services (NAICS National Numbers 561710
 92 and 561720).

93 2. As used in this paragraph, the term "NAICS" means those
 94 classifications contained in the North American Industry
 95 Classification System, as published in 2007 by the Office of
 96 Management and Budget, Executive Office of the President.

97 3. Charges for ~~detective, burglar protection, and other~~
 98 ~~protection~~ security systems services performed in this state but
 99 used outside this state are exempt from taxation. Charges for
 100 ~~detective, burglar protection, and other protection~~ security

101 systems services performed outside this state and used in this
 102 state are subject to tax.

103 4. If a transaction involves both the sale or use of a
 104 service taxable under this paragraph and the sale or use of a
 105 service or any other item not taxable under this chapter, the
 106 consideration paid must be separately identified and stated with
 107 respect to the taxable and exempt portions of the transaction or
 108 the entire transaction is ~~shall be~~ presumed taxable. The burden
 109 is ~~shall be~~ on the seller of the service or the purchaser of the
 110 service, whichever applicable, to overcome this presumption by
 111 providing documentary evidence as to which portion of the
 112 transaction is exempt from tax. The department is authorized to
 113 adjust the amount of consideration identified as the taxable and
 114 exempt portions of the transaction; however, a determination
 115 that the taxable and exempt portions are inaccurately stated and
 116 that the adjustment is applicable must be supported by
 117 substantial competent evidence.

118 5. Each seller of services subject to sales tax pursuant
 119 to this paragraph shall maintain a monthly log showing each
 120 transaction for which sales tax was not collected because the
 121 services meet the requirements of subparagraph 3. for out-of-
 122 state use. The log must identify the purchaser's name, location
 123 and mailing address, and federal employer identification number,
 124 if a business, or the social security number, if an individual,
 125 the service sold, the price of the service, the date of sale,

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126 | the reason for the exemption, and the sales invoice number. The
127 | monthly log shall be maintained pursuant to the same
128 | requirements and subject to the same penalties imposed for the
129 | keeping of similar records pursuant to this chapter.

130 | Section 3. Paragraph (c) of subsection (5) of section
131 | 790.06, Florida Statutes, is amended to read:

132 | 790.06 License to carry concealed weapon or firearm.—

133 | (5) The applicant shall submit to the Department of
134 | Agriculture and Consumer Services or an approved tax collector
135 | pursuant to s. 790.0625:

136 | (c) A full set of fingerprints of the applicant
137 | administered by a law enforcement agency or the Division of
138 | Licensing of the Department of Agriculture and Consumer Services
139 | or an approved tax collector pursuant to s. 790.0625 together
140 | with any personal identifying information required by federal
141 | law to process fingerprints. ~~Charges for fingerprint services~~
142 | ~~under this paragraph are not subject to the sales tax on~~
143 | ~~fingerprint services imposed in s. 212.05(1)(i).~~

144 | Section 4. Subsection (2) of section 790.062, Florida
145 | Statutes, is amended to read:

146 | 790.062 Members and veterans of United States Armed
147 | Forces; exceptions from licensure provisions.—

148 | (2) The Department of Agriculture and Consumer Services
149 | shall accept fingerprints of an applicant under this section
150 | administered by any law enforcement agency, military provost, or

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151 other military unit charged with law enforcement duties or as
152 otherwise provided for in s. 790.06(5)(c). ~~Charges for~~
153 ~~fingerprint services under this subsection are not subject to~~
154 ~~the sales tax on fingerprint services imposed in s.~~
155 ~~212.05(1)(i).~~

156 Section 5. This act shall take effect July 1, 2023.