

1 A bill to be entitled
2 An act relating to sales taxes; providing a short
3 title; amending s. 212.05, F.S.; revising upward a
4 specified sales and use tax; amending s. 212.20, F.S.;
5 requiring a certain percentage of collected revenues
6 to be used for a specified purpose; creating s.
7 212.056, F.S.; requiring a specified surtax when
8 property is transferred; providing for collection of
9 such tax; requiring the Department of Revenue to
10 return certain funds; providing a contingent effective
11 date.

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

14
15 **Section 1.** This act may be cited as the "Freedom 3 - The
16 School and Safety Revenue Replacement Act."

17 **Section 2. Paragraph (a) of subsection (1) of section**
18 **212.05, Florida Statutes, is amended to read:**

19 212.05 Sales, storage, use tax.—It is hereby declared to
20 be the legislative intent that every person is exercising a
21 taxable privilege who engages in the business of selling
22 tangible personal property at retail in this state, including
23 the business of making or facilitating remote sales; who rents
24 or furnishes any of the things or services taxable under this
25 chapter; or who stores for use or consumption in this state any

26 | item or article of tangible personal property as defined herein
27 | and who leases or rents such property within the state.

28 | (1) For the exercise of such privilege, a tax is levied on
29 | each taxable transaction or incident, which tax is due and
30 | payable as follows:

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

36 | b. Each occasional or isolated sale of an aircraft, boat,
37 | mobile home, or motor vehicle of a class or type which is
38 | required to be registered, licensed, titled, or documented in
39 | this state or by the United States Government shall be subject
40 | to tax at the rate provided in this paragraph. The department
41 | shall by rule adopt any nationally recognized publication for
42 | valuation of used motor vehicles as the reference price list for
43 | any used motor vehicle which is required to be licensed pursuant
44 | to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
45 | party to an occasional or isolated sale of such a vehicle
46 | reports to the tax collector a sales price which is less than 80
47 | percent of the average loan price for the specified model and
48 | year of such vehicle as listed in the most recent reference
49 | price list, the tax levied under this paragraph shall be
50 | computed by the department on such average loan price unless the

51 parties to the sale have provided to the tax collector an
52 affidavit signed by each party, or other substantial proof,
53 stating the actual sales price. Any party to such sale who
54 reports a sales price less than the actual sales price is guilty
55 of a misdemeanor of the first degree, punishable as provided in
56 s. 775.082 or s. 775.083. The department shall collect or
57 attempt to collect from such party any delinquent sales taxes.
58 In addition, such party shall pay any tax due and any penalty
59 and interest assessed plus a penalty equal to twice the amount
60 of the additional tax owed. Notwithstanding any other provision
61 of law, the Department of Revenue may waive or compromise any
62 penalty imposed pursuant to this subparagraph.

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

76 | purposes of this exemption, either a registered dealer acting on
77 | his or her own behalf as seller, a registered dealer acting as
78 | broker on behalf of a seller, or a registered dealer acting as
79 | broker on behalf of the nonresident purchaser may be deemed to
80 | be the selling dealer. This exemption is not allowed unless:

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

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

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

96 | (III) The aircraft is operated in this state solely to
97 | remove it from this state to a foreign jurisdiction.

98 |
99 | For purposes of this sub-subparagraph, the term "foreign
100 | jurisdiction" means any jurisdiction outside of the United

101 States or any of its territories;

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

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

117 d. The selling dealer, within 30 days after the date of
118 sale, provides to the department a copy of the sales invoice,
119 closing statement, bills of sale, and the original affidavit
120 signed by the nonresident purchaser affirming that the
121 nonresident purchaser qualifies for exemption from sales tax
122 pursuant to this subparagraph and attesting that the nonresident
123 purchaser will provide the documentation required to
124 substantiate the exemption claimed under this subparagraph;

125 e. The seller makes a copy of the affidavit a part of his

126 or her record for as long as required by s. 213.35; and

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

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

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

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

154 (IV) The department is authorized to require dealers who
155 purchase decals to file reports with the department and may
156 prescribe all necessary records by rule. All such records are
157 subject to inspection by the department.

158 (V) Any dealer or his or her agent who issues a decal
159 falsely, fails to affix a decal, mismarks the expiration date of
160 a decal, or fails to properly account for decals will be
161 considered prima facie to have committed a fraudulent act to
162 evade the tax and will be liable for payment of the tax plus a
163 mandatory penalty of 200 percent of the tax, and shall be liable
164 for fine and punishment as provided by law for a conviction of a
165 misdemeanor of the first degree, as provided in s. 775.082 or s.
166 775.083.

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

176 misdemeanor of the first degree, as provided in s. 775.082 or s.
177 775.083.

178 (VII) The department is authorized to adopt rules
179 necessary to administer and enforce this subparagraph and to
180 publish the necessary forms and instructions.

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

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185 If the nonresident purchaser fails to remove the qualifying boat
186 from this state within the maximum 180 days after purchase or a
187 nonqualifying boat or an aircraft from this state within 10 days
188 after purchase or, when the boat or aircraft is repaired or
189 altered, within 20 days after completion of such repairs or
190 alterations, or permits the boat or aircraft to return to this
191 state within 6 months after the date of departure, except as
192 provided in s. 212.08(7)(eee), or if the nonresident purchaser
193 fails to furnish the department with any of the documentation
194 required by this subparagraph within the prescribed time period,
195 the nonresident purchaser is liable for use tax on the cost
196 price of the boat or aircraft and, in addition thereto, payment
197 of a penalty to the Department of Revenue equal to the tax
198 payable. This penalty is in lieu of the penalty imposed by s.
199 212.12(2). The maximum 180-day period following the sale of a
200 qualifying boat tax-exempt to a nonresident may not be tolled

for any reason.

Section 3. Paragraphs (a) through (d) of subsection (6) of section 212.20, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, and a new paragraph (a) is added to that subsection, to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(a) One-third of all proceeds collected under s. 212.05(1)(a) shall be used to fund the Florida Education Finance Program.

Section 4. Section 212.056, Florida Statutes, is created to read:

212.056 Property Sales Surtax.—

(1) On any transaction required to pay the tax under s. 201.02 or s. 201.133, there shall be a sales tax of 5 percent on the consideration.

(2) This tax shall be collected in the same manner as the taxes under ss. 201.02 and 201.133.

(3) The Department of Revenue shall pay to the governing authority of each county all surtaxes collected pursuant to this section related to property located in such county.

Section 5. This act shall take effect on the effective

226 | date of the amendment to the State Constitution proposed by HJR
227 | 787 or a similar joint resolution having substantially the same
228 | specified intent and purpose, if such amendment to the State
229 | Constitution is approved at the next general election or at an
230 | earlier special election specifically authorized by law for that
231 | purpose.