

By Senator Brodeur

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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.

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

13  
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

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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 be  
52 the legislative intent that every person is exercising a taxable  
53 privilege who engages in the business of selling tangible  
54 personal property at retail in this state, including the  
55 business of making or facilitating remote sales; who rents or  
56 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

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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

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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

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117 substantial competent evidence.

118       5. Each seller of services subject to sales tax pursuant to  
119 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,  
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:

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146           790.062 Members and veterans of United States Armed Forces;  
147 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  
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.