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1 A bill to be entitled
2 An act relating to the Streamlined Sales and Use Tax
3 Agreement; amending s. 212.02, F.S.; revising
4 definitions; amending s. 212.03, F.S.; specifying
5 certain facilities that are exempt from the transient
6 rentals tax; amending ss. 212.0306, 212.04, and
7 212.0506, F.S.; deleting the application of brackets
8 for the calculation of sales and use taxes; amending
9 s. 212.05, F.S.; deleting criteria establishing
10 circumstances under which taxes on the lease or rental
11 of a motor vehicle are due; revising criteria
12 establishing circumstances under which taxes on the
13 sale of a prepaid calling arrangement are due;
14 deleting the application of brackets for the
15 calculation of sales and use taxes; amending s.
16 212.054, F.S.; limiting the \$5,000 cap on
17 discretionary sales surtax to the sale of motor
18 vehicles, aircraft, boats, manufactured homes, modular
19 homes, and mobile homes; specifying the time at which
20 changes in surtaxes may take effect; providing
21 criteria to determine the situs of certain sales;
22 providing for databases to identify taxing
23 jurisdictions; providing criteria to hold purchasers
24 harmless for failure to pay the correct amount of tax;
25 holding sellers harmless for failing to collect a tax
26 at a new rate under certain circumstances; amending s.
27 212.06, F.S.; defining terms; deleting provisions
28 relating to mail-order sales to conform; requiring

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29 purchasers of direct mail to use direct-mail forms;
30 providing criteria for determining the location of
31 transactions involving tangible personal property,
32 digital goods, or services and for the lease or rental
33 of tangible personal property; amending s. 212.07,
34 F.S.; conforming a cross-reference; providing for the
35 creation of a taxability matrix; providing immunity
36 from liability for acts in reliance of the taxability
37 matrix; amending s. 212.08, F.S.; revising exemptions
38 from sales and use tax for food and medical products;
39 conforming cross-references; creating s. 212.094,
40 F.S.; providing a procedure for a purchaser to obtain
41 a refund of or credit against tax collected by a
42 dealer; amending s. 212.12, F.S.; authorizing
43 collection allowances for certified service providers
44 and voluntary sellers in accordance with the
45 Streamlined Sales and Use Tax Agreement; providing for
46 the computation of taxes due based on rounding instead
47 of brackets; amending s. 212.17, F.S.; providing
48 additional criteria for a dealer to claim a credit for
49 or obtain a refund of taxes paid relating to worthless
50 accounts; amending s. 212.18, F.S.; authorizing the
51 Department of Revenue to waive the dealer registration
52 fee for applications submitted through the central
53 electronic registration system provided by member
54 states of the Streamlined Sales and Use Tax Agreement;
55 deleting provisions relating to mail-order sales to
56 conform; amending s. 212.20, F.S.; deleting procedures

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57 | for refunds of tax paid on mail-order sales to
58 | conform; creating s. 213.052, F.S.; providing for
59 | notice of state sales or use tax rate changes;
60 | creating s. 213.0521, F.S.; providing the effective
61 | date for state sales and use tax rate changes;
62 | creating s. 213.215, F.S.; providing amnesty for
63 | uncollected or unpaid sales and use taxes for sellers
64 | who register under the Streamlined Sales and Use Tax
65 | Agreement; providing exceptions to the amnesty;
66 | amending s. 213.256, F.S.; providing and revising
67 | definitions; providing for entry into agreements with
68 | other states to simplify and facilitate compliance
69 | with sales tax laws; providing for certification of
70 | compliance with agreements; creating s. 213.2562,
71 | F.S.; providing for the department to review software
72 | submitted to the governing board for certification as
73 | a certified automated system; creating s. 213.2567,
74 | F.S.; providing for the registration of sellers, the
75 | certification of a person as a certified service
76 | provider, and the certification of a software program
77 | as a certified automated system by the governing board
78 | under the Streamlined Sales and Use Tax Agreement;
79 | declaring legislative intent; providing for the
80 | adoption of emergency rules; amending ss. 11.45,
81 | 196.012, 202.18, 203.01, 212.031, 212.052, 212.055,
82 | 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045,
83 | 288.11621, 288.1169, 551.102, and 790.0655, F.S.;
84 | conforming cross-references; repealing s. 212.0596,

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85 F.S., relating to provisions pertaining to the
 86 taxation of mail-order sales; providing an effective
 87 date.

88
 89 Be It Enacted by the Legislature of the State of Florida:

90
 91 Section 1. Section 212.02, Florida Statutes, is amended to
 92 read:

93 212.02 Definitions.—The following terms and phrases when
 94 used in this chapter have the meanings ascribed to them in this
 95 section, except where the context clearly indicates a different
 96 meaning. The term:

97 (1) ~~The term~~ "Admissions" means and includes the net sum
 98 of money after deduction of ~~any~~ federal taxes for admitting a
 99 person or vehicle or persons to a ~~any~~ place of amusement, sport,
 100 or recreation or for the privilege of entering or staying in a
 101 ~~any~~ place of amusement, sport, or recreation, including, but not
 102 limited to, theaters, outdoor theaters, shows, exhibitions,
 103 games, races, or a ~~any~~ place where charge is made by way of sale
 104 of tickets, gate charges, seat charges, box charges, season pass
 105 charges, cover charges, greens fees, participation fees,
 106 entrance fees, or other fees or receipts of anything of value
 107 measured on an admission or entrance or length of stay or seat
 108 box accommodations in a ~~any~~ place where there is an ~~any~~
 109 exhibition, amusement, sport, or recreation, and all dues and
 110 fees paid to private clubs and membership clubs providing
 111 recreational or physical fitness facilities, including, but not
 112 limited to, golf, tennis, swimming, yachting, boating, athletic,

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113 exercise, and fitness facilities, except physical fitness
114 facilities owned or operated by a ~~any~~ hospital licensed under
115 chapter 395.

116 (2) "Agricultural commodity" means horticultural,
117 aquacultural, poultry and farm products, and livestock and
118 livestock products.

119 (3) "Agricultural production" means the production of
120 plants and animals useful to humans, including the preparation,
121 planting, cultivating, or harvesting of these products or other
122 practices necessary to accomplish production through the harvest
123 phase, which includes aquaculture, horticulture, floriculture,
124 viticulture, forestry, dairy, livestock, poultry, bees, and all
125 other forms of farm products and farm production.

126 (4) "Bundled transaction" means the retail sale of two or
127 more products, except real property and services to real
128 property, in which the products are otherwise distinct and
129 identifiable and the products are sold for one nonitemized
130 price. A bundled transaction does not include the sale of
131 products in which the sales price varies, or is negotiable,
132 based on the selection by the purchaser of the products included
133 in the transaction.

134 (a) As used in this subsection, the term:

135 1. "De minimis" means that the seller's purchase price or
136 sales price of the taxable products is 10 percent or less of the
137 total purchase price or sales price of the bundled products.

138 a. Sellers shall use the purchase price or sales price of
139 the products to determine if the taxable products are de
140 minimis. Sellers may not use a combination of the purchase price

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141 and sales price of the products to determine if the taxable
142 products are de minimis.

143 b. Sellers shall use the full term of a service contract
144 to determine if the taxable products are de minimis.

145 2. "Distinct and identifiable," when used to describe a
146 product, does not include:

147 a. Packaging, such as containers, boxes, sacks, bags, and
148 bottles or other materials, such as wrapping, labels, tags, and
149 instruction guides, which accompany the retail sale of the
150 products and are incidental or immaterial to the retail sale of
151 the products. Examples of packaging that is incidental or
152 immaterial include grocery sacks, shoeboxes, dry cleaning
153 garment bags, and express delivery envelopes and boxes.

154 b. A product provided free of charge with the required
155 purchase of another product. A product is provided free of
156 charge if the sales price of the product purchased does not vary
157 depending on the inclusion of the product provided free of
158 charge.

159 3. "One nonitemized price" does not include a price that
160 is separately identified by product on binding sales or other
161 supporting sales-related documentation made available to the
162 customer in paper or electronic form, including, but not limited
163 to, an invoice, bill of sale, receipt, contract, service
164 agreement, lease agreement, periodic notice of rates and
165 services, rate card, or price list.

166 (b)1. A transaction that otherwise satisfies the
167 definition of a bundled transaction, as defined in this
168 subsection, is not a bundled transaction if it is:

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169 a. The retail sale of tangible personal property and a
170 service in which the tangible personal property is essential to
171 the use of the service, is provided exclusively in connection
172 with the service, and the true object of the transaction is the
173 service;

174 b. The retail sale of services in which one service is
175 provided which is essential to the use or receipt of a second
176 service and the first service is provided exclusively in
177 connection with the second service and the true object of the
178 transaction is the second service;

179 c. A transaction that includes taxable products and
180 nontaxable products and the purchase price or sales price of the
181 taxable products is de minimis; or

182 d. The retail sale of exempt tangible personal property
183 and taxable personal property in which:

184 (I) The transaction includes food and food ingredients,
185 drugs, durable medical equipment, mobility-enhancing equipment,
186 over-the-counter drugs, prosthetic devices, or medical supplies;
187 and

188 (II) The seller's purchase price or sales price of the
189 taxable tangible personal property is 50 percent or less of the
190 total purchase price or sales price of the bundled tangible
191 personal property. Sellers may not use a combination of the
192 purchase price and sales price of the tangible personal property
193 to make the determination required in this paragraph.

194 2.a. Sellers shall use the purchase price or sales price
195 of the products to determine if the taxable products are de
196 minimis. Sellers may not use a combination of the purchase price

197 | and sales price of the products to determine if the taxable
 198 | products are de minimis.

199 | b. Sellers shall use the full term of a service contract
 200 | to determine if the taxable products are de minimis.

201 | (5)(2) "Business" means an ~~any~~ activity engaged in by a
 202 | ~~any~~ person, or caused to be engaged in by him or her, with the
 203 | object of private or public gain, benefit, or advantage, either
 204 | direct or indirect. Except for the sales of an ~~any~~ aircraft,
 205 | boat, mobile home, or motor vehicle, the term "business" shall
 206 | not be construed in this chapter to include occasional or
 207 | isolated sales or transactions involving tangible personal
 208 | property or services by a person who does not hold himself or
 209 | herself out as engaged in business or sales of unclaimed
 210 | tangible personal property under s. 717.122, but includes other
 211 | charges for the sale or rental of tangible personal property,
 212 | sales of services taxable under this chapter, sales of or
 213 | charges of admission, communication services, all rentals and
 214 | leases of living quarters, other than low-rent housing operated
 215 | under chapter 421, sleeping or housekeeping accommodations in
 216 | hotels, apartment houses, roominghouses, tourist or trailer
 217 | camps, and all rentals of or licenses in real property, other
 218 | than low-rent housing operated under chapter 421, all leases or
 219 | rentals of or licenses in parking lots or garages for motor
 220 | vehicles, docking or storage spaces for boats in boat docks or
 221 | marinas as defined in this chapter and made subject to a tax
 222 | imposed by this chapter. The term "business" shall not be
 223 | construed in this chapter to include the leasing, subleasing, or
 224 | licensing of real property by one corporation to another if all

225 of the stock of both such corporations is owned, directly or
 226 through one or more wholly owned subsidiaries, by a common
 227 parent corporation; the property was in use prior to July 1,
 228 1989, title to the property was transferred after July 1, 1988,
 229 and before July 1, 1989, between members of an affiliated group,
 230 as defined in s. 1504(a) of the Internal Revenue Code of 1986,
 231 which group included both such corporations and there is no
 232 substantial change in the use of the property following the
 233 transfer of title; the leasing, subleasing, or licensing of the
 234 property was required by an unrelated lender as a condition of
 235 providing financing to one or more members of the affiliated
 236 group; and the corporation to which the property is leased,
 237 subleased, or licensed had sales subject to the tax imposed by
 238 this chapter of not less than \$667 million during the most
 239 recent 12-month period ended June 30. A ~~Any~~ tax on such sales,
 240 charges, rentals, admissions, or other transactions made subject
 241 to the tax imposed by this chapter shall be collected by the
 242 state, county, municipality, a ~~any~~ political subdivision,
 243 agency, bureau, or department, or other state or local
 244 governmental instrumentality in the same manner as other
 245 dealers, unless specifically exempted by this chapter.

246 (6) "Certified service provider" has the same meaning as
 247 provided in s. 213.256.

248 (7) ~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco
 249 products" referred to in this chapter include all such products
 250 as are defined or may be hereafter defined by the laws of the
 251 state.

252 (8) "Coin-operated amusement machine" means a machine

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253 operated by coin, slug, token, coupon, or similar device for the
254 purposes of entertainment or amusement. The term includes, but
255 is not limited to, coin-operated pinball machines, music
256 machines, juke boxes, mechanical games, video games, arcade
257 games, billiard tables, moving picture viewers, shooting
258 galleries, and all other similar amusement devices.

259 (9) "Computer" means an electronic device that accepts
260 information in digital or similar form and manipulates such
261 information for a result based on a sequence of instructions.

262 (10) "Computer software" means a set of coded instructions
263 designed to cause a computer or automatic data processing
264 equipment to perform a task.

265 (11)-(4) "Cost price" means the actual cost of articles of
266 tangible personal property without any deductions therefrom on
267 account of the cost of materials used, labor or service costs,
268 transportation charges, or any expenses whatsoever.

269 (12) "Delivery charges" means charges by the seller of
270 personal property or services for preparation and delivery to a
271 location designated by the purchaser of such property or
272 services, including, but not limited to, transportation,
273 shipping, postage, handling, crating, and packing.

274 Notwithstanding any other provision of this section, the term
275 does not include the charges for delivery of direct mail,
276 transportation, shipping, postage, handling, crating, and
277 packing or similar charges if those charges are separately
278 stated on an invoice or similar billing document given to the
279 purchaser and are invoiced at cost with no markup. The exclusion
280 of delivery charges for direct mail shall apply to a sale

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281 involving the delivery or mailing of direct mail, printed
282 material that would otherwise be direct mail that results from a
283 transaction that this state considers the sale of a service, or
284 printed material delivered or mailed to a mass audience when the
285 cost of the printed material is not billed directly to the
286 recipients and is the result of a transaction that includes the
287 development of billing information or the provision of data
288 processing services. If a shipment includes exempt property and
289 taxable property, the seller shall tax only the percentage of
290 the delivery charge allocated to the taxable property. The
291 seller may allocate the delivery charge by using:

292 (a) A percentage based on the total sales price of the
293 taxable property compared to the sales price of all property in
294 the shipment; or

295 (b) A percentage based on the total weight of the taxable
296 property compared to the total weight of all property in the
297 shipment.

298 (13) (5) — The term "Department" means the Department of
299 Revenue.

300 (14) "Diesel fuel" means a liquid product, gas product, or
301 a combination thereof, which is used in an internal combustion
302 engine or motor to propel any form of vehicle, machine, or
303 mechanical contrivance. The term includes, but is not limited
304 to, all forms of fuel commonly or commercially known or sold as
305 diesel fuel or kerosene. The term does not include butane gas,
306 propane gas, or other forms of liquefied petroleum gas or
307 compressed natural gas.

308 (15) "Direct mail" means printed material delivered or

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309 distributed by the United States Postal Service or other
310 delivery service to a mass audience or to addressees on a
311 mailing list provided by the purchaser or at the direction of
312 the purchaser when the cost of the items are not billed directly
313 to the recipients. The term includes tangible personal property
314 supplied directly or indirectly by the purchaser to the direct
315 mail seller for inclusion in the package containing the printed
316 material. The term does not include multiple items of printed
317 material delivered to a single address.

318 (16) "Electronic" means relating to technology having
319 electrical, digital, magnetic, wireless, optical,
320 electromagnetic, or similar capabilities.

321 (17)-(6) "Enterprise zone" means an area of the state
322 designated pursuant to s. 290.0065. This subsection expires on
323 the date specified in s. 290.016 for the expiration of the
324 Florida Enterprise Zone Act.

325 (18)-(7) "Factory-built building" means a structure
326 manufactured in a manufacturing facility for installation or
327 erection as a finished building; "factory-built building"
328 includes, but is not limited to, residential, commercial,
329 institutional, storage, and industrial structures.

330 (19) "Farmer" means a person who is directly engaged in
331 the business of producing crops, livestock, or other
332 agricultural commodities. The term includes, but is not limited
333 to, horse breeders, nurserymen, dairy farmers, poultry farmers,
334 cattle ranchers, apiarists, and persons raising fish.

335 (20) "Forest" means the land stocked by trees used in the
336 production of forest products, or formerly having such tree

337 | cover, and not currently developed for nonforest use.

338 | (21) "Fractional aircraft ownership program" means a
 339 | program that meets the requirements of 14 C.F.R. part 91,
 340 | subpart K, relating to fractional ownership operations, except
 341 | that the program must include a minimum of 25 aircraft owned or
 342 | leased by the program manager and used in the program.

343 | (22)-(8)- "In this state" or "in the state" means within the
 344 | state boundaries of Florida as defined in s. 1, Art. II of the
 345 | State Constitution and includes all territory within these
 346 | limits owned by or ceded to the United States.

347 | (23)-(9)- ~~The term~~ "Intoxicating beverages" or "alcoholic
 348 | beverages" referred to in this chapter includes all such
 349 | beverages as are so defined or may be hereafter defined by the
 350 | laws of the state.

351 | (24)-(10)- "Lease," "let," or "rental" means leasing or
 352 | renting of living quarters or sleeping or housekeeping
 353 | accommodations in hotels, apartment houses, roominghouses,
 354 | tourist or trailer camps and real property, the same being
 355 | defined as follows:

356 | (a) Every building or other structure kept, used,
 357 | maintained, or advertised as, or held out to the public to be, a
 358 | place where sleeping accommodations are supplied for pay to
 359 | transient or permanent guests or tenants, in which 10 or more
 360 | rooms are furnished for the accommodation of such guests, and
 361 | having one or more dining rooms or cafes where meals or lunches
 362 | are served to such transient or permanent guests; such sleeping
 363 | accommodations and dining rooms or cafes being conducted in the
 364 | same building or buildings in connection therewith, shall, for

365 the purpose of this chapter, be deemed a hotel.

366 (b) A ~~Any~~ building, or part thereof, where separate
 367 accommodations for two or more families living independently of
 368 each other are supplied to transient or permanent guests or
 369 tenants shall for the purpose of this chapter be deemed an
 370 apartment house.

371 (c) Every house, boat, vehicle, motor court, trailer
 372 court, or other structure or a ~~any~~ place or location kept, used,
 373 maintained, or advertised as, or held out to the public to be, a
 374 place where living quarters or sleeping or housekeeping
 375 accommodations are supplied for pay to transient or permanent
 376 guests or tenants, whether in one or adjoining buildings, shall
 377 for the purpose of this chapter be deemed a roominghouse.

378 (d) In all hotels, apartment houses, and roominghouses
 379 within the meaning of this chapter, the parlor, dining room,
 380 sleeping porches, kitchen, office, and sample rooms shall be
 381 construed to mean "rooms."

382 (e) A "tourist camp" is a place where two or more tents,
 383 tent houses, or camp cottages are located and offered by a
 384 person or municipality for sleeping or eating accommodations,
 385 most generally to the transient public for either a direct money
 386 consideration or an indirect benefit to the lessor or owner in
 387 connection with a related business.

388 (f) A "trailer camp," "mobile home park," or "recreational
 389 vehicle park" is a place where space is offered, with or without
 390 service facilities, by a ~~any~~ persons or municipality to the
 391 public for the parking and accommodation of two or more
 392 automobile trailers, mobile homes, or recreational vehicles

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393 | which are used for lodging, for either a direct money
394 | consideration or an indirect benefit to the lessor or owner in
395 | connection with a related business, such space being hereby
396 | defined as living quarters, and the rental price thereof shall
397 | include all service charges paid to the lessor.

398 | (g) 1. "Lease," "let," or "rental" also means a transfer of
399 | possession or control of tangible personal property for a fixed
400 | or indeterminate term for consideration. A clause for a future
401 | option to purchase or to extend an agreement does not preclude
402 | an agreement from being a lease or rental. This definition shall
403 | be used for purposes of the sales and use tax regardless of
404 | whether a transaction is characterized as a lease or rental
405 | under generally accepted accounting principles, the Internal
406 | Revenue Code, the Uniform Commercial Code, or other federal,
407 | state, or local law. These terms include agreements covering
408 | motor vehicles and trailers if the amount of consideration may
409 | be increased or decreased by reference to the amount realized
410 | upon sale or disposition of the property as provided in 26
411 | U.S.C. s. 7701(h) (1). These terms do not include:

412 | a. A transfer of possession or control of property under a
413 | security agreement or deferred payment plan that requires the
414 | transfer of title upon completion of the required payments;

415 | b. A transfer of possession or control of property under
416 | an agreement that requires the transfer of title upon completion
417 | of required payments and payment of an option price does not
418 | exceed the greater of \$100 or 1 percent of the total required
419 | payments; or

420 | c. The provision of tangible personal property along with

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421 an operator for a fixed or indeterminate period of time. A
422 condition of this exclusion is that the operator is necessary
423 for the equipment to perform as designed. For the purpose of
424 this sub-subparagraph, an operator must do more than maintain,
425 inspect, or set up the tangible personal property ~~the leasing or~~
426 ~~rental of tangible personal property and the possession or use~~
427 ~~thereof by the lessee or rentee for a consideration, without~~
428 ~~transfer of the title of such property, except as expressly~~
429 ~~provided to the contrary herein.~~

430 2. ~~The term~~ "Lease," "let," or "rental" does not include
431 ~~mean~~ hourly, daily, or mileage charges, to the extent that such
432 charges are subject to the jurisdiction of the United States
433 Interstate Commerce Commission, if ~~when~~ such charges are paid by
434 reason of the presence of railroad cars owned by another on the
435 tracks of the taxpayer, or charges made pursuant to car service
436 agreements.

437 3. ~~The term~~ "Lease," "let," "rental," or "license" does
438 not include payments made to an owner of high-voltage bulk
439 transmission facilities in connection with the possession or
440 control of such facilities by a regional transmission
441 organization, independent system operator, or similar entity
442 under the jurisdiction of the Federal Energy Regulatory
443 Commission. However, where two taxpayers, in connection with the
444 interchange of facilities, rent or lease property, each to the
445 other, for use in providing or furnishing any of the services
446 mentioned in s. 166.231, the term "lease or rental" means only
447 the net amount of rental involved.

448 (h) "Real property" means the surface land, improvements

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449 thereto, and fixtures, and is synonymous with "realty" and "real
450 estate."

451 (i) ~~"License," as used in this chapter~~ with reference to
452 the use of real property, means the granting of a privilege to
453 use or occupy a building or a parcel of real property for any
454 purpose.

455 (j) Privilege, franchise, or concession fees, or fees for
456 a license to do business, paid to an airport are not payments
457 for leasing, letting, renting, or granting a license for the use
458 of real property.

459 (25) "Livestock" includes all animals of the equine,
460 bovine, or swine class, including goats, sheep, mules, horses,
461 hogs, cattle, ostriches, and other grazing animals raised for
462 commercial purposes. The term also includes fish raised for
463 commercial purposes.

464 (26) "Model 1 seller" has the same meaning as provided in
465 s. 213.256.

466 (27)~~(11)~~ "Motor fuel" means and includes what is commonly
467 known and sold as gasoline and fuels containing a mixture of
468 gasoline and other products.

469 (28)~~(12)~~ "Person" includes an ~~any~~ individual, firm,
470 copartnership, joint adventure, association, corporation,
471 estate, trust, business trust, receiver, syndicate, or other
472 group or combination acting as a unit and also includes a ~~any~~
473 political subdivision, municipality, state agency, bureau, or
474 department and includes the plural as well as the singular
475 number.

476 (29) "Power farm equipment" means moving or stationary

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477 equipment that contains within itself the means for its own
478 propulsion or power and moving or stationary equipment that is
479 dependent upon an external power source to perform its
480 functions.

481 (30) "Prewritten computer software" means computer
482 software, including prewritten upgrades, which is not designed
483 and developed by the author or other creator to the
484 specifications of a specific purchaser. The combining of two or
485 more prewritten computer software programs or prewritten
486 portions of such programs does not cause the combination to be
487 other than prewritten computer software. The term includes
488 software designed and developed by the author or other creator
489 to the specifications of a specific purchaser when such software
490 is sold to a person other than the specific purchaser. Where a
491 person modifies or enhances computer software of which the
492 person is not the author or creator, the person shall be deemed
493 to be the author or creator only of such person's modifications
494 or enhancements. Prewritten computer software or a prewritten
495 portion of such software which is modified or enhanced to any
496 degree, if such modification or enhancement is designed and
497 developed to the specifications of a specific purchaser, remains
498 prewritten computer software. However, prewritten computer
499 software does not include software that has been modified or
500 enhanced for a particular purchaser if the charge for the
501 enhancement is reasonable and separately stated on the invoice
502 or other statement of price given to the purchaser.

503 (31) "Product transferred electronically" means a product,
504 except computer software, which was obtained by a purchaser by

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505 | means other than the purchase of tangible storage media.

506 | (32) "Qualified aircraft" means an aircraft having a
507 | maximum certified takeoff weight of less than 10,000 pounds and
508 | equipped with twin turbofan engines that meet Stage IV noise
509 | requirements which is used by a business operating as an on-
510 | demand air carrier under Federal Aviation Administration
511 | Regulation Title 14, chapter I, part 135, Code of Federal
512 | Regulations, which owns or leases and operates a fleet of at
513 | least 25 of such aircraft in this state.

514 | ~~(33)-(13)~~ "Retailer" means and includes every person
515 | engaged in the business of making sales at retail or for
516 | distribution, or use, or consumption, or storage to be used or
517 | consumed in this state.

518 | ~~(34)-(14)~~(a) "Retail sale" or a "sale at retail" means a
519 | sale to a consumer or to a any person for a any purpose other
520 | than for resale in the form of tangible personal property or
521 | services taxable under this chapter, and includes all such
522 | transactions that may be made in lieu of retail sales or sales
523 | at retail. A sale for resale includes a sale of qualifying
524 | property. As used in this paragraph, the term "qualifying
525 | property" means tangible personal property, other than
526 | electricity, which is used or consumed by a government
527 | contractor in the performance of a qualifying contract as
528 | defined in s. 212.08(17)(c), to the extent that the cost of the
529 | property is allocated or charged as a direct item of cost to
530 | such contract, title to which property vests in or passes to the
531 | government under the contract. The term "government contractor"
532 | includes prime contractors and subcontractors. As used in this

533 paragraph, a cost is a "direct item of cost" if it is a "direct
534 cost" as defined in 48 C.F.R. s. 9904.418-30(a)(2), or similar
535 successor provisions, including costs identified specifically
536 with a particular contract.

537 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
538 "storage," and "consumption" include the sale, use, storage, or
539 consumption of all tangible advertising materials imported or
540 caused to be imported into this state. Tangible advertising
541 material includes displays, display containers, brochures,
542 catalogs, price lists, point-of-sale advertising, and technical
543 manuals or ~~any~~ tangible personal property which does not
544 accompany the product to the ultimate consumer.

545 (c) "Retail sales," "sale at retail," "use," "storage,"
546 and "consumption" do not include materials, containers, labels,
547 sacks, bags, or similar items intended to accompany a product
548 sold to a customer without which delivery of the product would
549 be impracticable because of the character of the contents and be
550 used one time only for packaging tangible personal property for
551 sale or for the convenience of the customer or for packaging in
552 the process of providing a service taxable under this chapter.
553 When a separate charge for packaging materials is made, the
554 charge shall be considered part of the sales price or rental
555 charge for purposes of determining the applicability of tax. The
556 terms do not include the sale, use, storage, or consumption of
557 industrial materials, including chemicals and fuels except as
558 provided herein, for future processing, manufacture, or
559 conversion into articles of tangible personal property for
560 resale when such industrial materials, including chemicals and

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561 fuels except as provided herein, become a component or
 562 ingredient of the finished product. However, the terms include
 563 the sale, use, storage, or consumption of tangible personal
 564 property, including machinery and equipment or parts thereof,
 565 purchased electricity, and fuels used to power machinery, when
 566 such items are used and dissipated in fabricating, converting,
 567 or processing tangible personal property for sale, even though
 568 they may become ingredients or components of the tangible
 569 personal property for sale through accident, wear, tear,
 570 erosion, corrosion, or similar means. The terms do not include
 571 the sale of materials to a registered repair facility for use in
 572 repairing a motor vehicle, airplane, or boat, when such
 573 materials are incorporated into and sold as part of the repair.
 574 Such a sale shall be deemed a purchase for resale by the repair
 575 facility, even though every material is not separately stated or
 576 separately priced on the repair invoice.

577 (d) "Gross sales" means the sum total of all sales of
 578 tangible personal property as defined herein, without a ~~any~~
 579 deduction whatsoever of any kind or character, except as
 580 provided in this chapter.

581 ~~(e) The term "Retail sale" includes a mail order sale, as~~
 582 ~~defined in s. 212.0596(1).~~

583 (35) ~~(15)~~ "Sale" means and includes:

584 (a) A ~~Any~~ transfer of title or possession, or both,
 585 exchange, barter, license, lease, or rental, conditional or
 586 otherwise, in any manner or by any means whatsoever, of tangible
 587 personal property for a consideration.

588 (b) The rental of living quarters or sleeping or

589 | housekeeping accommodations in hotels, apartment houses or
 590 | roominghouses, or tourist or trailer camps, as hereinafter
 591 | defined in this chapter.

592 | (c) The producing, fabricating, processing, printing, or
 593 | imprinting of tangible personal property for a consideration for
 594 | consumers who furnish either directly or indirectly the
 595 | materials used in the producing, fabricating, processing,
 596 | printing, or imprinting.

597 | (d) The furnishing, preparing, or serving for a
 598 | consideration of ~~any~~ tangible personal property for consumption
 599 | on or off the premises of the person furnishing, preparing, or
 600 | serving such tangible personal property which includes the sale
 601 | of meals or prepared food by an employer to his or her
 602 | employees.

603 | (e) A transaction whereby the possession of property is
 604 | transferred but the seller retains title as security for the
 605 | payment of the price.

606 | (36) (a) ~~(16)~~ "Sales price" means the measure subject to the
 607 | tax imposed by this chapter and means the total amount of
 608 | consideration, including cash, credit, property, and services,
 609 | for which tangible personal property or personal services are
 610 | sold, leased, or rented, valued in money, whether received in
 611 | money or otherwise, without a deduction for the following:

- 612 | 1. The seller's cost of the property sold;
- 613 | 2. The cost of materials used, labor or service cost,
 614 | interest, losses, all costs of transportation to the seller, all
 615 | taxes imposed on the seller, and other expenses of the seller;
- 616 | 3. Charges by the seller for services necessary to

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617 complete the sale, other than delivery and installation charges;

618 4. Delivery charges; or

619 5. Installation charges.

620 (b) "Sales price" does not include:

621 1. Trade-ins allowed and taken at the time of sale if the
622 amount is separately stated on the invoice, bill of sale, or
623 similar document given to the purchaser;

624 2. Discounts, including cash, term, or coupons, which are
625 not reimbursed by a third party, are allowed by a seller, and
626 taken by a purchaser at the time of sale;

627 3. Interest, financing, and carrying charges from credit
628 extended on the sale of personal property or services, if the
629 amount is separately stated on the invoice, bill of sale, or
630 similar document given to the purchaser;

631 4. Taxes legally imposed directly on the consumer that are
632 separately stated on the invoice, bill of sale, or similar
633 document given to the purchaser; or ~~means the total amount paid~~
634 ~~for tangible personal property, including any services that are~~
635 ~~a part of the sale, valued in money, whether paid in money or~~
636 ~~otherwise, and includes any amount for which credit is given to~~
637 ~~the purchaser by the seller, without any deduction therefrom on~~
638 ~~account of the cost of the property sold, the cost of materials~~
639 ~~used, labor or service cost, interest charged, losses, or any~~
640 ~~other expense whatsoever. "Sales price" also includes the~~
641 ~~consideration for a transaction which requires both labor and~~
642 ~~material to alter, remodel, maintain, adjust, or repair tangible~~
643 ~~personal property. Trade-ins or discounts allowed and taken at~~
644 ~~the time of sale shall not be included within the purview of~~

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645 ~~this subsection. "Sales price" also includes the full face value~~
646 ~~of any coupon used by a purchaser to reduce the price paid to a~~
647 ~~retailer for an item of tangible personal property; where the~~
648 ~~retailer will be reimbursed for such coupon, in whole or in~~
649 ~~part, by the manufacturer of the item of tangible personal~~
650 ~~property; or whenever it is not practicable for the retailer to~~
651 ~~determine, at the time of sale, the extent to which~~
652 ~~reimbursement for the coupon will be made. The term "sales~~
653 ~~price" does not include federal excise taxes imposed upon the~~
654 ~~retailer on the sale of tangible personal property. The term~~
655 ~~"sales price" does include federal manufacturers' excise taxes,~~
656 ~~even if the federal tax is listed as a separate item on the~~
657 ~~invoice. To the extent required by federal law, the term "sales~~
658 ~~price" does not include~~

659 5. Charges for Internet access services which are not
660 itemized on the customer's bill, but which can be reasonably
661 identified from the selling dealer's books and records kept in
662 the regular course of business. The dealer may support the
663 allocation of charges with books and records kept in the regular
664 course of business covering the dealer's entire service area,
665 including territories outside this state.

666 (37) "Sea trial" means a voyage for the purpose of testing
667 repair or modification work, which is in length and scope
668 reasonably necessary to test repairs or modifications, or a
669 voyage for the purpose of ascertaining the seaworthiness of a
670 vessel. If the sea trial is to test repair or modification work,
671 the owner or repair facility shall certify, in a form required
672 by the department, what repairs have been tested. The owner and

673 | the repair facility may also be required to certify that the
 674 | length and scope of the voyage were reasonably necessary to test
 675 | the repairs or modifications.

676 | (38) "Seller" means a person making sales, leases, or
 677 | rentals of personal property or services.

678 | (39) "Solar energy system" means the equipment and
 679 | requisite hardware that provide and are used for collecting,
 680 | transferring, converting, storing, or using incident solar
 681 | energy for water heating, space heating, cooling, or other
 682 | applications that would otherwise require the use of a
 683 | conventional source of energy such as petroleum products,
 684 | natural gas, manufactured gas, or electricity.

685 | (40) "Space flight" means a flight designed for
 686 | suborbital, orbital, or interplanetary travel of a space
 687 | vehicle, satellite, or station of any kind.

688 | (41) "Spaceport activities" means activities directed or
 689 | sponsored by Space Florida on spaceport territory pursuant to
 690 | its powers and responsibilities under the Space Florida Act.

691 | ~~(17) "Diesel fuel" means any liquid product, gas product,~~
 692 | ~~or combination thereof used in an internal combustion engine or~~
 693 | ~~motor to propel any form of vehicle, machine, or mechanical~~
 694 | ~~contrivance. This term includes, but is not limited to, all~~
 695 | ~~forms of fuel commonly or commercially known or sold as diesel~~
 696 | ~~fuel or kerosene. However, the term "diesel fuel" does not~~
 697 | ~~include butane gas, propane gas, or any other form of liquefied~~
 698 | ~~petroleum gas or compressed natural gas.~~

699 | (42) ~~(18)~~ "Storage" means and includes any keeping or
 700 | retention in this state of tangible personal property for use or

701 consumption in this state or for a any purpose other than sale
 702 at retail in the regular course of business.

703 (43) "Streamlined Sales and Use Tax Agreement" has the
 704 same meaning as in s. 213.256.

705 (44)-(19) "Tangible personal property" means ~~and includes~~
 706 personal property that ~~which~~ may be seen, weighed, measured, or
 707 touched or is in a any manner perceptible to the senses,
 708 including electric power or energy, water, gas, steam,
 709 prewritten computer software, boats, motor vehicles and mobile
 710 homes as defined in s. 320.01(1) and (2), aircraft as defined in
 711 s. 330.27, and all other types of vehicles. The term "tangible
 712 personal property" does not include stocks, bonds, notes,
 713 insurance, ~~or~~ other obligations or securities, a product
 714 transferred electronically, or pari-mutuel tickets sold or
 715 issued under the racing laws of the state.

716 (45)-(20) "Use" means and includes the exercise of a any
 717 right or power over tangible personal property incident to the
 718 ownership thereof, or interest therein, except that it does not
 719 include the sale at retail of that property in the regular
 720 course of business. The term "use" does not include:

721 (a) The loan of an automobile by a motor vehicle dealer to
 722 a high school for use in its driver education and safety
 723 program. ~~The term "use" does not include; or~~

724 (b) A contractor's use of "qualifying property" as defined
 725 by paragraph (34) (a) ~~paragraph (14) (a).~~

726 (46)-(21) ~~The term~~ "Use tax" referred to in this chapter
 727 includes the use, the consumption, the distribution, and the
 728 storage as herein defined.

729 (47) "Voluntary seller" or "volunteer seller" means a
730 seller that is not required to register in this state to collect
731 the tax imposed by this chapter.

732 ~~(22) "Spaceport activities" means activities directed or~~
733 ~~sponsored by Space Florida on spaceport territory pursuant to~~
734 ~~its powers and responsibilities under the Space Florida Act.~~

735 ~~(23) "Space flight" means any flight designed for~~
736 ~~suborbital, orbital, or interplanetary travel of a space~~
737 ~~vehicle, satellite, or station of any kind.~~

738 ~~(24) "Coin-operated amusement machine" means any machine~~
739 ~~operated by coin, slug, token, coupon, or similar device for the~~
740 ~~purposes of entertainment or amusement. The term includes, but~~
741 ~~is not limited to, coin-operated pinball machines, music~~
742 ~~machines, juke boxes, mechanical games, video games, arcade~~
743 ~~games, billiard tables, moving picture viewers, shooting~~
744 ~~galleries, and all other similar amusement devices.~~

745 ~~(25) "Sea trial" means a voyage for the purpose of testing~~
746 ~~repair or modification work, which is in length and scope~~
747 ~~reasonably necessary to test repairs or modifications, or a~~
748 ~~voyage for the purpose of ascertaining the seaworthiness of a~~
749 ~~vessel. If the sea trial is to test repair or modification work,~~
750 ~~the owner or repair facility shall certify, in a form required~~
751 ~~by the department, what repairs have been tested. The owner and~~
752 ~~the repair facility may also be required to certify that the~~
753 ~~length and scope of the voyage were reasonably necessary to test~~
754 ~~the repairs or modifications.~~

755 ~~(26) "Solar energy system" means the equipment and~~
756 ~~requisite hardware that provide and are used for collecting,~~

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757 ~~transferring, converting, storing, or using incident solar~~
758 ~~energy for water heating, space heating, cooling, or other~~
759 ~~applications that would otherwise require the use of a~~
760 ~~conventional source of energy such as petroleum products,~~
761 ~~natural gas, manufactured gas, or electricity.~~

762 ~~(27) "Agricultural commodity" means horticultural,~~
763 ~~aquacultural, poultry and farm products, and livestock and~~
764 ~~livestock products.~~

765 ~~(28) "Farmer" means a person who is directly engaged in~~
766 ~~the business of producing crops, livestock, or other~~
767 ~~agricultural commodities. The term includes, but is not limited~~
768 ~~to, horse breeders, nurserymen, dairy farmers, poultry farmers,~~
769 ~~cattle ranchers, apiarists, and persons raising fish.~~

770 ~~(29) "Livestock" includes all animals of the equine,~~
771 ~~bovine, or swine class, including goats, sheep, mules, horses,~~
772 ~~hogs, cattle, ostriches, and other grazing animals raised for~~
773 ~~commercial purposes. The term "livestock" shall also include~~
774 ~~fish raised for commercial purposes.~~

775 ~~(30) "Power farm equipment" means moving or stationary~~
776 ~~equipment that contains within itself the means for its own~~
777 ~~propulsion or power and moving or stationary equipment that is~~
778 ~~dependent upon an external power source to perform its~~
779 ~~functions.~~

780 ~~(31) "Forest" means the land stocked by trees of any size~~
781 ~~used in the production of forest products, or formerly having~~
782 ~~such tree cover, and not currently developed for nonforest use.~~

783 ~~(32) "Agricultural production" means the production of~~
784 ~~plants and animals useful to humans, including the preparation,~~

785 ~~planting, cultivating, or harvesting of these products or any~~
 786 ~~other practices necessary to accomplish production through the~~
 787 ~~harvest phase, and includes aquaculture, horticulture,~~
 788 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~
 789 ~~bees, and any and all forms of farm products and farm~~
 790 ~~production.~~

791 ~~(33) "Qualified aircraft" means any aircraft having a~~
 792 ~~maximum certified takeoff weight of less than 10,000 pounds and~~
 793 ~~equipped with twin turbofan engines that meet Stage IV noise~~
 794 ~~requirements that is used by a business operating as an on-~~
 795 ~~demand air carrier under Federal Aviation Administration~~
 796 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~
 797 ~~Regulations, that owns or leases and operates a fleet of at~~
 798 ~~least 25 of such aircraft in this state.~~

799 ~~(34) "Fractional aircraft ownership program" means a~~
 800 ~~program that meets the requirements of 14 C.F.R. part 91,~~
 801 ~~subpart K, relating to fractional ownership operations, except~~
 802 ~~that the program must include a minimum of 25 aircraft owned or~~
 803 ~~leased by the program manager and used in the program.~~

804 Section 2. Paragraph (c) of subsection (7) of section
 805 212.03, Florida Statutes, is amended to read:

806 212.03 Transient rentals tax; rate, procedure,
 807 enforcement, exemptions.—

808 (7)

809 (c) The rental of facilities in a trailer camp, mobile
 810 home park, or recreational vehicle park facilities, as defined
 811 in s. 212.02(24) ~~s. 212.02(10)(f)~~, which are intended primarily
 812 for rental as a principal or permanent place of residence is

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813 exempt from the tax imposed by this chapter. The rental of such
814 facilities that primarily serve transient guests is not exempt
815 by this subsection. In the application of this law, or in making
816 a ~~any~~ determination against the exemption, the department shall
817 consider the facility as primarily serving transient guests
818 unless the facility owner makes a verified declaration on a form
819 prescribed by the department that more than half of the total
820 rental units available are occupied by tenants who have a
821 continuous residence in excess of 3 months. The owner of a
822 facility declared to be exempt by this paragraph must make a
823 determination of the taxable status of the facility at the end
824 of the owner's accounting year using any consecutive 3-month
825 period at least one month of which is in the accounting year.
826 The owner must use a selected consecutive 3-month period during
827 each annual redetermination. In the event that an exempt
828 facility no longer qualifies for exemption by this paragraph,
829 the owner must notify the department on a form prescribed by the
830 department by the 20th day of the first month of the owner's
831 next succeeding accounting year that the facility no longer
832 qualifies for such exemption. The tax levied by this section
833 shall apply to the rental of facilities that no longer qualify
834 for exemption under this paragraph beginning the first day of
835 the owner's next succeeding accounting year. The provisions of
836 this paragraph do not apply to mobile home lots regulated under
837 chapter 723.

838 Section 3. Subsection (6) of section 212.0306, Florida
839 Statutes, is amended to read:

840 212.0306 Local option food and beverage tax; procedure for

841 levying; authorized uses; administration.-

842 (6) A ~~Any~~ county levying a tax authorized by this section
 843 must locally administer the tax using the powers and duties
 844 enumerated for local administration of the tourist development
 845 tax by s. 125.0104, 1992 Supplement to the Florida Statutes
 846 1991. ~~The county's ordinance shall also provide for brackets~~
 847 ~~applicable to taxable transactions.~~

848 Section 4. Paragraph (b) of subsection (1) of section
 849 212.04, Florida Statutes, is amended to read:

850 212.04 Admissions tax; rate, procedure, enforcement.-

851 (1)

852 (b) For the exercise of such privilege, a tax is levied at
 853 the rate of 6 percent of sales price, or the actual value
 854 received from such admissions, which 6 percent shall be added to
 855 and collected with all such admissions from the purchaser
 856 thereof, and such tax shall be paid for the exercise of the
 857 privilege as defined in the preceding paragraph. Each ticket
 858 must show on its face the actual sales price of the admission,
 859 or each dealer selling the admission must prominently display at
 860 the box office or other place where the admission charge is made
 861 a notice disclosing the price of the admission, and the tax
 862 shall be computed and collected on the basis of the actual price
 863 of the admission charged by the dealer. The sale price or actual
 864 value of admission shall, for the purpose of this chapter, be
 865 that price remaining after deduction of federal taxes and state
 866 or locally imposed or authorized seat surcharges, taxes, or
 867 fees, if any, imposed upon such admission. The sale price or
 868 actual value does not include separately stated ticket service

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869 charges that are imposed by a facility ticket office or a
870 ticketing service and added to a separately stated, established
871 ticket price. ~~The rate of tax on each admission shall be~~
872 ~~according to the brackets established by s. 212.12(9).~~

873 Section 5. Subsections (6) through (11) of section
874 212.0506, Florida Statutes, are amended to read:

875 212.0506 Taxation of service warranties.—

876 ~~(6) This tax shall be due and payable according to the~~
877 ~~brackets set forth in s. 212.12.~~

878 (6)~~(7)~~ This tax shall not apply to a ~~any~~ portion of the
879 consideration received by a ~~any~~ person in connection with the
880 issuance of a ~~any~~ service warranty contract upon which such
881 person is required to pay a ~~any~~ premium tax imposed under the
882 Florida Insurance Code or under s. 634.313(1).

883 (7)~~(8)~~ If a transaction involves both the issuance of a
884 service warranty that is subject to such tax and the issuance of
885 a warranty, guaranty, extended warranty or extended guaranty,
886 contract, agreement, or other written promise that is not
887 subject to such tax, the consideration shall be separately
888 identified and stated with respect to the taxable and nontaxable
889 portions of the transaction. If the consideration is separately
890 apportioned and identified in good faith, such tax shall apply
891 to the transaction to the extent that the consideration received
892 or to be received in connection with the transaction is payment
893 for a service warranty subject to such tax. If the consideration
894 is not apportioned in good faith, the department may reform the
895 contract; such reformation by the department is to be considered
896 prima facie correct, and the burden to show the contrary rests

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897 upon the dealer. If the consideration for such a transaction is
 898 not separately identified and stated, the entire transaction is
 899 taxable.

900 (8)~~(9)~~ A ~~Any~~ claim that ~~which~~ arises under a service
 901 warranty taxable under this section, which claim is paid
 902 directly by the person issuing such warranty, is not subject to
 903 any tax imposed under this chapter.

904 (9)~~(10)~~ Materials and supplies used in the performance of
 905 a factory or manufacturer's warranty are exempt if the contract
 906 is furnished at no extra charge with the equipment guaranteed
 907 thereunder and such materials and supplies are paid for by the
 908 factory or manufacturer.

909 (10)~~(11)~~ The ~~Any~~ duties imposed by this chapter upon
 910 dealers of tangible personal property with respect to collecting
 911 and remitting taxes; making returns; keeping books, records, and
 912 accounts; and complying with the rules and regulations of the
 913 department apply to all dealers as defined in s. 212.06(2)(1).

914 Section 6. Section 212.05, Florida Statutes, is amended to
 915 read:

916 212.05 Sales, storage, use tax.—It is hereby declared to
 917 be the legislative intent that every person is exercising a
 918 taxable privilege who engages in the business of selling
 919 tangible personal property at retail in this state, ~~including~~
 920 ~~the business of making mail order sales,~~ or who rents or
 921 furnishes ~~any~~ of the things or services taxable under this
 922 chapter, or who stores for use or consumption in this state an
 923 ~~any~~ item or article of tangible personal property as defined
 924 herein and who leases or rents such property within the state.

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

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

933 b. Each occasional or isolated sale of an aircraft, boat,
 934 mobile home, or motor vehicle of a class or type which is
 935 required to be registered, licensed, titled, or documented in
 936 this state or by the United States Government shall be subject
 937 to tax at the rate provided in this paragraph. The department
 938 shall by rule adopt a ~~any~~ nationally recognized publication for
 939 valuation of used motor vehicles as the reference price list for
 940 a ~~any~~ used motor vehicle which is required to be licensed
 941 pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9).
 942 If a ~~any~~ party to an occasional or isolated sale of such a
 943 vehicle reports to the tax collector a sales price which is less
 944 than 80 percent of the average loan price for the specified
 945 model and year of such vehicle as listed in the most recent
 946 reference price list, the tax levied under this paragraph shall
 947 be computed by the department on such average loan price unless
 948 the parties to the sale have provided to the tax collector an
 949 affidavit signed by each party, or other substantial proof,
 950 stating the actual sales price. A ~~Any~~ party to such sale who
 951 reports a sales price less than the actual sales price is guilty
 952 of a misdemeanor of the first degree, punishable as provided in

953 s. 775.082 or s. 775.083. The department shall collect or
 954 attempt to collect from such party any delinquent sales taxes.
 955 In addition, such party shall pay any tax due and any penalty
 956 and interest assessed plus a penalty equal to twice the amount
 957 of the additional tax owed. Notwithstanding any other provision
 958 of law, the Department of Revenue may waive or compromise a ~~any~~
 959 penalty imposed pursuant to this subparagraph.

960 2. This paragraph does not apply to the sale of a boat or
 961 aircraft by or through a registered dealer under this chapter to
 962 a purchaser who, at the time of taking delivery, is a
 963 nonresident of this state, does not make his or her permanent
 964 place of abode in this state, and is not engaged in carrying on
 965 in this state any employment, trade, business, or profession in
 966 which the boat or aircraft will be used in this state, or is a
 967 corporation none of the officers or directors of which is a
 968 resident of, or makes his or her permanent place of abode in,
 969 this state, or is a noncorporate entity that has no individual
 970 vested with authority to participate in the management,
 971 direction, or control of the entity's affairs who is a resident
 972 of, or makes his or her permanent abode in, this state. For
 973 purposes of this exemption, either a registered dealer acting on
 974 his or her own behalf as seller, a registered dealer acting as
 975 broker on behalf of a seller, or a registered dealer acting as
 976 broker on behalf of the purchaser may be deemed to be the
 977 selling dealer. This exemption shall not be allowed unless:

978 a. The purchaser removes a qualifying boat, as described
 979 in sub-subparagraph f., from the state within 90 days after the
 980 date of purchase or extension, or the purchaser removes a

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981 nonqualifying boat or an aircraft from this state within 10 days
982 after the date of purchase or, when the boat or aircraft is
983 repaired or altered, within 20 days after completion of the
984 repairs or alterations;

985 b. The purchaser, within 30 days from the date of
986 departure, shall provide the department with written proof that
987 the purchaser licensed, registered, titled, or documented the
988 boat or aircraft outside the state. If such written proof is
989 unavailable, within 30 days the purchaser shall provide proof
990 that the purchaser applied for such license, title,
991 registration, or documentation. The purchaser shall forward to
992 the department proof of title, license, registration, or
993 documentation upon receipt;

994 c. The purchaser, within 10 days of removing the boat or
995 aircraft from Florida, shall furnish the department with proof
996 of removal in the form of receipts for fuel, dockage, slippage,
997 tie-down, or hangaring from outside of Florida. The information
998 so provided must clearly and specifically identify the boat or
999 aircraft;

1000 d. The selling dealer, within 5 days of the date of sale,
1001 shall provide to the department a copy of the sales invoice,
1002 closing statement, bills of sale, and the original affidavit
1003 signed by the purchaser attesting that he or she has read the
1004 provisions of this section;

1005 e. The seller makes a copy of the affidavit a part of his
1006 or her record for as long as required by s. 213.35; and

1007 f. Unless the nonresident purchaser of a boat of 5 net
1008 tons of admeasurement or larger intends to remove the boat from

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1009 | this state within 10 days after the date of purchase or when the
1010 | boat is repaired or altered, within 20 days after completion of
1011 | the repairs or alterations, the nonresident purchaser shall
1012 | apply to the selling dealer for a decal which authorizes 90 days
1013 | after the date of purchase for removal of the boat. The
1014 | nonresident purchaser of a qualifying boat may apply to the
1015 | selling dealer within 60 days after the date of purchase for an
1016 | extension decal that authorizes the boat to remain in this state
1017 | for an additional 90 days, but not more than a total of 180
1018 | days, before the nonresident purchaser is required to pay the
1019 | tax imposed by this chapter. The department is authorized to
1020 | issue decals in advance to dealers. The number of decals issued
1021 | in advance to a dealer shall be consistent with the volume of
1022 | the dealer's past sales of boats which qualify under this sub-
1023 | subparagraph. The selling dealer or his or her agent shall mark
1024 | and affix the decals to qualifying boats in the manner
1025 | prescribed by the department, prior to delivery of the boat.

1026 | (I) The department is hereby authorized to charge dealers
1027 | a fee sufficient to recover the costs of decals issued, except
1028 | the extension decal shall cost \$425.

1029 | (II) The proceeds from the sale of decals will be
1030 | deposited into the administrative trust fund.

1031 | (III) Decals shall display information to identify the
1032 | boat as a qualifying boat under this sub-subparagraph,
1033 | including, but not limited to, the decal's date of expiration.

1034 | (IV) The department is authorized to require dealers who
1035 | purchase decals to file reports with the department and may
1036 | prescribe all necessary records by rule. All such records are

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1037 subject to inspection by the department.

1038 (V) A ~~Any~~ dealer or his or her agent who issues a decal
1039 falsely, fails to affix a decal, mismarks the expiration date of
1040 a decal, or fails to properly account for decals will be
1041 considered prima facie to have committed a fraudulent act to
1042 evade the tax and will be liable for payment of the tax plus a
1043 mandatory penalty of 200 percent of the tax, and shall be liable
1044 for fine and punishment as provided by law for a conviction of a
1045 misdemeanor of the first degree, as provided in s. 775.082 or s.
1046 775.083.

1047 (VI) A ~~Any~~ nonresident purchaser of a boat who removes a
1048 decal before ~~prior to~~ permanently removing the boat from the
1049 state, or defaces, changes, modifies, or alters a decal in a
1050 manner affecting its expiration date prior to its expiration, or
1051 who causes or allows the same to be done by another, will be
1052 considered prima facie to have committed a fraudulent act to
1053 evade the tax and will be liable for payment of the tax plus a
1054 mandatory penalty of 200 percent of the tax, and shall be liable
1055 for fine and punishment as provided by law for a conviction of a
1056 misdemeanor of the first degree, as provided in s. 775.082 or s.
1057 775.083.

1058 (VII) The department is authorized to adopt rules
1059 necessary to administer and enforce this subparagraph and to
1060 publish the necessary forms and instructions.

1061 (VIII) The department is hereby authorized to adopt
1062 emergency rules pursuant to s. 120.54(4) to administer and
1063 enforce the provisions of this subparagraph.

1064 If the purchaser fails to remove the qualifying boat from this

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1065 state within the maximum 180 days after purchase or a
 1066 nonqualifying boat or an aircraft from this state within 10 days
 1067 after purchase or, when the boat or aircraft is repaired or
 1068 altered, within 20 days after completion of such repairs or
 1069 alterations, or permits the boat or aircraft to return to this
 1070 state within 6 months from the date of departure, except as
 1071 provided in s. 212.08(7) (fff), or if the purchaser fails to
 1072 furnish the department with ~~any of~~ the documentation required by
 1073 this subparagraph within the prescribed time period, the
 1074 purchaser shall be liable for use tax on the cost price of the
 1075 boat or aircraft and, in addition thereto, payment of a penalty
 1076 to the Department of Revenue equal to the tax payable. This
 1077 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
 1078 The maximum 180-day period following the sale of a qualifying
 1079 boat tax-exempt to a nonresident may not be tolled for any
 1080 reason.

1081 (b) At the rate of 6 percent of the cost price of each
 1082 item or article of tangible personal property when the same is
 1083 not sold but is used, consumed, distributed, or stored for use
 1084 or consumption in this state; however, for tangible property
 1085 originally purchased exempt from tax for use exclusively for
 1086 lease and which is converted to the owner's own use, tax may be
 1087 paid on the fair market value of the property at the time of
 1088 conversion. If the fair market value of the property cannot be
 1089 determined, use tax at the time of conversion shall be based on
 1090 the owner's acquisition cost. Under no circumstances may the
 1091 aggregate amount of sales tax from leasing the property and use
 1092 tax due at the time of conversion be less than the total sales

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1093 tax that would have been due on the original acquisition cost
 1094 paid by the owner.

1095 (c) At the rate of 6 percent of the gross proceeds derived
 1096 from the lease or rental of tangible personal property, as
 1097 defined herein; ~~however, the following special provisions apply~~
 1098 ~~to the lease or rental of motor vehicles:~~

1099 1. ~~When a motor vehicle is leased or rented for a period~~
 1100 ~~of less than 12 months:~~

1101 a. ~~If the motor vehicle is rented in Florida, the entire~~
 1102 ~~amount of such rental is taxable, even if the vehicle is dropped~~
 1103 ~~off in another state.~~

1104 b. ~~If the motor vehicle is rented in another state and~~
 1105 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1106 2. ~~Except as provided in subparagraph 3., for the lease or~~
 1107 ~~rental of a motor vehicle for a period of not less than 12~~
 1108 ~~months, sales tax is due on the lease or rental payments if the~~
 1109 ~~vehicle is registered in this state; provided, however, that no~~
 1110 ~~tax shall be due if the taxpayer documents use of the motor~~
 1111 ~~vehicle outside this state and tax is being paid on the lease or~~
 1112 ~~rental payments in another state.~~

1113 3. ~~The tax imposed by this chapter does not apply to the~~
 1114 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 1115 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~
 1116 ~~than 12 months when tax was paid on the purchase price of such~~
 1117 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 1118 ~~to the purchase of such vehicle in another state, territory of~~
 1119 ~~the United States, or the District of Columbia, the Florida tax~~
 1120 ~~payable shall be reduced in accordance with the provisions of s.~~

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1121 | ~~212.06(7). This subparagraph shall only be available when the~~
 1122 | ~~lease or rental of such property is an established business or~~
 1123 | ~~part of an established business or the same is incidental or~~
 1124 | ~~germane to such business.~~

1125 | (d) At the rate of 6 percent of the lease or rental price
 1126 | paid by a lessee or rentee, or contracted or agreed to be paid
 1127 | by a lessee or rentee, to the owner of the tangible personal
 1128 | property.

1129 | (e)1. At the rate of 6 percent on charges for:

1130 | a. Prepaid calling arrangements. The tax on charges for
 1131 | prepaid calling arrangements shall be collected at the time of
 1132 | sale and remitted by the selling dealer.

1133 | (I) "Prepaid calling arrangement" means the separately
 1134 | stated retail sale by advance payment of communications services
 1135 | that consist exclusively of telephone calls originated by using
 1136 | an access number, authorization code, or other means that may be
 1137 | manually, electronically, or otherwise entered and that are sold
 1138 | in predetermined units or dollars whose number declines with use
 1139 | in a known amount.

1140 | (II) The sale or recharge of the prepaid calling
 1141 | arrangement is deemed to take place in accordance with s.
 1142 | 212.06(17) (d) ~~If the sale or recharge of the prepaid calling~~
 1143 | ~~arrangement does not take place at the dealer's place of~~
 1144 | ~~business, it shall be deemed to take place at the customer's~~
 1145 | ~~shipping address or, if no item is shipped, at the customer's~~
 1146 | ~~address or the location associated with the customer's mobile~~
 1147 | ~~telephone number.~~

1148 | (III) The sale or recharge of a prepaid calling

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1149 arrangement shall be treated as a sale of tangible personal
 1150 property for purposes of this chapter, whether or not a tangible
 1151 item evidencing such arrangement is furnished to the purchaser,
 1152 and such sale within this state subjects the selling dealer to
 1153 the jurisdiction of this state for purposes of this subsection.

1154 b. The installation of telecommunication and telegraphic
 1155 equipment.

1156 c. Electrical power or energy, except that the tax rate
 1157 for charges for electrical power or energy is 7 percent.

1158 2. The provisions of s. 212.17(3), regarding credit for
 1159 tax paid on charges subsequently found to be worthless, shall be
 1160 equally applicable to ~~any~~ tax paid under the provisions of this
 1161 section on charges for prepaid calling arrangements,
 1162 telecommunication or telegraph services, or electric power
 1163 subsequently found to be uncollectible. The word "charges" in
 1164 this paragraph does not include an ~~any~~ excise or similar tax
 1165 levied by the Federal Government, a ~~any~~ political subdivision of
 1166 the state, or a ~~any~~ municipality upon the purchase, sale, or
 1167 recharge of prepaid calling arrangements or upon the purchase or
 1168 sale of telecommunication, television system program, or
 1169 telegraph service or electric power, which tax is collected by
 1170 the seller from the purchaser.

1171 (f) At the rate of 6 percent on the sale, rental, use,
 1172 consumption, or storage for use in this state of machines and
 1173 equipment, and parts and accessories therefor, used in
 1174 manufacturing, processing, compounding, producing, mining, or
 1175 quarrying personal property for sale or to be used in furnishing
 1176 communications, transportation, or public utility services.

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1177 (g)1. At the rate of 6 percent on the retail price of
 1178 newspapers and magazines sold or used in Florida.

1179 2. Notwithstanding any other provision ~~provisions~~ of this
 1180 chapter, inserts of printed materials which are distributed with
 1181 a newspaper or magazine are a component part of the newspaper or
 1182 magazine, and neither the sale nor use of such inserts is
 1183 subject to tax when:

1184 a. Printed by a newspaper or magazine publisher or
 1185 commercial printer and distributed as a component part of a
 1186 newspaper or magazine, which means that the items after being
 1187 printed are delivered directly to a newspaper or magazine
 1188 publisher by the printer for inclusion in editions of the
 1189 distributed newspaper or magazine;

1190 b. Such publications are labeled as part of the designated
 1191 newspaper or magazine publication into which they are to be
 1192 inserted; and

1193 c. The purchaser of the insert presents a resale
 1194 certificate to the vendor stating that the inserts are to be
 1195 distributed as a component part of a newspaper or magazine.

1196 (h)1. A tax is imposed at the rate of 4 percent on the
 1197 charges for the use of coin-operated amusement machines. The tax
 1198 shall be calculated by dividing the gross receipts from such
 1199 charges for the applicable reporting period by a divisor,
 1200 determined as provided in this subparagraph, to compute gross
 1201 taxable sales, and then subtracting gross taxable sales from
 1202 gross receipts to arrive at the amount of tax due. For counties
 1203 that do not impose a discretionary sales surtax, the divisor is
 1204 equal to 1.04; for counties that impose a 0.5 percent

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1205 discretionary sales surtax, the divisor is equal to 1.045; for
 1206 counties that impose a 1 percent discretionary sales surtax, the
 1207 divisor is equal to 1.050; and for counties that impose a 2
 1208 percent sales surtax, the divisor is equal to 1.060. If a county
 1209 imposes a discretionary sales surtax that is not listed in this
 1210 subparagraph, the department shall make the applicable divisor
 1211 available in an electronic format or otherwise. Additional
 1212 divisors shall bear the same mathematical relationship to the
 1213 next higher and next lower divisors as the new surtax rate bears
 1214 to the next higher and next lower surtax rates for which
 1215 divisors have been established. When a machine is activated by a
 1216 slug, token, coupon, or a ~~any~~ similar device that ~~which~~ has been
 1217 purchased, the tax is on the price paid by the user of the
 1218 device for such device.

1219 2. As used in this paragraph, the term "operator" means
 1220 any person who possesses a coin-operated amusement machine for
 1221 the purpose of generating sales through that machine and who is
 1222 responsible for removing the receipts from the machine.

1223 a. If the owner of the machine is also the operator of it,
 1224 he or she shall be liable for payment of the tax without a ~~any~~
 1225 deduction for rent or a license fee paid to a location owner for
 1226 the use of ~~any~~ real property on which the machine is located.

1227 b. If the owner or lessee of the machine is also its
 1228 operator, he or she shall be liable for payment of the tax on
 1229 the purchase or lease of the machine, as well as the tax on
 1230 sales generated through the machine.

1231 c. If the proprietor of the business where the machine is
 1232 located does not own the machine, he or she shall be deemed to

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1233 | be the lessee and operator of the machine and is responsible for
1234 | the payment of the tax on sales, unless such responsibility is
1235 | otherwise provided for in a written agreement between him or her
1236 | and the machine owner.

1237 | 3.a. An operator of a coin-operated amusement machine may
1238 | not operate or cause to be operated in this state ~~any~~ such
1239 | machine until the operator has registered with the department
1240 | and has conspicuously displayed an identifying certificate
1241 | issued by the department. The identifying certificate shall be
1242 | issued by the department upon application from the operator. The
1243 | identifying certificate shall include a unique number, and the
1244 | certificate shall be permanently marked with the operator's
1245 | name, the operator's sales tax number, and the maximum number of
1246 | machines to be operated under the certificate. An identifying
1247 | certificate shall not be transferred from one operator to
1248 | another. The identifying certificate must be conspicuously
1249 | displayed on the premises where the coin-operated amusement
1250 | machines are being operated.

1251 | b. The operator of the machine must obtain an identifying
1252 | certificate before the machine is first operated in the state
1253 | and by July 1 of each year thereafter. The annual fee for each
1254 | certificate shall be based on the number of machines identified
1255 | on the application times \$30 and is due and payable upon
1256 | application for the identifying device. The application shall
1257 | contain the operator's name, sales tax number, business address
1258 | where the machines are being operated, and the number of
1259 | machines in operation at that place of business by the operator.
1260 | No operator may operate more machines than are listed on the

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1261 certificate. A new certificate is required if more machines are
 1262 being operated at that location than are listed on the
 1263 certificate. The fee for the new certificate shall be based on
 1264 the number of additional machines identified on the application
 1265 form times \$30.

1266 c. A penalty of \$250 per machine is imposed on the
 1267 operator for failing to properly obtain and display the required
 1268 identifying certificate. A penalty of \$250 is imposed on the
 1269 lessee of any machine placed in a place of business without a
 1270 proper current identifying certificate. Such penalties shall
 1271 apply in addition to all other applicable taxes, interest, and
 1272 penalties.

1273 d. Operators of coin-operated amusement machines must
 1274 obtain a separate sales and use tax certificate of registration
 1275 for each county in which such machines are located. One sales
 1276 and use tax certificate of registration is sufficient for all of
 1277 the operator's machines within a single county.

1278 4. The provisions of this paragraph do not apply to coin-
 1279 operated amusement machines owned and operated by churches or
 1280 synagogues.

1281 5. In addition to ~~any~~ other penalties imposed by this
 1282 chapter, a person who knowingly and willfully violates a ~~any~~
 1283 provision of this paragraph commits a misdemeanor of the second
 1284 degree, punishable as provided in s. 775.082 or s. 775.083.

1285 6. The department may adopt rules necessary to administer
 1286 the provisions of this paragraph.

1287 (i)1. At the rate of 6 percent on charges for all:

1288 a. Detective, burglar protection, and other protection

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1289 services (NAICS National Numbers 561611, 561612, 561613, and
 1290 561621). A ~~Any~~ law enforcement officer, as defined in s. 943.10,
 1291 who is performing approved duties as determined by his or her
 1292 local law enforcement agency in his or her capacity as a law
 1293 enforcement officer, and who is subject to the direct and
 1294 immediate command of his or her law enforcement agency, and in
 1295 the law enforcement officer's uniform as authorized by his or
 1296 her law enforcement agency, is performing law enforcement and
 1297 public safety services and is not performing detective, burglar
 1298 protection, or other protective services, if the law enforcement
 1299 officer is performing his or her approved duties in a
 1300 geographical area in which the law enforcement officer has
 1301 arrest jurisdiction. Such law enforcement and public safety
 1302 services are not subject to tax irrespective of whether the duty
 1303 is characterized as "extra duty," "off-duty," or "secondary
 1304 employment," and irrespective of whether the officer is paid
 1305 directly or through the officer's agency by an outside source.
 1306 The term "law enforcement officer" includes full-time or part-
 1307 time law enforcement officers, and an ~~any~~ auxiliary law
 1308 enforcement officer, when such auxiliary law enforcement officer
 1309 is working under the direct supervision of a full-time or part-
 1310 time law enforcement officer.

1311 b. Nonresidential cleaning, excluding cleaning of the
 1312 interiors of transportation equipment, and nonresidential
 1313 building pest control services (NAICS National Numbers 561710
 1314 and 561720).

1315 2. As used in this paragraph, "NAICS" means those
 1316 classifications contained in the North American Industry

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1317 Classification System, as published in 2007 by the Office of
1318 Management and Budget, Executive Office of the President.

1319 3. Charges for detective, burglar protection, and other
1320 protection security services performed in this state but used
1321 outside this state are exempt from taxation. Charges for
1322 detective, burglar protection, and other protection security
1323 services performed outside this state and used in this state are
1324 subject to tax.

1325 4. If a transaction involves both the sale or use of a
1326 service taxable under this paragraph and the sale or use of a
1327 service or ~~any~~ other item not taxable under this chapter, the
1328 consideration paid must be separately identified and stated with
1329 respect to the taxable and exempt portions of the transaction or
1330 the entire transaction shall be presumed taxable. The burden
1331 shall be on the seller of the service or the purchaser of the
1332 service, whichever applicable, to overcome this presumption by
1333 providing documentary evidence as to which portion of the
1334 transaction is exempt from tax. The department is authorized to
1335 adjust the amount of consideration identified as the taxable and
1336 exempt portions of the transaction; however, a determination
1337 that the taxable and exempt portions are inaccurately stated and
1338 that the adjustment is applicable must be supported by
1339 substantial competent evidence.

1340 5. Each seller of services subject to sales tax pursuant
1341 to this paragraph shall maintain a monthly log showing each
1342 transaction for which sales tax was not collected because the
1343 services meet the requirements of subparagraph 3. for out-of-
1344 state use. The log must identify the purchaser's name, location

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1345 and mailing address, and federal employer identification number,
1346 if a business, or the social security number, if an individual,
1347 the service sold, the price of the service, the date of sale,
1348 the reason for the exemption, and the sales invoice number. The
1349 monthly log shall be maintained pursuant to the same
1350 requirements and subject to the same penalties imposed for the
1351 keeping of similar records pursuant to this chapter.

1352 (j)1. Notwithstanding any other provision of this chapter,
1353 there is hereby levied a tax on the sale, use, consumption, or
1354 storage for use in this state of a ~~any~~ coin or currency, whether
1355 in circulation or not, when such coin or currency:

1356 a. Is not legal tender;

1357 b. If legal tender, is sold, exchanged, or traded at a
1358 rate in excess of its face value; or

1359 c. Is sold, exchanged, or traded at a rate based on its
1360 precious metal content.

1361 2. Such tax shall be at a rate of 6 percent of the price
1362 at which the coin or currency is sold, exchanged, or traded,
1363 except that, with respect to a coin or currency which is legal
1364 tender of the United States and which is sold, exchanged, or
1365 traded, such tax shall not be levied.

1366 3. There are exempt from this tax exchanges of coins or
1367 currency which are in general circulation in, and legal tender
1368 of, one nation for coins or currency which are in general
1369 circulation in, and legal tender of, another nation when
1370 exchanged solely for use as legal tender and at an exchange rate
1371 based on the relative value of each as a medium of exchange.

1372 4. With respect to a ~~any~~ transaction that involves the

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1373 sale of coins or currency taxable under this paragraph in which
 1374 the taxable amount represented by the sale of such coins or
 1375 currency exceeds \$500, the entire amount represented by the sale
 1376 of such coins or currency is exempt from the tax imposed under
 1377 this paragraph. The dealer must maintain proper documentation,
 1378 as prescribed by rule of the department, to identify that
 1379 portion of a transaction which involves the sale of coins or
 1380 currency and is exempt under this subparagraph.

1381 (k) At the rate of 6 percent of the sales price of each
 1382 gallon of diesel fuel not taxed under chapter 206 purchased for
 1383 use in a vessel, except dyed diesel fuel that is exempt pursuant
 1384 to s. 212.08(4)(a)4.

1385 (l) Florists located in this state are liable for sales
 1386 tax on sales to retail customers regardless of where or by whom
 1387 the items sold are to be delivered. Florists located in this
 1388 state are not liable for sales tax on payments received from
 1389 other florists for items delivered to customers in this state.

1390 (m) Operators of game concessions or other concessionaires
 1391 who customarily award tangible personal property as prizes may,
 1392 in lieu of paying tax on the cost price of such property, pay
 1393 tax on 25 percent of the gross receipts from such concession
 1394 activity.

1395 (2) The tax shall be collected by the dealer, as defined
 1396 herein, and remitted by the dealer to the state at the time and
 1397 in the manner as hereinafter provided.

1398 (3) The tax so levied is in addition to all other taxes,
 1399 whether levied in the form of excise, license, or privilege
 1400 taxes, and in addition to all other fees and taxes levied.

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1401 ~~(4) The tax imposed pursuant to this chapter shall be due~~
 1402 ~~and payable according to the brackets set forth in s. 212.12.~~

1403 (4)~~(5)~~ Notwithstanding any other provision of this
 1404 chapter, the maximum amount of tax imposed under this chapter
 1405 and collected on each sale or use of a boat in this state may
 1406 not exceed \$18,000.

1407 Section 7. Section 212.054, Florida Statutes, is amended
 1408 to read:

1409 212.054 Discretionary sales surtax; limitations,
 1410 administration, and collection.—

1411 (1) A ~~No~~ general excise tax on sales may not shall be
 1412 levied by the governing body of a ~~any~~ county unless specifically
 1413 authorized in s. 212.055. A ~~Any~~ general excise tax on sales
 1414 authorized pursuant to said section shall be administered and
 1415 collected exclusively as provided in this section.

1416 (2) (a) The tax imposed by the governing body of a ~~any~~
 1417 county authorized to so levy pursuant to s. 212.055 shall be a
 1418 discretionary surtax on all transactions occurring in the county
 1419 which transactions are subject to the state tax imposed on
 1420 sales, use, services, rentals, admissions, and other
 1421 transactions by this chapter and communications services as
 1422 defined for purposes of chapter 202. The surtax, if levied,
 1423 shall be computed as the applicable rate or rates authorized
 1424 pursuant to s. 212.055 times the amount of taxable sales and
 1425 taxable purchases representing such transactions. If the surtax
 1426 is levied on the sale of an item of tangible personal property
 1427 or on the sale of a service, the surtax shall be computed by
 1428 multiplying the rate imposed by the county within which the sale

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1429 occurs by the amount of the taxable sale. The sale of an item of
1430 tangible personal property or the sale of a service is not
1431 subject to the surtax if the property, the service, or the
1432 tangible personal property representing the service is delivered
1433 within a county that does not impose a discretionary sales
1434 surtax.

1435 (b) However:

1436 1. The sales amount above \$5,000 on a motor vehicle,
1437 aircraft, boat, manufactured home, modular home, or mobile home
1438 is any item of tangible personal property shall not be subject
1439 to the surtax. However, charges for prepaid calling
1440 arrangements, as defined in s. 212.05(1)(c)1.a., shall be
1441 subject to the surtax. For purposes of administering the \$5,000
1442 limitation on an item of tangible personal property, if two or
1443 more taxable items of tangible personal property are sold to the
1444 same purchaser at the same time and, under generally accepted
1445 business practice or industry standards or usage, are normally
1446 sold in bulk or are items that, when assembled, comprise a
1447 working unit or part of a working unit, such items must be
1448 considered a single item for purposes of the \$5,000 limitation
1449 when supported by a charge ticket, sales slip, invoice, or other
1450 tangible evidence of a single sale or rental.

1451 2. In the case of utility services covering a period
1452 starting before and ending after the effective date of the
1453 surtax, the rate applies as follows:

1454 a. In the case of a rate adoption or increase, the new
1455 rate applies to the first billing period starting on or after
1456 the effective date of the surtax adoption or increase.

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1457 b. In the case of a rate decrease or termination, the new
1458 rate applies to bills rendered on or after the effective date of
1459 the rate change billed on or after the effective date of any
1460 ~~such surtax, the entire amount of the charge for utility~~
1461 ~~services shall be subject to the surtax. In the case of utility~~
1462 ~~services billed after the last day the surtax is in effect, the~~
1463 ~~entire amount of the charge on said items shall not be subject~~
1464 ~~to the surtax. "Utility service," as used in this section, does~~
1465 ~~not include any communications services as defined in chapter~~
1466 ~~202.~~

1467 3. In the case of written contracts which are signed prior
1468 to the effective date of ~~any~~ such surtax for the construction of
1469 improvements to real property or for remodeling of existing
1470 structures, the surtax shall be paid by the contractor
1471 responsible for the performance of the contract. However, the
1472 contractor may apply for one refund of ~~any~~ such surtax paid on
1473 materials necessary for the completion of the contract. An Any
1474 application for refund shall be made no later than 15 months
1475 following initial imposition of the surtax in that county. The
1476 application for refund shall be in the manner prescribed by the
1477 department by rule. A complete application shall include proof
1478 of the written contract and of payment of the surtax. The
1479 application shall contain a sworn statement, signed by the
1480 applicant or its representative, attesting to the validity of
1481 the application. The department shall, within 30 days after
1482 approval of a complete application, certify to the county
1483 information necessary for issuance of a refund to the applicant.
1484 Counties are hereby authorized to issue refunds for this purpose

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1485 and shall set aside from the proceeds of the surtax a sum
 1486 sufficient to pay a ~~any~~ refund lawfully due. A ~~Any~~ person who
 1487 fraudulently obtains or attempts to obtain a refund pursuant to
 1488 this subparagraph, in addition to being liable for repayment of
 1489 a ~~any~~ refund fraudulently obtained plus a mandatory penalty of
 1490 100 percent of the refund, is guilty of a felony of the third
 1491 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1492 775.084.

1493 4. In the case of a ~~any~~ vessel, railroad, or motor vehicle
 1494 common carrier entitled to partial exemption from tax imposed
 1495 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 1496 basis for imposition of surtax shall be the same as provided in
 1497 s. 212.08 and the ratio shall be applied each month to total
 1498 purchases in this state of property qualified for proration
 1499 which is delivered or sold in the taxing county to establish the
 1500 portion used and consumed in intracounty movement and subject to
 1501 surtax.

1502 (3) Except as otherwise provided in this section, a surtax
 1503 applies to a retail sale, lease, or rental of tangible personal
 1504 property, a digital good, or a service when, under s.
 1505 212.06(17), the transaction occurs in a county that imposes a
 1506 surtax under s. 212.055.

1507 (4)-(3) To determine whether a transaction occurs in a
 1508 county imposing a surtax, the following provisions apply ~~For the~~
 1509 ~~purpose of this section, a transaction shall be deemed to have~~
 1510 ~~occurred in a county imposing the surtax when:~~

1511 (a) ~~1-~~ The retail sale of a modular or manufactured home,
 1512 not including a mobile home, occurs in the county to which the

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1513 ~~house is delivered includes an item of tangible personal~~
1514 ~~property, a service, or tangible personal property representing~~
1515 ~~a service, and the item of tangible personal property, the~~
1516 ~~service, or the tangible personal property representing the~~
1517 ~~service is delivered within the county. If there is no~~
1518 ~~reasonable evidence of delivery of a service, the sale of a~~
1519 ~~service is deemed to occur in the county in which the purchaser~~
1520 ~~accepts the bill of sale.~~

1521 (b)2. The retail sale, excluding a lease or rental, of a
1522 motor vehicle that does not qualify as transportation equipment,
1523 as defined in s. 212.06(17) (g), or the retail sale of a ~~of any~~
1524 motor vehicle or mobile home of a class or type that which is
1525 required to be registered in this state or in any other state is
1526 shall be deemed to occur ~~have occurred only~~ in the county
1527 identified from ~~as~~ the ~~residence~~ address of the purchaser on the
1528 registration or title document for the ~~such~~ property.

1529 (c)~~(b)~~ Admission charged for an event occurs ~~The event for~~
1530 ~~which an admission is charged is located~~ in the county in which
1531 the event is held.

1532 (d)~~(e)~~ A lease or rental of real property occurs in the
1533 county in which the real property is located. ~~The consumer of~~
1534 ~~utility services is located in the county.~~

1535 (e)~~(d)~~1. The retail sale, excluding a lease or rental, of
1536 an aircraft that does not qualify as transportation equipment,
1537 as defined in s. 212.06(17) (g), or of a boat of a class or type
1538 that is required to be registered, licensed, titled, or
1539 documented in this state or by the Federal Government occurs in
1540 the county to which the aircraft or boat is delivered.

1541 2. The user of an ~~any~~ aircraft or boat of a class or type
 1542 that ~~which~~ is required to be registered, licensed, titled, or
 1543 documented in this state or by the United States Government
 1544 imported into the county for use, consumption, distribution, or
 1545 storage to be used or consumed occurs in the county in which the
 1546 user is located ~~in the county~~.

1547 ~~3.2.~~ However, it shall be presumed that such items used
 1548 outside the county imposing the surtax for 6 months or longer
 1549 before being imported into the county were not purchased for use
 1550 in the county, except as provided in s. 212.06(8)(b).

1551 ~~4.3.~~ This paragraph does not apply to the use or
 1552 consumption of items upon which a like tax of equal or greater
 1553 amount has been lawfully imposed and paid outside the county.

1554 ~~(f)(e)~~ The purchase ~~purchaser~~ of a ~~any~~ motor vehicle or
 1555 mobile home of a class or type that ~~which~~ is required to be
 1556 registered in this state occurs in the county identified from
 1557 the residential address of the purchaser ~~is a resident of the~~
 1558 ~~taxing county as determined by the address appearing on or to be~~
 1559 ~~reflected~~ on the registration document for the ~~such~~ property.

1560 ~~(g)(f)~~1. The use, consumption, distribution, or storage of
 1561 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~
 1562 is required to be registered in this state and that is imported
 1563 from another state occurs in the county to which it is imported
 1564 ~~into the taxing county by a user residing therein for the~~
 1565 ~~purpose of use, consumption, distribution, or storage in the~~
 1566 ~~taxing county~~.

1567 2. However, it shall be presumed that such items used
 1568 outside the taxing county for 6 months or longer before being

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1569 imported into the county were not purchased for use in the
 1570 county.

1571 ~~(g) The real property which is leased or rented is located~~
 1572 ~~in the county.~~

1573 (h) A ~~The~~ transient rental transaction occurs in the
 1574 county in which the rental property is located.

1575 ~~(i) The delivery of any aircraft or boat of a class or~~
 1576 ~~type which is required to be registered, licensed, titled, or~~
 1577 ~~documented in this state or by the United States Government is~~
 1578 ~~to a location in the county. However, this paragraph does not~~
 1579 ~~apply to the use or consumption of items upon which a like tax~~
 1580 ~~of equal or greater amount has been lawfully imposed and paid~~
 1581 ~~outside the county.~~

1582 ~~(i)-(j)~~ A transaction occurs in a county imposing the
 1583 surtax if the dealer owing a use tax on purchases or leases is
 1584 located in that the county.

1585 ~~(k) The delivery of tangible personal property other than~~
 1586 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
 1587 ~~is made to a location outside the county, but the property is~~
 1588 ~~brought into the county within 6 months after delivery, in which~~
 1589 ~~event, the owner must pay the surtax as a use tax.~~

1590 ~~(j)-(l)~~ The use of a coin-operated amusement or vending
 1591 machine occurs ~~is located~~ in the county in which the machine is
 1592 located.

1593 ~~(k)-(m)~~ An ~~The florist taking the original order to sell~~
 1594 tangible personal property taken by a florist occurs ~~is located~~
 1595 in the county in which the florist taking the order is located,
 1596 notwithstanding any other provision of this section.

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1597 (5)~~(4)~~(a) The department shall administer, collect, and
1598 enforce the tax authorized under s. 212.055 pursuant to the same
1599 procedures used in the administration, collection, and
1600 enforcement of the general state sales tax imposed under the
1601 provisions of this chapter, except as provided in this section.
1602 The provisions of this chapter regarding interest and penalties
1603 on delinquent taxes shall apply to the surtax. Discretionary
1604 sales surtaxes shall not be included in the computation of
1605 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1606 provision of law, a dealer need not separately state the amount
1607 of the surtax on the charge ticket, sales slip, invoice, or
1608 other tangible evidence of sale. For the purposes of this
1609 section and s. 212.055, the "proceeds" of a ~~any~~ surtax means all
1610 funds collected and received by the department pursuant to a
1611 specific authorization and levy under s. 212.055, including ~~any~~
1612 interest and penalties on delinquent surtaxes.

1613 (b) The proceeds of a discretionary sales surtax collected
1614 by the selling dealer located in a county imposing the surtax
1615 shall be returned, less the cost of administration, to the
1616 county where the selling dealer is located. The proceeds shall
1617 be transferred to the Discretionary Sales Surtax Clearing Trust
1618 Fund. A separate account shall be established in the trust fund
1619 for each county imposing a discretionary surtax. The amount
1620 deducted for the costs of administration may not exceed 3
1621 percent of the total revenue generated for all counties levying
1622 a surtax authorized in s. 212.055. The amount deducted for the
1623 costs of administration may be used only for costs that are
1624 solely and directly attributable to the surtax. The total cost

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1625 of administration shall be prorated among those counties levying
 1626 the surtax on the basis of the amount collected for a particular
 1627 county to the total amount collected for all counties. The
 1628 department shall distribute the moneys in the trust fund to the
 1629 appropriate counties each month, unless otherwise provided in s.
 1630 212.055.

1631 (c)1. A ~~Any~~ dealer located in a county that does not
 1632 impose a discretionary sales surtax but who collects the surtax
 1633 due to sales of tangible personal property or services delivered
 1634 outside the county shall remit monthly the proceeds of the
 1635 surtax to the department to be deposited into an account in the
 1636 Discretionary Sales Surtax Clearing Trust Fund which is separate
 1637 from the county surtax collection accounts. The department shall
 1638 distribute funds in this account using a distribution factor
 1639 determined for each county that levies a surtax and multiplied
 1640 by the amount of funds in the account and available for
 1641 distribution. The distribution factor for each county equals the
 1642 product of:

1643 a. The county's latest official population determined
 1644 pursuant to s. 186.901;

1645 b. The county's rate of surtax; and

1646 c. The number of months the county has levied a surtax
 1647 during the most recent distribution period;
 1648 divided by the sum of all such products of the counties levying
 1649 the surtax during the most recent distribution period.

1650 2. The department shall compute distribution factors for
 1651 eligible counties once each quarter and make appropriate
 1652 quarterly distributions.

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1653 3. A county that fails to timely provide the information
1654 required by this section to the department authorizes the
1655 department, by such action, to use the best information
1656 available to it in distributing surtax revenues to the county.
1657 If this information is unavailable to the department, the
1658 department may partially or entirely disqualify the county from
1659 receiving surtax revenues under this paragraph. A county that
1660 fails to provide timely information waives its right to
1661 challenge the department's determination of the county's share,
1662 if any, of revenues provided under this paragraph.

1663 ~~(5) No discretionary sales surtax or increase or decrease~~
1664 ~~in the rate of any discretionary sales surtax shall take effect~~
1665 ~~on a date other than January 1. No discretionary sales surtax~~
1666 ~~shall terminate on a day other than December 31.~~

1667 (6) The governing body of a any county levying a
1668 discretionary sales surtax shall enact an ordinance levying the
1669 surtax in accordance with the procedures described in s.
1670 125.66(2).

1671 (7) (a) An adoption, repeal, or rate change of the surtax
1672 by the governing body of a any county levying a discretionary
1673 sales surtax or the school board of a any county levying the
1674 school capital outlay surtax authorized by s. 212.055(6) is
1675 effective on April 1. A county or school board adopting,
1676 repealing, or changing the rate of such surtax shall notify the
1677 department within 10 days after final adoption by ordinance or
1678 referendum of an adoption, repeal, imposition, termination, or
1679 rate change of the surtax, but no later than October 20
1680 immediately before the April 1 ~~November 16 prior to the~~

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1681 effective date. The notice must specify the time period during
1682 which the surtax will be in effect and the rate and must include
1683 a copy of the ordinance and such other information as the
1684 department requires by rule. Failure to timely provide such
1685 notification to the department shall result in the delay of the
1686 effective date for a period of 1 year.

1687 (b) In addition to the notification required by paragraph
1688 (a), the governing body of a ~~any~~ county proposing to levy a
1689 discretionary sales surtax or the school board of a ~~any~~ county
1690 proposing to levy the school capital outlay surtax authorized by
1691 s. 212.055(6) shall notify the department by October 1 if the
1692 referendum or consideration of the ordinance that would result
1693 in imposition, termination, or rate change of the surtax is
1694 scheduled to occur on or after October 1 of that year. Failure
1695 to timely provide such notification to the department shall
1696 result in the delay of the effective date for a period of 1
1697 year.

1698 (c) The department shall provide notice of the adoption,
1699 repeal, or rate change of the surtax to affected sellers by
1700 February 1 immediately before the April 1 effective date.

1701 (d) Notwithstanding the date set in an ordinance for the
1702 termination of a surtax, a surtax terminates only on March 31. A
1703 surtax imposed before January 1, 2014, for which an ordinance
1704 provides a different termination date, also terminates on the
1705 March 31 after the termination date established in the
1706 ordinance.

1707 (8) With respect to a ~~any~~ motor vehicle or mobile home of
1708 a class or type which is required to be registered in this

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1709 state, the tax due on a transaction occurring in the taxing
 1710 county as herein provided shall be collected from the purchaser
 1711 or user incident to the titling and registration of such
 1712 property, irrespective of whether such titling or registration
 1713 occurs in the taxing county.

1714 (9) The department may certify vendor databases and shall
 1715 purchase or otherwise make available a database or databases,
 1716 singly or in combination, which describe boundary changes for
 1717 all taxing jurisdictions, including a description of the change
 1718 and the effective date of a boundary change; provide all sales
 1719 and use tax rates by jurisdiction; assign to each five-digit and
 1720 nine-digit zip code the proper rate and jurisdiction and apply
 1721 the lowest combined rate imposed in the zip code area, if the
 1722 area includes more than one tax rate in any level of taxing
 1723 jurisdiction; and use address-based boundary database records
 1724 for assigning taxing jurisdictions and associated tax rates.

1725 (a) A seller or certified service provider that collects
 1726 and remits the state tax and local tax imposed by this chapter
 1727 shall be held harmless from tax, interest, and penalties due
 1728 solely as a result of relying on erroneous data on tax rates,
 1729 boundaries, or taxing jurisdiction assignments provided by the
 1730 state if the seller or certified service provider exercises due
 1731 diligence in applying one or more of the following methods to
 1732 determine the taxing jurisdiction and tax rate for a
 1733 transaction:

1734 1. Employing an electronic database provided by the
 1735 department under this subsection; or

1736 2. Employing a state-certified database.

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1737 (b) If a seller or certified service provider is unable to
1738 determine the applicable rate and jurisdiction using an address-
1739 based database record after exercising due diligence, the seller
1740 or certified service provider may apply the nine-digit zip code
1741 designation applicable to a purchaser.

1742 (c) If a nine-digit zip code designation is not available
1743 for a street address or if a seller or certified service
1744 provider is unable to determine the nine-digit zip code
1745 designation applicable to a purchase after exercising due
1746 diligence to determine the designation, the seller or certified
1747 service provider may apply the rate for the five-digit zip code
1748 area.

1749 (d) There is a rebuttable presumption that a seller or
1750 certified service provider has exercised due diligence if the
1751 seller or certified service provider has attempted to determine
1752 the tax rate and jurisdiction by using state-certified software
1753 that makes this assignment from the address and zip code
1754 information applicable to the purchase.

1755 (e) There is a rebuttable presumption that a seller or
1756 certified service provider has exercised due diligence if the
1757 seller or certified service provider has attempted to determine
1758 the nine-digit zip code designation by using state-certified
1759 software that makes this designation from the street address and
1760 the five-digit zip code applicable to a purchase.

1761 (f) If a seller or certified service provider does not use
1762 one of the methods specified in paragraph (a), the seller or
1763 certified service provider may be held liable to the department
1764 for tax, interest, and penalties that are due for charging and

1765 collecting the incorrect amount of tax.

1766 (10) A purchaser shall be held harmless from tax,
 1767 interest, and penalties for having failed to pay the correct
 1768 amount of sales or use tax due solely as a result of the
 1769 following:

1770 (a) The seller or certified service provider relied on
 1771 erroneous data on tax rates, boundaries, or taxing jurisdiction
 1772 assignments provided by the department;

1773 (b) A purchaser holding a direct-pay permit relied on
 1774 erroneous data on tax rates, boundaries, or taxing jurisdiction
 1775 assignments provided by the department; or

1776 (c) A purchaser relied on erroneous data supplied in a
 1777 database described in paragraph (9) (a).

1778 (11) A seller is not liable for failing to collect tax at
 1779 the new tax rate if:

1780 (a) The new rate takes effect within 30 days after the new
 1781 rate is enacted;

1782 (b) The seller collected the tax at the preceding rate;

1783 (c) The seller's failure to collect the tax at the new
 1784 rate does not extend beyond 30 days after the enactment of the
 1785 new rate; and

1786 (d) The seller did not fraudulently fail to collect at the
 1787 new rate or solicit purchasers based on the preceding rate.

1788 Section 8. Paragraph (c) of subsection (2) and subsections
 1789 (3) and (5) of section 212.06, Florida Statutes, are amended,
 1790 and subsection (17) is added to that section, to read:

1791 212.06 Sales, storage, use tax; collectible from dealers;
 1792 "dealer" defined; dealers to collect from purchasers;

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1793 legislative intent as to scope of tax.-

1794 (2)

1795 (c) The term "dealer" is further defined to mean every
 1796 person, as used in this chapter, who sells at retail or who
 1797 offers for sale at retail, or who has in his or her possession
 1798 for sale at retail; or for use, consumption, or distribution; or
 1799 for storage to be used or consumed in this state, tangible
 1800 personal property as defined herein, ~~including a retailer who~~
 1801 ~~transacts a mail order sale.~~

1802 (3) (a) Except as provided in paragraph (b), every dealer
 1803 making sales, whether within or outside the state, of tangible
 1804 personal property for distribution, storage, or use or other
 1805 consumption, in this state, shall, at the time of making sales,
 1806 collect the tax imposed by this chapter from the purchaser.

1807 (b)1. Notwithstanding subsection (17), a purchaser of
 1808 direct mail which is not a holder of a direct-pay permit shall
 1809 provide to the seller in conjunction with the purchase a direct-
 1810 mail form or information to show the jurisdictions to which the
 1811 direct mail is delivered to recipients.

1812 2. Upon receipt of information from the purchaser showing
 1813 the jurisdictions to which the direct mail is delivered to
 1814 recipients, the seller shall collect the tax according to the
 1815 delivery information provided by the purchaser. In the absence
 1816 of bad faith, the seller is relieved of further obligation to
 1817 collect tax on a transaction for which the seller has collected
 1818 tax pursuant to the delivery information provided by the
 1819 purchaser.

1820 3. If the purchaser of direct mail does not have a direct-

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1821 pay permit and does not provide the seller with a direct-mail
1822 form or delivery information as required by subparagraph 1., the
1823 seller shall collect the tax according to subparagraph (17) (d)5.
1824 This paragraph does not limit a purchaser's obligation to remit
1825 sales or use tax to a state to which the direct mail is
1826 delivered.

1827 4. If a purchaser of direct mail provides the seller with
1828 documentation of direct-pay authority, the purchaser is not
1829 required to provide a direct-mail form or delivery information
1830 to the seller. A purchaser of printed materials shall have sole
1831 responsibility for the taxes imposed by this chapter on those
1832 materials when the printer of the materials delivers them to the
1833 United States Postal Service for mailing to persons other than
1834 the purchaser located within and outside this state. Printers of
1835 materials delivered by mail to persons other than the purchaser
1836 located within and outside this state shall have no obligation
1837 or responsibility for the payment or collection of any taxes
1838 imposed under this chapter on those materials. However, printers
1839 are obligated to collect the taxes imposed by this chapter on
1840 printed materials when all, or substantially all, of the
1841 materials will be mailed to persons located within this state.
1842 For purposes of the printer's tax collection obligation, there
1843 is a rebuttable presumption that all materials printed at a
1844 facility are mailed to persons located within the same state as
1845 that in which the facility is located. A certificate provided by
1846 the purchaser to the printer concerning the delivery of the
1847 printed materials for that purchase or all purchases shall be
1848 sufficient for purposes of rebutting the presumption created

1849 herein.

1850 ~~5.2.~~ The Department of Revenue is authorized to adopt
 1851 rules and forms to implement the provisions of this paragraph.

1852 (5) (a) ~~1. Except as provided in subparagraph 2., It is not~~
 1853 ~~the intention of~~ This chapter does not ~~to~~ levy a tax upon
 1854 tangible personal property imported, produced, or manufactured
 1855 in this state for export:

1856 1. ~~If, provided that tangible personal property may not be~~
 1857 ~~considered as being imported, produced, or manufactured for~~
 1858 ~~export unless the importer, producer, or manufacturer:~~

1859 a. Delivers the tangible personal property ~~same~~ to a
 1860 licensed exporter for exporting or to a common carrier for
 1861 shipment outside the state or mails the same by United States
 1862 mail to a destination outside the state; ~~or, in the case of~~
 1863 ~~aircraft being exported under their own power to a destination~~
 1864 ~~outside the continental limits of the United States, by~~
 1865 ~~submission~~

1866 b. Submits to the department ~~of~~ a duly signed and
 1867 validated United States customs declaration, ~~showing the~~
 1868 departure of an ~~the~~ aircraft from the continental United States
 1869 ~~and; and further with respect to aircraft,~~ the canceled United
 1870 States registry of the said aircraft for an aircraft that is
 1871 exported under its own power to a destination outside of the
 1872 continental United States; ~~or in the case of~~

1873 c. Submits documentation as required by rule to the
 1874 department showing the departure of an aircraft of foreign
 1875 registry from the continental United States on which parts and
 1876 equipment have been installed ~~on aircraft of foreign registry,~~

1877 ~~by submission to the department of documentation, the extent of~~
 1878 ~~which shall be provided by rule, showing the departure of the~~
 1879 ~~aircraft from the continental United States; or nor is it the~~
 1880 ~~intention of this chapter to levy a tax on any sale which~~

1881 2. ~~If the state is prohibited from taxing the sale under~~
 1882 ~~the Constitution or laws of the United States; :-~~

1883
 1884 Every retail sale made to a person physically present at the
 1885 time of sale shall be presumed to have been delivered in this
 1886 state.

1887 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
 1888 ~~each sale of tangible personal property to be transported to a~~
 1889 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
 1890 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
 1891 ~~be relieved from the requirements of collecting taxes pursuant~~
 1892 ~~to this subparagraph if the Florida dealer obtains from the~~
 1893 ~~purchaser an affidavit setting forth the purchaser's name,~~
 1894 ~~address, state taxpayer identification number, and a statement~~
 1895 ~~that the purchaser is aware of his or her state's use tax laws,~~
 1896 ~~is a registered dealer in Florida or another state, or is~~
 1897 ~~purchasing the tangible personal property for resale or is~~
 1898 ~~otherwise not required to pay the tax on the transaction. The~~
 1899 ~~department may, by rule, provide a form to be used for the~~
 1900 ~~purposes set forth herein.~~

1901 ~~b. For purposes of this subparagraph, "a cooperating~~
 1902 ~~state" is one determined by the executive director of the~~
 1903 ~~department to cooperate satisfactorily with this state in~~
 1904 ~~collecting taxes on mail order sales. No state shall be so~~

1905 ~~determined unless it meets all the following minimum~~
 1906 ~~requirements:~~

1907 ~~(I) It levies and collects taxes on mail order sales of~~
 1908 ~~property transported from that state to persons in this state,~~
 1909 ~~as described in s. 212.0596, upon request of the department.~~

1910 ~~(II) The tax so collected shall be at the rate specified~~
 1911 ~~in s. 212.05, not including any local option or tourist or~~
 1912 ~~convention development taxes collected pursuant to s. 125.0104~~
 1913 ~~or this chapter.~~

1914 ~~(III) Such state agrees to remit to the department all~~
 1915 ~~taxes so collected no later than 30 days from the last day of~~
 1916 ~~the calendar quarter following their collection.~~

1917 ~~(IV) Such state authorizes the department to audit dealers~~
 1918 ~~within its jurisdiction who make mail order sales that are the~~
 1919 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~
 1920 ~~the department for auditing them with its own personnel.~~

1921 ~~(V) Such state agrees to provide to the department records~~
 1922 ~~obtained by it from retailers or dealers in such state showing~~
 1923 ~~delivery of tangible personal property into this state upon~~
 1924 ~~which no sales or use tax has been paid in a manner similar to~~
 1925 ~~that provided in sub-subparagraph g.~~

1926 ~~e. For purposes of this subparagraph, "sales of tangible~~
 1927 ~~personal property to be transported to a cooperating state"~~
 1928 ~~means mail order sales to a person who is in the cooperating~~
 1929 ~~state at the time the order is executed, from a dealer who~~
 1930 ~~receives that order in this state.~~

1931 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
 1932 ~~rate at which such a sale would have been taxed pursuant to the~~

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1933 ~~cooperating state's tax laws if consummated in the cooperating~~
1934 ~~state by a dealer and a purchaser, both of whom were physically~~
1935 ~~present in that state at the time of the sale.~~

1936 ~~e. The tax levied by sub-subparagraph a., when collected,~~
1937 ~~shall be held in the State Treasury in trust for the benefit of~~
1938 ~~the cooperating state and shall be paid to it at a time agreed~~
1939 ~~upon between the department, acting for this state, and the~~
1940 ~~cooperating state or the department or agency designated by it~~
1941 ~~to act for it; however, such payment shall in no event be made~~
1942 ~~later than 30 days from the last day of the calendar quarter~~
1943 ~~after the tax was collected. Funds held in trust for the benefit~~
1944 ~~of a cooperating state shall not be subject to the service~~
1945 ~~charges imposed by s. 215.20.~~

1946 ~~f. The department is authorized to perform such acts and~~
1947 ~~to provide such cooperation to a cooperating state with~~
1948 ~~reference to the tax levied by sub-subparagraph a. as is~~
1949 ~~required of the cooperating state by sub-subparagraph b.~~

1950 ~~g. In furtherance of this act, dealers selling tangible~~
1951 ~~personal property for delivery in another state shall make~~
1952 ~~available to the department, upon request of the department,~~
1953 ~~records of all tangible personal property so sold. Such records~~
1954 ~~shall include a description of the property, the name and~~
1955 ~~address of the purchaser, the name and address of the person to~~
1956 ~~whom the property was sent, the purchase price of the property,~~
1957 ~~information regarding whether sales tax was paid in this state~~
1958 ~~on the purchase price, and such other information as the~~
1959 ~~department may by rule prescribe.~~

1960 (b)1. Notwithstanding the provisions of paragraph (a), it

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1961 is not the intention of this chapter to levy a tax on the sale
1962 of tangible personal property to a nonresident dealer who does
1963 not hold a Florida sales tax registration, provided such
1964 nonresident dealer furnishes the seller a statement declaring
1965 that the tangible personal property will be transported outside
1966 this state by the nonresident dealer for resale and for no other
1967 purpose. The statement shall include, but not be limited to, the
1968 nonresident dealer's name, address, applicable passport or visa
1969 number, arrival-departure card number, and evidence of authority
1970 to do business in the nonresident dealer's home state or
1971 country, such as his or her business name and address,
1972 occupational license number, if applicable, or ~~any~~ other
1973 suitable requirement. The statement shall be signed by the
1974 nonresident dealer and shall include the following sentence:
1975 "Under penalties of perjury, I declare that I have read the
1976 foregoing, and the facts alleged are true to the best of my
1977 knowledge and belief."

1978 2. The burden of proof of subparagraph 1. rests with the
1979 seller, who must retain the proper documentation to support the
1980 exempt sale. The exempt transaction is subject to verification
1981 by the department.

1982 (c) Notwithstanding the provisions of paragraph (a), it is
1983 not the intention of this chapter to levy a tax on the sale by a
1984 printer to a nonresident print purchaser of material printed by
1985 that printer for that nonresident print purchaser when the print
1986 purchaser does not furnish the printer a resale certificate
1987 containing a sales tax registration number but does furnish to
1988 the printer a statement declaring that such material will be

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1989 | resold by the nonresident print purchaser.

1990 | (17) This subsection shall be used to determine the

1991 | location where a transaction occurs for purposes of applying the

1992 | tax imposed by this chapter.

1993 | (a) For purposes of this subsection, the terms "receive"

1994 | and "receipt" mean:

1995 | 1. Taking possession of tangible personal property;

1996 | 2. Making first use of services; or

1997 | 3. Taking possession or making first use of digital goods,

1998 | whichever occurs first.

1999 |

2000 | The terms do not include possession by a shipping company on

2001 | behalf of the purchaser.

2002 | (b) For purposes of this subsection, the term "product"

2003 | means tangible personal property, a digital good, or a service.

2004 | (c) This section does not apply to sales or use taxes

2005 | levied on:

2006 | 1. The retail sale or transfer of a boat, modular home,

2007 | manufactured home, or mobile home.

2008 | 2. The retail sale, excluding a lease or rental, of a

2009 | motor vehicle or aircraft that does not qualify as

2010 | transportation equipment, as defined in paragraph (g). The lease

2011 | or rental of these items shall be deemed to have occurred in

2012 | accordance with paragraph (f).

2013 | 3. The retail sale of tangible personal property by a

2014 | florist.

2015 |

2016 | Such retail sales are deemed to take place at the location

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2017 determined under s. 212.054(4).

2018 (d) The retail sale of a product, excluding a lease or
2019 rental, shall be deemed to take place:

2020 1. When the product is received by the purchaser at a
2021 business location of the seller, at that business location;

2022 2. When the product is not received by the purchaser at a
2023 business location of the seller, at the location of receipt by
2024 the purchaser, or the purchaser's donee, designated as such by
2025 the purchaser, including the location indicated by instructions
2026 for delivery to the purchaser or donee, known to the seller;

2027 3. When subparagraphs 1. and 2. do not apply, at the
2028 location indicated by an address for the purchaser which is
2029 available from the business records of the seller which are
2030 maintained in the ordinary course of the seller's business, if
2031 use of this address does not constitute bad faith;

2032 4. When subparagraphs 1., 2., and 3. do not apply, at the
2033 location indicated by an address for the purchaser obtained
2034 during the consummation of the sale, including the address of a
2035 purchaser's payment instrument, if no other address is available
2036 and use of this address does not constitute bad faith; or

2037 5. When subparagraphs 1., 2., 3., and 4. do not apply,
2038 including when the seller is without sufficient information to
2039 apply the previous subparagraphs, at the address from which
2040 tangible personal property was shipped, from which the digital
2041 good or the computer software delivered electronically was first
2042 available for transmission by the seller, or from which the
2043 service was provided, disregarding a location that merely
2044 provided the digital transfer of the product sold.

2045 (e) The lease or rental of tangible personal property,
 2046 other than property identified in paragraphs (f) and (g), shall
 2047 be deemed to have occurred as follows:

2048 1. For a lease or rental that requires recurring periodic
 2049 payments, the first periodic payment is deemed to take place in
 2050 accordance with paragraph (d), notwithstanding the exclusion of
 2051 lease or rental in paragraph (d). Subsequent periodic payments
 2052 are deemed to have occurred at the primary property location for
 2053 each period covered by the payment. The primary property
 2054 location is determined by an address for the property provided
 2055 by the lessee which is available to the lessor from its records
 2056 maintained in the ordinary course of business, if use of this
 2057 address does not constitute bad faith. The property location is
 2058 not altered by intermittent use of the property at different
 2059 locations, such as use of business property that accompanies
 2060 employees on business trips and service calls.

2061 2. For a lease or rental that does not require recurring
 2062 periodic payments, the payment is deemed to take place in
 2063 accordance with paragraph (d), notwithstanding the exclusion of
 2064 a lease or rental in paragraph (d).

2065 3. This paragraph does not affect the imposition or
 2066 computation of sales or use tax on leases or rentals based on a
 2067 lump sum or accelerated basis or on the acquisition of property
 2068 for lease.

2069 (f) The lease or rental of a motor vehicle or aircraft
 2070 that does not qualify as transportation equipment, as defined in
 2071 paragraph (g), shall be sourced as follows:

2072 1. For a lease or rental that requires recurring periodic

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2073 payments, each periodic payment is deemed to take place at the
 2074 primary property location. The primary property location shall
 2075 be determined by an address for the property provided by the
 2076 lessee which is available to the lessor from its records
 2077 maintained in the ordinary course of business, if use of this
 2078 address does not constitute bad faith. This location may not be
 2079 altered by intermittent use at different locations.

2080 2. For a lease or rental that does not require recurring
 2081 periodic payments, the payment is deemed to take place in
 2082 accordance with paragraph (d), notwithstanding the exclusion of
 2083 a lease or rental in paragraph (d).

2084 3. This paragraph does not affect the imposition or
 2085 computation of sales or use tax on leases or rentals based on a
 2086 lump sum or accelerated basis or on the acquisition of property
 2087 for lease.

2088 (g) The retail sale, including a lease or rental, of
 2089 transportation equipment shall be deemed to take place in
 2090 accordance with paragraph (d), notwithstanding the exclusion of
 2091 a lease or rental in paragraph (d). The term "transportation
 2092 equipment" means:

2093 1. Locomotives and rail cars that are used for the
 2094 carriage of persons or property in interstate commerce;

2095 2. Trucks and truck tractors with a gross vehicle weight
 2096 rating (GVWR) of 10,001 pounds or greater, trailers,
 2097 semitrailers, or passenger buses that are registered through the
 2098 International Registration Plan and operated under authority of
 2099 a carrier authorized and certificated by the United States
 2100 Department of Transportation or another federal authority to

2101 engage in the carriage of persons or property in interstate
 2102 commerce;

2103 3. Aircraft that are operated by air carriers authorized
 2104 and certificated by the United States Department of
 2105 Transportation or another federal or a foreign authority to
 2106 engage in the carriage of persons or property in interstate or
 2107 foreign commerce; or

2108 4. Containers designed for use on and component parts
 2109 attached or secured on the items set forth in subparagraphs 1.-
 2110 3.

2111 Section 9. Paragraph (c) of subsection (1) of section
 2112 212.07, Florida Statutes, is amended, and subsection (10) is
 2113 added that section, to read:

2114 212.07 Sales, storage, use tax; tax added to purchase
 2115 price; dealer not to absorb; liability of purchasers who cannot
 2116 prove payment of the tax; penalties; general exemptions.-

2117 (1)

2118 (c) Unless the purchaser of tangible personal property
 2119 that is incorporated into tangible personal property
 2120 manufactured, produced, compounded, processed, or fabricated for
 2121 one's own use and subject to the tax imposed under s.

2122 212.06(1)(b) or is purchased for export under s. 212.06(5)(a) ~~1-~~
 2123 extends a certificate in compliance with the rules of the
 2124 department, the dealer shall himself or herself be liable for
 2125 and pay the tax.

2126 (10) (a) The executive director is authorized to maintain
 2127 and publish a taxability matrix in a downloadable format that
 2128 has been approved by the governing board of the Streamlined

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2129 Sales and Use Tax Agreement.

2130 (b) The state shall provide notice of changes to the
2131 taxability of the products or services listed in the taxability
2132 matrix.

2133 (c) A seller or certified service provider who collects
2134 and remits the state and local tax imposed by this chapter shall
2135 be held harmless from tax, interest, and penalties for having
2136 charged and collected the incorrect amount of sales or use tax
2137 due solely as a result of relying on erroneous data provided by
2138 the state in the taxability matrix.

2139 (d) A purchaser shall be held harmless from penalties for
2140 having failed to pay the correct amount of sales or use tax due
2141 solely as a result of the following circumstances:

2142 1. The seller or certified service provider relied on
2143 erroneous data provided by the state in the taxability matrix
2144 completed by the state;

2145 2. A purchaser relied on erroneous data provided by the
2146 state in the taxability matrix completed by the state; or

2147 3. A purchaser holding a direct-pay permit relied on
2148 erroneous data provided by the state in the taxability matrix
2149 completed by the state.

2150 (e) A purchaser shall be held harmless from tax and
2151 interest for having failed to pay the correct amount of sales or
2152 use tax due solely as a result of the state's erroneous
2153 classification as "taxable" or "exempt," "included in sales
2154 price" or "excluded from sales price," or "included in the
2155 definition" or "excluded from the definition."

2156 Section 10. Subsections (1) and (2) and paragraphs (b) and

2157 (c) of subsection (17) of section 212.08, Florida Statutes, are
 2158 amended to read:

2159 212.08 Sales, rental, use, consumption, distribution, and
 2160 storage tax; specified exemptions.—The sale at retail, the
 2161 rental, the use, the consumption, the distribution, and the
 2162 storage to be used or consumed in this state of the following
 2163 are hereby specifically exempt from the tax imposed by this
 2164 chapter.

2165 (1) EXEMPTIONS; GENERAL GROCERIES.—

2166 (a) Food and food ingredients products for human
 2167 consumption are exempt from the tax imposed by this chapter.

2168 (b) For the purpose of this chapter, as used in this
 2169 subsection, the term "food and food ingredients products" means
 2170 substances, whether in liquid, concentrated, solid, frozen,
 2171 dried, or dehydrated form, which are sold for ingestion or
 2172 chewing by humans and are consumed for their taste or
 2173 nutritional value ~~edible commodities, whether processed, cooked,~~
 2174 ~~raw, canned, or in any other form, which are generally regarded~~
 2175 ~~as food.~~ This includes, but is not limited to, all of the
 2176 following:

2177 1. ~~Cereals and cereal products, baked goods,~~
 2178 ~~oleomargarine, meat and meat products, fish and seafood~~
 2179 ~~products, frozen foods and dinners, poultry, eggs and egg~~
 2180 ~~products, vegetables and vegetable products, fruit and fruit~~
 2181 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
 2182 ~~products, and products intended to be mixed with milk.~~

2183 2. ~~Natural fruit or vegetable juices or their concentrates~~
 2184 ~~or reconstituted natural concentrated fruit or vegetable juices,~~

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2185 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
 2186 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
 2187 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
 2188 ~~unless it is sold in a liquid form.~~

2189 1.3. Bakery products sold by bakeries, pastry shops, or
 2190 like establishments, if sold without eating utensils. For
 2191 purposes of this subparagraph, bakery products include bread,
 2192 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
 2193 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and
 2194 tortillas that do not have eating facilities.

2195 2. Dietary supplements are a product, other than tobacco,
 2196 intended to supplement the diet which contains one or more of
 2197 the following dietary ingredients: a vitamin; a mineral; an herb
 2198 or other botanical; an amino acid; a dietary substance for use
 2199 by humans to supplement the diet by increasing the total dietary
 2200 intake; or a concentrate, metabolite, constituent, extract, or
 2201 combination of an ingredient described in this subparagraph
 2202 which is intended for ingestion in tablet, capsule, powder,
 2203 softgel, gelcap, or liquid form or, if not intended for
 2204 ingestion in such a form, is not represented as conventional
 2205 food and is not represented for use as a sole item of a meal or
 2206 of the diet, and which is required to be labeled as a dietary
 2207 supplement, identifiable by the supplemental facts panel found
 2208 on the label and as required pursuant to 21 C.F.R. s. 101.36.

2209 (c) The exemption provided by this subsection does not
 2210 apply to:

2211 ~~1. Food products sold as meals for consumption on or off~~
 2212 ~~the premises of the dealer.~~

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2213 ~~2. Food products furnished, prepared, or served for~~
2214 ~~consumption at tables, chairs, or counters or from trays,~~
2215 ~~glasses, dishes, or other tableware, whether provided by the~~
2216 ~~dealer or by a person with whom the dealer contracts to furnish,~~
2217 ~~prepare, or serve food products to others.~~

2218 ~~3. Food products ordinarily sold for immediate consumption~~
2219 ~~on the seller's premises or near a location at which parking~~
2220 ~~facilities are provided primarily for the use of patrons in~~
2221 ~~consuming the products purchased at the location, even though~~
2222 ~~such products are sold on a "take out" or "to go" order and are~~
2223 ~~actually packaged or wrapped and taken from the premises of the~~
2224 ~~dealer.~~

2225 ~~4. Sandwiches sold ready for immediate consumption on or~~
2226 ~~off the seller's premises.~~

2227 ~~5. Food products sold ready for immediate consumption~~
2228 ~~within a place, the entrance to which is subject to an admission~~
2229 ~~charge.~~

2230 ~~1.6.~~ Food and food ingredients sold as prepared food. The
2231 term "prepared food" means:

2232 a. Food sold in a heated state or heated by the seller;

2233 b. Two or more food ingredients mixed or combined by the
2234 seller for sale as a single item; or

2235 c. Food sold with eating utensils provided by the seller,
2236 including plates, knives, forks, spoons, glasses, cups, napkins,
2237 or straws. A plate does not include a container or packaging
2238 used to transport food.

2239
2240 Prepared food does not include food that is only cut,

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2241 repackaged, or pasteurized by the seller, and eggs, fish, meat,
2242 poultry and foods containing these raw animal foods requiring
2243 cooking by the consumer as recommended by the Food and Drug
2244 Administration in chapter 3, subpart 401.11 of its food code so
2245 as to prevent food-borne illness. Food products sold as hot
2246 prepared food products.

2247 2.7. Soft drinks, including, but not limited to, any
2248 nonalcoholic beverage, any preparation or beverage commonly
2249 referred to as a "soft drink," or any noncarbonated drink made
2250 from milk derivatives or tea, if sold in cans or similar
2251 containers. The term "soft drinks" means nonalcoholic beverages
2252 that contain natural or artificial sweeteners. Soft drinks do
2253 not include beverages that contain milk or milk products; soy,
2254 rice, or similar milk substitutes; or greater than 50 percent of
2255 vegetable or fruit juice by volume.

2256 8. Ice cream, frozen yogurt, and similar frozen dairy or
2257 nondairy products in cones, small cups, or pints, popsicles,
2258 frozen fruit bars, or other novelty items, whether or not sold
2259 separately.

2260 9. Food that is prepared, whether on or off the premises,
2261 and sold for immediate consumption. This does not apply to food
2262 prepared off the premises and sold in the original sealed
2263 container, or the slicing of products into smaller portions.

2264 3.10. Food and food ingredients products sold through a
2265 vending machine, pushcart, motor vehicle, or any other form of
2266 vehicle.

2267 4.11. Candy and any similar products product regarded as
2268 candy or confection, based on its normal use, as indicated on

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2269 ~~the label or advertising thereof. The term "candy" means a~~
2270 preparation of sugar, honey, or other natural or artificial
2271 sweeteners in combination with chocolate, fruits, nuts, or other
2272 ingredients or flavorings in the form of bars, drops, or pieces.
2273 Candy does not include a preparation that contains flour and
2274 does not require refrigeration.

2275 5. To tobacco.

2276 ~~12. Bakery products sold by bakeries, pastry shops, or~~
2277 ~~like establishments having eating facilities, except when sold~~
2278 ~~for consumption off the seller's premises.~~

2279 ~~13. Food products served, prepared, or sold in or by~~
2280 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~
2281 ~~other like places of business.~~

2282 ~~(d) As used in this subsection, the term:~~

2283 ~~1. "For consumption off the seller's premises" means that~~
2284 ~~the food or drink is intended by the customer to be consumed at~~
2285 ~~a place away from the dealer's premises.~~

2286 ~~2. "For consumption on the seller's premises" means that~~
2287 ~~the food or drink sold may be immediately consumed on the~~
2288 ~~premises where the dealer conducts his or her business. In~~
2289 ~~determining whether an item of food is sold for immediate~~
2290 ~~consumption, the customary consumption practices prevailing at~~
2291 ~~the selling facility shall be considered.~~

2292 ~~3. "Premises" shall be construed broadly, and means, but~~
2293 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
2294 ~~the seating, aisle, or parking area of an arena, rink, or~~
2295 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
2296 ~~The premises of a caterer with respect to catered meals or~~

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2297 | ~~beverages shall be the place where such meals or beverages are~~
 2298 | ~~served.~~

2299 | ~~4. "Hot prepared food products" means those products,~~
 2300 | ~~items, or components which have been prepared for sale in a~~
 2301 | ~~heated condition and which are sold at any temperature that is~~
 2302 | ~~higher than the air temperature of the room or place where they~~
 2303 | ~~are sold. "Hot prepared food products," for the purposes of this~~
 2304 | ~~subsection, includes a combination of hot and cold food items or~~
 2305 | ~~components where a single price has been established for the~~
 2306 | ~~combination and the food products are sold in such combination,~~
 2307 | ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
 2308 | ~~sandwich or hot pizza, including cold components or side items.~~

2309 | ~~(d)~~(e)1. Food or drinks not exempt under paragraphs (a),
 2310 | (b), and (c), ~~and (d)~~ are exempt, notwithstanding those
 2311 | paragraphs, when purchased with food coupons or Special
 2312 | Supplemental Food Program for Women, Infants, and Children
 2313 | vouchers issued under authority of federal law.

2314 | 2. This paragraph is effective only while federal law
 2315 | prohibits a state's participation in the federal food coupon
 2316 | program or Special Supplemental Food Program for Women, Infants,
 2317 | and Children if there is an official determination that state or
 2318 | local sales taxes are collected within that state on purchases
 2319 | of food or drinks with such coupons.

2320 | 3. This paragraph does ~~shall~~ not apply to ~~any~~ food or
 2321 | drinks on which federal law permits ~~shall permit~~ sales taxes
 2322 | without penalty, such as termination of the state's
 2323 | participation.

2324 | (e) Dietary supplements that are sold as prepared food are

2325 | not exempt.

2326 | (2) EXEMPTIONS; MEDICAL.—

2327 | (a) There shall be exempt from the tax imposed by this

2328 | chapter:

2329 | 1. Drugs.

2330 | 2. Durable medical equipment, mobility-enhancing

2331 | equipment, or prosthetic devices ~~any medical products and~~

2332 | ~~supplies or medicine~~ dispensed according to an individual

2333 | prescription or prescriptions. ~~written by a prescriber~~

2334 | ~~authorized by law to prescribe medicinal drugs;~~

2335 | 3. Hypodermic needles; ~~hypodermic syringes;~~

2336 | 4. Chemical compounds and test kits used for the diagnosis

2337 | or treatment of human disease, illness, or injury and intended

2338 | for one-time use.

2339 | 5. Over-the-counter drugs ~~and common household remedies~~

2340 | ~~recommended and generally sold for internal or external use in~~

2341 | ~~the cure, mitigation, treatment, or prevention of illness or~~

2342 | ~~disease in human beings, but not including grooming and hygiene~~

2343 | products.

2344 | 6. Band-aids, gauze, bandages, and adhesive tape.

2345 | 7. Funerals. However, tangible personal property used by

2346 | funeral directors in their business is taxable. ~~cosmetics or~~

2347 | ~~toilet articles, notwithstanding the presence of medicinal~~

2348 | ~~ingredients therein, according to a list prescribed and approved~~

2349 | ~~by the Department of Business and Professional Regulation, which~~

2350 | ~~list shall be certified to the Department of Revenue from time~~

2351 | ~~to time and included in the rules promulgated by the Department~~

2352 | ~~of Revenue. There shall also be exempt from the tax imposed by~~

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2353 ~~this chapter artificial eyes and limbs; orthopedic shoes;~~
 2354 ~~prescription eyeglasses and items incidental thereto or which~~
 2355 ~~become a part thereof; dentures; hearing aids; crutches;~~
 2356 ~~prosthetic and orthopedic appliances; and funerals. In addition,~~
 2357 ~~any~~

2358 8. Items intended for one-time use which transfer
 2359 essential optical characteristics to contact lenses. ~~shall be~~
 2360 ~~exempt from the tax imposed by this chapter;~~ However, this
 2361 exemption applies ~~shall apply only~~ after \$100,000 of the tax
 2362 imposed by this chapter on such items has been paid in a ~~any~~
 2363 calendar year by a taxpayer who claims the exemption in such
 2364 year. ~~Funeral directors shall pay tax on all tangible personal~~
 2365 ~~property used by them in their business.~~

2366 (b) For the purposes of this subsection, the term:

2367 1. "Drug" means a compound, substance, or preparation, and
 2368 a component of a compound, substance, or preparation, other than
 2369 food and food ingredients, dietary supplements, and alcoholic
 2370 beverages, which is:

2371 a. Recognized in the official United States Pharmacopeia,
 2372 the Homeopathic Pharmacopoeia of the United States, or the
 2373 National Formulary, or the supplement to any of them;

2374 b. Intended for use in the diagnosis, cure, mitigation,
 2375 treatment, or prevention of disease; or

2376 c. Intended to affect the structure or a function of the
 2377 body.

2378 2. "Durable medical equipment" means equipment, including
 2379 repair and replacement parts to such equipment, but excluding
 2380 mobility-enhancing equipment, which can withstand repeated use,

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2381 is primarily and customarily used to serve a medical purpose,
2382 generally is not useful to a person in the absence of illness or
2383 injury, and is not worn on or in the body.

2384 3. "Mobility-enhancing equipment" means equipment,
2385 including repair and replacement parts to such equipment, but
2386 excluding durable medical equipment, which:

2387 a. Is primarily and customarily used to provide or
2388 increase the ability to move from one place to another and which
2389 is appropriate for use in a home or a motor vehicle.

2390 b. Is not generally used by persons with normal mobility.

2391 c. Does not include a motor vehicle or equipment on a
2392 motor vehicle normally provided by a motor vehicle manufacturer.

2393 4. "Prosthetic device" means a replacement, corrective, or
2394 supportive device, including repair or replacement parts to such
2395 equipment, which is worn on or in the body to:

2396 a. Artificially replace a missing portion of the body;

2397 b. Prevent or correct physical deformity or malfunction;

2398 or

2399 c. Support a weak or deformed portion of the body.

2400 5. "Grooming and hygiene products" mean soaps and cleaning
2401 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
2402 suntan lotions and screens, regardless of whether the items meet
2403 the definition of an over-the-counter drug.

2404 6. "Over-the-counter drug" means a drug the packaging for
2405 which contains a label that identifies the product as a drug as
2406 required by 21 C.F.R. s. 201.66. The over-the-counter drug label
2407 includes a drug-facts panel or a statement of the active
2408 ingredients, with a list of those ingredients contained in the

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2409 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~
2410 ~~appliances" means any apparatus, instrument, device, or~~
2411 ~~equipment used to replace or substitute for any missing part of~~
2412 ~~the body, to alleviate the malfunction of any part of the body,~~
2413 ~~or to assist any disabled person in leading a normal life by~~
2414 ~~facilitating such person's mobility. Such apparatus, instrument,~~
2415 ~~device, or equipment shall be exempted according to an~~
2416 ~~individual prescription or prescriptions written by a physician~~
2417 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~
2418 ~~461, or chapter 466, or according to a list prescribed and~~
2419 ~~approved by the Department of Health, which list shall be~~
2420 ~~certified to the Department of Revenue from time to time and~~
2421 ~~included in the rules promulgated by the Department of Revenue.~~

2422 2. ~~"Cosmetics" means articles intended to be rubbed,~~
2423 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2424 ~~applied to the human body for cleansing, beautifying, promoting~~
2425 ~~attractiveness, or altering the appearance and also means~~
2426 ~~articles intended for use as a compound of any such articles,~~
2427 ~~including, but not limited to, cold creams, suntan lotions,~~
2428 ~~makeup, and body lotions.~~

2429 3. ~~"Toilet articles" means any article advertised or held~~
2430 ~~out for sale for grooming purposes and those articles that are~~
2431 ~~customarily used for grooming purposes, regardless of the name~~
2432 ~~by which they may be known, including, but not limited to, soap,~~
2433 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2434 ~~shampoo, deodorant, and mouthwash.~~

2435 7.4. "Prescription" means an order, formula, or recipe
2436 issued in the form of oral, written, electronic, or other means

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2437 of transmission by a practitioner licensed under chapter 458,
2438 chapter 459, chapter 460, chapter 461, or chapter 466. The term
2439 also includes an orally transmitted order by the lawfully
2440 designated agent of such practitioner. The term also includes an
2441 order written or transmitted by a practitioner licensed to
2442 practice in a jurisdiction other than this state, but only if
2443 the pharmacist called upon to dispense the order determines, in
2444 the exercise of his or her professional judgment, that the order
2445 is valid and necessary for the treatment of a chronic or
2446 recurrent illness. ~~includes any order for drugs or medicinal~~
2447 ~~supplies written or transmitted by any means of communication by~~
2448 ~~a duly licensed practitioner authorized by the laws of the state~~
2449 ~~to prescribe such drugs or medicinal supplies and intended to be~~
2450 ~~dispensed by a pharmacist. The term also includes an orally~~
2451 ~~transmitted order by the lawfully designated agent of such~~
2452 ~~practitioner. The term also includes an order written or~~
2453 ~~transmitted by a practitioner licensed to practice in a~~
2454 ~~jurisdiction other than this state, but only if the pharmacist~~
2455 ~~called upon to dispense such order determines, in the exercise~~
2456 ~~of his or her professional judgment, that the order is valid and~~
2457 ~~necessary for the treatment of a chronic or recurrent illness.~~
2458 ~~The term also includes a pharmacist's order for a product~~
2459 ~~selected from the formulary created pursuant to s. 465.186. A~~
2460 ~~prescription may be retained in written form, or the pharmacist~~
2461 ~~may cause it to be recorded in a data processing system,~~
2462 ~~provided that such order can be produced in printed form upon~~
2463 ~~lawful request.~~

2464 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed

2465 | by this chapter when used for the treatment of water in swimming
 2466 | pools.

2467 | ~~(d) Lithotripters are exempt.~~

2468 | (d)~~(e)~~ Human organs are exempt.

2469 | ~~(f) Sales of drugs to or by physicians, dentists,~~
 2470 | ~~veterinarians, and hospitals in connection with medical~~
 2471 | ~~treatment are exempt.~~

2472 | ~~(g) Medical products and supplies used in the cure,~~
 2473 | ~~mitigation, alleviation, prevention, or treatment of injury,~~
 2474 | ~~disease, or incapacity which are temporarily or permanently~~
 2475 | ~~incorporated into a patient or client by a practitioner of the~~
 2476 | ~~healing arts licensed in the state are exempt.~~

2477 | ~~(h) The purchase by a veterinarian of commonly recognized~~
 2478 | ~~substances possessing curative or remedial properties which are~~
 2479 | ~~ordered and dispensed as treatment for a diagnosed health~~
 2480 | ~~disorder by or on the prescription of a duly licensed~~
 2481 | ~~veterinarian, and which are applied to or consumed by animals~~
 2482 | ~~for alleviation of pain or the cure or prevention of sickness,~~
 2483 | ~~disease, or suffering are exempt. Also exempt are the purchase~~
 2484 | ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 2485 | ~~bandages, lotions, vitamins, and worm remedies.~~

2486 | ~~(i) X-ray opaques, also known as opaque drugs and~~
 2487 | ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 2488 | ~~when used in connection with medical X rays for treatment of~~
 2489 | ~~bodies of humans and animals, are exempt.~~

2490 | (e)~~(j)~~ Parts, special attachments, special lettering, and
 2491 | other like items that are added to or attached to tangible
 2492 | personal property so that a handicapped person can use them are

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2493 exempt when such items are purchased by a person pursuant to an
 2494 individual prescription.

2495 ~~(f)(k)~~ This subsection shall be strictly construed and
 2496 enforced.

2497 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2498 (b) As used in this subsection, the term "overhead
 2499 materials" means all tangible personal property, other than
 2500 qualifying property as defined in s. 212.02(34)(a) ~~s.~~
 2501 ~~212.02(14)(a)~~ and electricity, which is used or consumed in the
 2502 performance of a qualifying contract, title to which property
 2503 vests in or passes to the government under the contract.

2504 (c) As used in this subsection and in s. 212.02(34)(a) ~~s.~~
 2505 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract
 2506 with the United States Department of Defense or the National
 2507 Aeronautics and Space Administration, or a subcontract
 2508 thereunder, but does not include a contract or subcontract for
 2509 the repair, alteration, improvement, or construction of real
 2510 property, except to the extent that purchases under such a
 2511 contract would otherwise be exempt from the tax imposed by this
 2512 chapter.

2513 Section 11. Section 212.094, Florida Statutes, is created
 2514 to read:

2515 212.094 Purchaser request for refund or credit from
 2516 dealer.—

2517 (1) If a purchaser seeks from a dealer a refund of or
 2518 credit against a tax collected under this chapter by that
 2519 dealer, the purchaser shall submit a written request for the
 2520 refund or credit to the dealer in accordance with this section.

2521 The request must contain all the information necessary for the
 2522 dealer to determine the validity of the purchaser's request.

2523 (2) The purchaser may not take other action against the
 2524 dealer with respect to the requested refund or credit until the
 2525 dealer has had 60 days after receiving a completed request in
 2526 which to respond.

2527 (3) This section does not affect a person's standing to
 2528 claim a refund.

2529 (4) This section does not apply to refunds resulting from
 2530 merchandise returned by a customer to a dealer.

2531 Section 12. Section 212.12, Florida Statutes, is amended
 2532 to read:

2533 212.12 Dealer's credit for collecting tax; penalties for
 2534 noncompliance; powers of Department of Revenue in dealing with
 2535 delinquents; ~~brackets applicable to taxable transactions;~~
 2536 records required.-

2537 (1)(a)~~1~~. Notwithstanding any other law and for the purpose
 2538 of compensating persons granting licenses for and the lessors of
 2539 real and personal property taxed hereunder, for the purpose of
 2540 compensating dealers in tangible personal property, for the
 2541 purpose of compensating dealers providing communication services
 2542 and taxable services, for the purpose of compensating owners of
 2543 places where admissions are collected, and for the purpose of
 2544 compensating remitters of the ~~any~~ taxes or fees reported on the
 2545 same documents utilized for the sales and use tax, as
 2546 compensation for the keeping of prescribed records, filing
 2547 timely tax returns, and the proper accounting and remitting of
 2548 taxes by them, such seller, person, lessor, dealer, owner, and

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2549 remitter ~~(except dealers who make mail order sales)~~ who files
 2550 the return required pursuant to s. 212.11 only by electronic
 2551 means and who pays the amount due on such return only by
 2552 electronic means shall be allowed 2.5 percent of the amount of
 2553 the tax due, accounted for, and remitted to the department in
 2554 the form of a deduction. However, if the amount of the tax due
 2555 and remitted to the department by electronic means for the
 2556 reporting period exceeds \$1,200, an allowance is not allowed for
 2557 all amounts in excess of \$1,200. For purposes of this
 2558 subparagraph, the term "electronic means" has the same meaning
 2559 as provided in s. 213.755(2) (c).

2560 ~~2. The executive director of the department is authorized~~
 2561 ~~to negotiate a collection allowance, pursuant to rules~~
 2562 ~~promulgated by the department, with a dealer who makes mail~~
 2563 ~~order sales. The rules of the department shall provide~~
 2564 ~~guidelines for establishing the collection allowance based upon~~
 2565 ~~the dealer's estimated costs of collecting the tax, the volume~~
 2566 ~~and value of the dealer's mail order sales to purchasers in this~~
 2567 ~~state, and the administrative and legal costs and likelihood of~~
 2568 ~~achieving collection of the tax absent the cooperation of the~~
 2569 ~~dealer. However, in no event shall the collection allowance~~
 2570 ~~negotiated by the executive director exceed 10 percent of the~~
 2571 ~~tax remitted for a reporting period.~~

2572 (b) The Department of Revenue may deny the collection
 2573 allowance if a taxpayer files an incomplete return or if the
 2574 required tax return or tax is delinquent at the time of payment.

2575 1. An "incomplete return" is, for purposes of this
 2576 chapter, a return which is lacking such uniformity,

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2577 completeness, and arrangement that the physical handling,
2578 verification, review of the return, or determination of other
2579 taxes and fees reported on the return may not be readily
2580 accomplished.

2581 2. The department shall adopt rules requiring such
2582 information as it may deem necessary to ensure that the tax
2583 levied hereunder is properly collected, reviewed, compiled,
2584 reported, and enforced, including, but not limited to: the
2585 amount of gross sales; the amount of taxable sales; the amount
2586 of tax collected or due; the amount of lawful refunds,
2587 deductions, or credits claimed; the amount claimed as the
2588 dealer's collection allowance; the amount of penalty and
2589 interest; the amount due with the return; and such other
2590 information as the Department of Revenue may specify. The
2591 department shall require that transient rentals and agricultural
2592 equipment transactions be separately shown. Sales made through
2593 vending machines as defined in s. 212.0515 must be separately
2594 shown on the return. Sales made through coin-operated amusement
2595 machines as defined by s. 212.02 and the number of machines
2596 operated must be separately shown on the return or on a form
2597 prescribed by the department. If a separate form is required,
2598 the same penalties for late filing, incomplete filing, or
2599 failure to file as provided for the sales tax return shall apply
2600 to the form.

2601 (c) The collection allowance and other credits or
2602 deductions provided in this chapter shall be applied
2603 proportionally to the ~~any~~ taxes or fees reported on the same
2604 documents used for the sales and use tax.

2605 (d)1. A dealer entitled to the collection allowance
 2606 provided in this section may elect to forego the collection
 2607 allowance and direct that the amount be transferred into the
 2608 Educational Enhancement Trust Fund. Such an election must be
 2609 made with the timely filing of a return and may not be rescinded
 2610 once made. If a dealer who makes such an election files a
 2611 delinquent return, underpays the tax, or files an incomplete
 2612 return, the amount transferred into the Educational Enhancement
 2613 Trust Fund shall be the amount of the collection allowance
 2614 remaining after resolution of liability for all of the tax,
 2615 interest, and penalty due on that return or underpayment of tax.
 2616 The Department of Education shall distribute the remaining
 2617 amount from the trust fund to the school districts that have
 2618 adopted resolutions stating that those funds will be used to
 2619 ensure that up-to-date technology is purchased for the
 2620 classrooms in the district and that teachers are trained in the
 2621 use of that technology. Revenues collected in districts that do
 2622 not adopt such a resolution shall be equally distributed to
 2623 districts that have adopted such resolutions.

2624 2. This paragraph applies to all taxes, surtaxes, and ~~any~~
 2625 local option taxes administered under this chapter and remitted
 2626 directly to the department. This paragraph does not apply to a
 2627 locally imposed and self-administered convention development
 2628 tax, tourist development tax, or tourist impact tax administered
 2629 under this chapter.

2630 3. Revenues from the dealer-collection allowances shall be
 2631 transferred quarterly from the General Revenue Fund to the
 2632 Educational Enhancement Trust Fund. The Department of Revenue

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2633 shall provide to the Department of Education quarterly
2634 information about such revenues by county to which the
2635 collection allowance was attributed.

2636
2637 Notwithstanding any provision of chapter 120 to the contrary,
2638 the Department of Revenue may adopt rules to carry out the
2639 amendment made by chapter 2006-52, Laws of Florida, to this
2640 section.

2641 (e) Notwithstanding paragraphs (b) and (c), a model 1
2642 seller under the Streamlined Sales and Use Tax Agreement is not
2643 entitled to the collection allowance described in paragraphs (a)
2644 and (b).

2645 (f)1. In addition to a collection allowance that may be
2646 provided under this subsection, the department may provide the
2647 monetary allowances required to be provided by the state to
2648 certified service providers and voluntary sellers pursuant to
2649 Article VI of the Streamlined Sales and Use Tax Agreement, as
2650 amended.

2651 2. Such monetary allowances must be in the form of
2652 collection allowances that certified service providers or
2653 voluntary sellers are permitted to retain from the tax revenues
2654 collected on remote sales to be remitted to the state pursuant
2655 to this chapter.

2656 3. For purposes of this paragraph, the term "voluntary
2657 seller" or "volunteer seller" means a seller that is not
2658 required to register in this state to collect a tax. The term
2659 "remote sales" means revenues generated by such a seller for
2660 this state for which the seller is not required to register to

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2661 collect the tax imposed by this chapter.

2662 (2) (a) When a ~~any~~ person required hereunder to make a ~~any~~
2663 return or to pay a ~~any~~ tax or fee imposed by this chapter either
2664 fails to timely file such return or fails to pay the tax or fee
2665 shown due on the return within the time required hereunder, in
2666 addition to all other penalties provided herein and by the laws
2667 of this state in respect to such taxes or fees, a specific
2668 penalty shall be added to the tax or fee in the amount of 10
2669 percent of either the tax or fee shown on the return that is not
2670 timely filed or a ~~any~~ tax or fee not paid timely. The penalty
2671 may not be less than \$50 for failure to timely file a tax return
2672 required by s. 212.11(1) or timely pay the tax or fee shown due
2673 on the return except as provided in s. 213.21(10). If a person
2674 fails to timely file a return required by s. 212.11(1) and to
2675 timely pay the tax or fee shown due on the return, only one
2676 penalty of 10 percent, which may not be less than \$50, shall be
2677 imposed.

2678 (b) When a ~~any~~ person required under this section to make
2679 a return or to pay a tax or fee imposed by this chapter fails to
2680 disclose the tax or fee on the return within the time required,
2681 excluding a noncompliant filing event generated by situations
2682 covered in paragraph (a), in addition to all other penalties
2683 provided in this section and by the laws of this state in
2684 respect to such taxes or fees, a specific penalty shall be added
2685 to the additional tax or fee owed in the amount of 10 percent of
2686 ~~any~~ such unpaid tax or fee not paid timely if the failure is for
2687 not more than 30 days, with an additional 10 percent of ~~any~~ such
2688 unpaid tax or fee for each additional 30 days, or fraction

2689 | thereof, while the failure continues, not to exceed a total
 2690 | penalty of 50 percent, in the aggregate, of an ~~any~~ unpaid tax or
 2691 | fee.

2692 | (c) A ~~Any~~ person who knowingly and with a willful intent
 2693 | to evade a ~~any~~ tax imposed under this chapter fails to file six
 2694 | consecutive returns as required by law commits a felony of the
 2695 | third degree, punishable as provided in s. 775.082 or s.
 2696 | 775.083.

2697 | (d) A ~~Any~~ person who makes a false or fraudulent return
 2698 | with a willful intent to evade payment of a ~~any~~ tax or fee
 2699 | imposed under this chapter; a ~~any~~ person who, after the
 2700 | department's delivery of a written notice to the person's last
 2701 | known address specifically alerting the person of the
 2702 | requirement to register the person's business as a dealer,
 2703 | intentionally fails to register the business; and a ~~any~~ person
 2704 | who, after the department's delivery of a written notice to the
 2705 | person's last known address specifically alerting the person of
 2706 | the requirement to collect tax on specific transactions,
 2707 | intentionally fails to collect such tax, shall, in addition to
 2708 | the other penalties provided by law, be liable for a specific
 2709 | penalty of 100 percent of ~~any~~ unreported or ~~any~~ uncollected tax
 2710 | or fee and, upon conviction, for fine and punishment as provided
 2711 | in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
 2712 | notice may be made by certified mail, or by the use of such
 2713 | other method as is documented as being necessary and reasonable
 2714 | under the circumstances. The civil and criminal penalties
 2715 | imposed herein for failure to comply with a written notice
 2716 | alerting the person of the requirement to register the person's

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2717 business as a dealer or to collect tax on specific transactions
 2718 shall not apply if the person timely files a written challenge
 2719 to such notice in accordance with procedures established by the
 2720 department by rule or the notice fails to clearly advise that
 2721 failure to comply with or timely challenge the notice will
 2722 result in the imposition of the civil and criminal penalties
 2723 imposed herein.

2724 1. If the total amount of unreported or uncollected taxes
 2725 or fees is less than \$300, the first offense resulting in
 2726 conviction is a misdemeanor of the second degree, the second
 2727 offense resulting in conviction is a misdemeanor of the first
 2728 degree, and the third and all subsequent offenses resulting in
 2729 conviction is a misdemeanor of the first degree, and the third
 2730 and all subsequent offenses resulting in conviction are felonies
 2731 of the third degree.

2732 2. If the total amount of unreported or uncollected taxes
 2733 or fees is \$300 or more but less than \$20,000, the offense is a
 2734 felony of the third degree.

2735 3. If the total amount of unreported or uncollected taxes
 2736 or fees is \$20,000 or more but less than \$100,000, the offense
 2737 is a felony of the second degree.

2738 4. If the total amount of unreported or uncollected taxes
 2739 or fees is \$100,000 or more, the offense is a felony of the
 2740 first degree.

2741 (e) A person who willfully attempts in a ~~any~~ manner to
 2742 evade a ~~any~~ tax, surcharge, or fee imposed under this chapter or
 2743 the payment thereof is, in addition to ~~any~~ other penalties
 2744 provided by law, liable for a specific penalty in the amount of

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2745 100 percent of the tax, surcharge, or fee, and commits a felony
2746 of the third degree, punishable as provided in s. 775.082, s.
2747 775.083, or s. 775.084.

2748 (f) When a ~~any~~ person, firm, or corporation fails to
2749 timely remit the proper estimated payment required under s.
2750 212.11, a specific penalty shall be added in an amount equal to
2751 10 percent of any unpaid estimated tax. Beginning with January
2752 1, 1985, returns, the department, upon a showing of reasonable
2753 cause, is authorized to waive or compromise penalties imposed by
2754 this paragraph. However, other penalties and interest shall be
2755 due and payable if the return on which the estimated payment was
2756 due was not timely or properly filed.

2757 (g) A dealer who files a consolidated return pursuant to
2758 s. 212.11(1)(e) is subject to the penalty established in
2759 paragraph (e) unless the dealer has paid the required estimated
2760 tax for his or her consolidated return as a whole without regard
2761 to each location. If the dealer fails to pay the required
2762 estimated tax for his or her consolidated return as a whole,
2763 each filing location shall stand on its own with respect to
2764 calculating penalties pursuant to paragraph (f).

2765 (3) When a ~~any~~ dealer, or other person charged herein,
2766 fails to remit the tax, or a ~~any~~ portion thereof, on or before
2767 the day when such tax is required by law to be paid, there shall
2768 be added to the amount due interest at the rate of 1 percent per
2769 month of the amount due from the date due until paid. Interest
2770 on the delinquent tax shall be calculated beginning on the 21st
2771 day of the month following the month for which the tax is due,
2772 except as otherwise provided in this chapter.

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2773 (4) All penalties and interest imposed by this chapter
2774 shall be payable to and collectible by the department in the
2775 same manner as if they were a part of the tax imposed. The
2776 department may settle or compromise ~~any~~ such interest or
2777 penalties pursuant to s. 213.21.

2778 (5) (a) The department is authorized to audit or inspect
2779 the records and accounts of dealers defined herein, ~~including~~
2780 ~~audits or inspections of dealers who make mail order sales to~~
2781 ~~the extent permitted by another state,~~ and to correct by credit
2782 an any overpayment of tax, and, in the event of a deficiency, an
2783 assessment shall be made and collected. No administrative
2784 finding of fact is necessary before ~~prior to~~ the assessment of a
2785 ~~any~~ tax deficiency.

2786 (b) In the event a any dealer or other person charged
2787 herein fails or refuses to make his or her records available for
2788 inspection so that no audit or examination has been made of the
2789 books and records of such dealer or person, fails or refuses to
2790 register as a dealer, fails to make a report and pay the tax as
2791 provided by this chapter, makes a grossly incorrect report or
2792 makes a report that is false or fraudulent, then, in such event,
2793 it shall be the duty of the department to make an assessment
2794 from an estimate based upon the best information then available
2795 to it for the taxable period of retail sales of such dealer, the
2796 gross proceeds from rentals, the total admissions received,
2797 amounts received from leases of tangible personal property by
2798 such dealer, or of the cost price of all articles of tangible
2799 personal property imported by the dealer for use or consumption
2800 or distribution or storage to be used or consumed in this state,

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2801 or of the sales or cost price of all services the sale or use of
 2802 which is taxable under this chapter, together with interest,
 2803 plus penalty, if such have accrued, as the case may be. Then the
 2804 department shall proceed to collect such taxes, interest, and
 2805 penalty on the basis of such assessment which shall be
 2806 considered prima facie correct, and the burden to show the
 2807 contrary shall rest upon the dealer, seller, owner, or lessor,
 2808 as the case may be.

2809 (6) (a) The department is given the power to prescribe the
 2810 records to be kept by all persons subject to taxes imposed by
 2811 this chapter. It shall be the duty of every person required to
 2812 make a report and pay a ~~any~~ tax under this chapter, every person
 2813 receiving rentals or license fees, and owners of places of
 2814 admission, to keep and preserve suitable records of the sales,
 2815 leases, rentals, license fees, admissions, or purchases, as the
 2816 case may be, taxable under this chapter; such other books of
 2817 account as may be necessary to determine the amount of the tax
 2818 due hereunder; and other information as may be required by the
 2819 department. It shall be the duty of every such person so charged
 2820 with such duty, moreover, to keep and preserve as long as
 2821 required by s. 213.35 all invoices and other records of goods,
 2822 wares, and merchandise; records of admissions, leases, license
 2823 fees and rentals; and records of all other subjects of taxation
 2824 under this chapter. All such books, invoices, and other records
 2825 shall be open to examination at all reasonable hours to the
 2826 department or any of its duly authorized agents.

2827 (b) For the purpose of this subsection, if a dealer does
 2828 not have adequate records of his or her retail sales or

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2829 purchases, the department may, upon the basis of a test or
2830 sampling of the dealer's available records or other information
2831 relating to the sales or purchases made by such dealer for a
2832 representative period, determine the proportion that taxable
2833 retail sales bear to total retail sales or the proportion that
2834 taxable purchases bear to total purchases. This subsection does
2835 not affect the duty of the dealer to collect, or the liability
2836 of a ~~any~~ consumer to pay, a ~~any~~ tax imposed by or pursuant to
2837 this chapter.

2838 (c)1. If the records of a dealer are adequate but
2839 voluminous in nature and substance, the department may sample
2840 such records and project the audit findings derived therefrom
2841 over the entire audit period to determine the proportion that
2842 taxable retail sales bear to total retail sales or the
2843 proportion that taxable purchases bear to total purchases. In
2844 order to conduct such a sample, the department must first make a
2845 good faith effort to reach an agreement with the dealer, which
2846 agreement provides for the means and methods to be used in the
2847 sampling process. In the event that no agreement is reached, the
2848 dealer is entitled to a review by the executive director. In the
2849 case of fixed assets, a dealer may agree in writing with the
2850 department for adequate but voluminous records to be
2851 statistically sampled. Such an agreement shall provide for the
2852 methodology to be used in the statistical sampling process. The
2853 audit findings derived therefrom shall be projected over the
2854 period represented by the sample in order to determine the
2855 proportion that taxable purchases bear to total purchases. Once
2856 an agreement has been signed, it is final and conclusive with

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2857 | respect to the method of sampling fixed assets, and the
 2858 | department may not conduct a detailed audit of fixed assets, and
 2859 | the taxpayer may not request a detailed audit after the
 2860 | agreement is reached.

2861 | 2. For the purposes of sampling pursuant to subparagraph
 2862 | 1., the department shall project any deficiencies and
 2863 | overpayments derived therefrom over the entire audit period. In
 2864 | determining the dealer's compliance, the department shall reduce
 2865 | a any tax deficiency as derived from the sample by the amount of
 2866 | an any overpayment derived from the sample. In the event the
 2867 | department determines from the sample results that the dealer
 2868 | has a net tax overpayment, the department shall provide the
 2869 | findings of this overpayment to the Chief Financial Officer for
 2870 | repayment of funds paid into the State Treasury through error
 2871 | pursuant to s. 215.26.

2872 | 3.a. A taxpayer is entitled, both in connection with an
 2873 | audit and in connection with an application for refund filed
 2874 | independently of an any audit, to establish the amount of a any
 2875 | refund or deficiency through statistical sampling when the
 2876 | taxpayer's records are adequate but voluminous. In the case of
 2877 | fixed assets, a dealer may agree in writing with the department
 2878 | for adequate but voluminous records to be statistically sampled.
 2879 | Such an agreement shall provide for the methodology to be used
 2880 | in the statistical sampling process. The audit findings derived
 2881 | therefrom shall be projected over the period represented by the
 2882 | sample in order to determine the proportion that taxable
 2883 | purchases bear to total purchases. Once an agreement has been
 2884 | signed, it is final and conclusive with respect to the method of

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2885 | sampling fixed assets, and the department may not conduct a
 2886 | detailed audit of fixed assets, and the taxpayer may not request
 2887 | a detailed audit after the agreement is reached.

2888 | b. Alternatively, a taxpayer is entitled to establish a
 2889 | ~~any~~ refund or deficiency through any other sampling method
 2890 | agreed upon by the taxpayer and the department when the
 2891 | taxpayer's records, other than those regarding fixed assets, are
 2892 | adequate but voluminous. Whether done through statistical
 2893 | sampling or any other sampling method agreed upon by the
 2894 | taxpayer and the department, the completed sample must reflect
 2895 | both overpayments and underpayments of taxes due. The sample
 2896 | shall be conducted through:

2897 | (I) A taxpayer request to perform the sampling through the
 2898 | certified audit program pursuant to s. 213.285;

2899 | (II) Attestation by a certified public accountant as to
 2900 | the adequacy of the sampling method utilized and the results
 2901 | reached using such sampling method; or

2902 | (III) A sampling method that has been submitted by the
 2903 | taxpayer and approved by the department before a refund claim is
 2904 | submitted. This sub-sub-subparagraph does not prohibit a
 2905 | taxpayer from filing a refund claim prior to approval by the
 2906 | department of the sampling method; however, a refund claim
 2907 | submitted before the sampling method has been approved by the
 2908 | department cannot be a complete refund application pursuant to
 2909 | s. 213.255 until the sampling method has been approved by the
 2910 | department.

2911 | c. The department shall prescribe by rule the procedures
 2912 | to be followed under each method of sampling. Such procedures

2913 shall follow generally accepted auditing procedures for
 2914 sampling. The rule shall also set forth other criteria regarding
 2915 the use of sampling, including, but not limited to, training
 2916 requirements that must be met before a sampling method may be
 2917 utilized and the steps necessary for the department and the
 2918 taxpayer to reach agreement on a sampling method submitted by
 2919 the taxpayer for approval by the department.

2920 (7) In the event the dealer has imported tangible personal
 2921 property and he or she fails to produce an invoice showing the
 2922 cost price of the articles, as defined in this chapter, which
 2923 are subject to tax, or the invoice does not reflect the true or
 2924 actual cost price as defined herein, then the department shall
 2925 ascertain, in any manner feasible, the true cost price, and
 2926 assess and collect the tax thereon with interest plus penalties,
 2927 if such have accrued on the true cost price as assessed by it.
 2928 The assessment so made shall be considered prima facie correct,
 2929 and the duty shall be on the dealer to show to the contrary.

2930 (8) In the case of the lease or rental of tangible
 2931 personal property, or other rentals or license fees as herein
 2932 defined and taxed, if the consideration given or reported by the
 2933 lessor, person receiving rental or license fee, or dealer does
 2934 not, in the judgment of the department, represent the true or
 2935 actual consideration, then the department is authorized to
 2936 ascertain the same and assess and collect the tax thereon in the
 2937 same manner as above provided, with respect to imported tangible
 2938 property, together with interest, plus penalties, if such have
 2939 accrued.

2940 (9) Taxes imposed by this chapter upon the privilege of

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2941 | the use, consumption, storage for consumption, or sale of
 2942 | tangible personal property, admissions, license fees, rentals,
 2943 | communication services, and upon the sale or use of services as
 2944 | herein taxed shall be collected upon the basis of an addition of
 2945 | the tax imposed by this chapter to the total price of such
 2946 | admissions, license fees, rentals, communication or other
 2947 | services, or sale price of such article or articles that are
 2948 | purchased, sold, or leased at ~~any~~ one time by or to a customer
 2949 | or buyer; the dealer, or person charged herein, is required to
 2950 | pay a privilege tax in the amount of the tax imposed by this
 2951 | chapter on the total of his or her gross sales of tangible
 2952 | personal property, admissions, license fees, rentals, and
 2953 | communication services or to collect a tax upon the sale or use
 2954 | of services, and such person or dealer shall add the tax imposed
 2955 | by this chapter to the price, license fee, rental, or
 2956 | admissions, and communication or other services and collect the
 2957 | total sum from the purchaser, admittee, licensee, lessee, or
 2958 | consumer. In computing the tax due or to be collected as the
 2959 | result of a transaction, the seller may elect to compute the tax
 2960 | due on a transaction on a per-item basis or on an invoice basis.
 2961 | The tax rate shall be the sum of the applicable state and local
 2962 | rates, if any, and the tax computation shall be carried to the
 2963 | third decimal place. Whenever the third decimal place is greater
 2964 | than four, the tax shall be rounded to the next whole cent. The
 2965 | ~~department shall make available in an electronic format or~~
 2966 | ~~otherwise the tax amounts and the following brackets applicable~~
 2967 | ~~to all transactions taxable at the rate of 6 percent:~~
 2968 | ~~(a) On single sales of less than 10 cents, no tax shall be~~

2969 | added.

2970 | ~~(b) On single sales in amounts from 10 cents to 16 cents,~~

2971 | ~~both inclusive, 1 cent shall be added for taxes.~~

2972 | ~~(c) On sales in amounts from 17 cents to 33 cents, both~~

2973 | ~~inclusive, 2 cents shall be added for taxes.~~

2974 | ~~(d) On sales in amounts from 34 cents to 50 cents, both~~

2975 | ~~inclusive, 3 cents shall be added for taxes.~~

2976 | ~~(e) On sales in amounts from 51 cents to 66 cents, both~~

2977 | ~~inclusive, 4 cents shall be added for taxes.~~

2978 | ~~(f) On sales in amounts from 67 cents to 83 cents, both~~

2979 | ~~inclusive, 5 cents shall be added for taxes.~~

2980 | ~~(g) On sales in amounts from 84 cents to \$1, both~~

2981 | ~~inclusive, 6 cents shall be added for taxes.~~

2982 | ~~(h) On sales in amounts of more than \$1, 6 percent shall~~

2983 | ~~be charged upon each dollar of price, plus the appropriate~~

2984 | ~~bracket charge upon any fractional part of a dollar.~~

2985 | ~~(10) In counties which have adopted a discretionary sales~~

2986 | ~~surtax at the rate of 1 percent, the department shall make~~

2987 | ~~available in an electronic format or otherwise the tax amounts~~

2988 | ~~and the following brackets applicable to all taxable~~

2989 | ~~transactions that would otherwise have been transactions taxable~~

2990 | ~~at the rate of 6 percent:~~

2991 | ~~(a) On single sales of less than 10 cents, no tax shall be~~

2992 | ~~added.~~

2993 | ~~(b) On single sales in amounts from 10 cents to 14 cents,~~

2994 | ~~both inclusive, 1 cent shall be added for taxes.~~

2995 | ~~(c) On sales in amounts from 15 cents to 28 cents, both~~

2996 | ~~inclusive, 2 cents shall be added for taxes.~~

2997 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
 2998 ~~inclusive, 3 cents shall be added for taxes.~~

2999 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
 3000 ~~inclusive, 4 cents shall be added for taxes.~~

3001 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
 3002 ~~inclusive, 5 cents shall be added for taxes.~~

3003 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
 3004 ~~inclusive, 6 cents shall be added for taxes.~~

3005 ~~(h) On sales in amounts from 86 cents to \$1, both~~
 3006 ~~inclusive, 7 cents shall be added for taxes.~~

3007 ~~(i) On sales in amounts from \$1 up to, and including, the~~
 3008 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
 3009 ~~dollar of price, plus the appropriate bracket charge upon any~~
 3010 ~~fractional part of a dollar.~~

3011 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
 3012 ~~percent shall be added upon the first \$5,000 in price, and 6~~
 3013 ~~percent shall be added upon each dollar of price in excess of~~
 3014 ~~the first \$5,000 in price, plus the bracket charges upon any~~
 3015 ~~fractional part of a dollar as provided for in subsection (9).~~

3016 ~~(11) The department shall make available in an electronic~~
 3017 ~~format or otherwise the tax amounts and brackets applicable to~~
 3018 ~~all taxable transactions that occur in counties that have a~~
 3019 ~~surtax at a rate other than 1 percent which transactions would~~
 3020 ~~otherwise have been transactions taxable at the rate of 6~~
 3021 ~~percent. Likewise, the department shall make available in an~~
 3022 ~~electronic format or otherwise the tax amounts and brackets~~
 3023 ~~applicable to transactions taxable at 7 percent pursuant to s.~~
 3024 ~~212.05(1)(c) and on transactions which would otherwise have been~~

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3025 | ~~so taxable in counties which have adopted a discretionary sales~~
 3026 | ~~surtax.~~

3027 | (10)~~(12)~~ It is hereby declared to be the legislative
 3028 | intent that, whenever in the construction, administration, or
 3029 | enforcement of this chapter there may be a ~~any~~ question
 3030 | respecting a duplication of the tax, the end consumer, or last
 3031 | retail sale, be the sale intended to be taxed and insofar as may
 3032 | be practicable there be no duplication or pyramiding of the tax.

3033 | (11)~~(13)~~ In order to aid the administration and
 3034 | enforcement of the provisions of this chapter with respect to
 3035 | the rentals and license fees, each lessor or person granting the
 3036 | use of a ~~any~~ hotel, apartment house, roominghouse, tourist or
 3037 | trailer camp, real property, or ~~any~~ interest therein, or a ~~any~~
 3038 | portion thereof, inclusive of owners; property managers;
 3039 | lessors; landlords; hotel, apartment house, and roominghouse
 3040 | operators; and all licensed real estate agents within the state
 3041 | leasing, granting the use of, or renting such property, shall be
 3042 | required to keep a record of each and every such lease, license,
 3043 | or rental transaction which is taxable under this chapter, in
 3044 | such a manner and upon such forms as the department may
 3045 | prescribe, and to report such transaction to the department or
 3046 | its designated agents, and to maintain such records as long as
 3047 | required by s. 213.35, subject to the inspection of the
 3048 | department and its agents. Upon the failure by such owner;
 3049 | property manager; lessor; landlord; hotel, apartment house,
 3050 | roominghouse, tourist or trailer camp operator; or real estate
 3051 | agent to keep and maintain such records and to make such reports
 3052 | upon the forms and in the manner prescribed, such owner;

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3053 property manager; lessor; landlord; hotel, apartment house,
3054 roominghouse, tourist or trailer camp operator; receiver of rent
3055 or license fees; or real estate agent is guilty of a misdemeanor
3056 of the second degree, punishable as provided in s. 775.082 or s.
3057 775.083, for the first offense; for subsequent offenses, they
3058 are each guilty of a misdemeanor of the first degree, punishable
3059 as provided in s. 775.082 or s. 775.083. If, however, a any
3060 subsequent offense involves intentional destruction of such
3061 records with an intent to evade payment of or deprive the state
3062 of any tax revenues, such subsequent offense shall be a felony
3063 of the third degree, punishable as provided in s. 775.082 or s.
3064 775.083.

3065 ~~(14) If it is determined upon audit that a dealer has~~
3066 ~~collected and remitted taxes by applying the applicable tax rate~~
3067 ~~to each transaction as described in subsection (9) and rounding~~
3068 ~~the tax due to the nearest whole cent rather than applying the~~
3069 ~~appropriate bracket system provided by law or department rule,~~
3070 ~~the dealer shall not be held liable for additional tax, penalty,~~
3071 ~~and interest resulting from such failure if:~~

3072 ~~(a) The dealer acted in a good faith belief that rounding~~
3073 ~~to the nearest whole cent was the proper method of determining~~
3074 ~~the amount of tax due on each taxable transaction.~~

3075 ~~(b) The dealer timely reported and remitted all taxes~~
3076 ~~collected on each taxable transaction.~~

3077 ~~(c) The dealer agrees in writing to future compliance with~~
3078 ~~the laws and rules concerning brackets applicable to the~~
3079 ~~dealer's transactions.~~

3080 Section 13. Subsection (3) of section 212.17, Florida

3081 Statutes, is amended to read:

3082 212.17 Credits for returned goods, rentals, or admissions;
 3083 goods acquired for dealer's own use and subsequently resold;
 3084 additional powers of department.—

3085 (3) A dealer who has paid the tax imposed by this chapter
 3086 on tangible personal property or services may take a credit or
 3087 obtain a refund for a ~~any~~ tax paid by the dealer on the unpaid
 3088 balance due on worthless accounts within 12 months following the
 3089 month in which the bad debt has been charged off for federal
 3090 income tax purposes. A dealer that has paid the tax imposed by
 3091 this chapter on tangible personal property or services and that
 3092 is not required to file federal income tax returns may take a
 3093 credit against or obtain a refund for a tax paid by the dealer
 3094 on the unpaid balance due on worthless accounts within 12 months
 3095 after the month in which the bad debt is written off as
 3096 uncollectible in the dealer's books and records and would be
 3097 eligible for a bad-debt deduction for federal income tax
 3098 purposes if the dealer was required to file a federal income tax
 3099 return.

3100 (a) A dealer that is taking a credit against or obtaining
 3101 a refund on worthless accounts shall base the bad-debt-recovery
 3102 calculation in accordance with 26 U.S.C. s. 166.

3103 (b) When the amount of bad debt exceeds the amount of
 3104 taxable sales for the period during which the bad debt is
 3105 written off, a refund claim must be filed, notwithstanding s.
 3106 215.26(2), within 3 years after the due date of the return on
 3107 which the bad debt could first be claimed.

3108 (c) If ~~any~~ accounts so charged off for which a credit or

3109 refund has been obtained are thereafter in whole or in part paid
 3110 to the dealer, the amount so paid shall be included in the first
 3111 return filed after such collection and the tax paid accordingly.

3112 (d) If filing responsibilities have been assumed by a
 3113 certified service provider, the certified service provider shall
 3114 claim, on behalf of the seller, a bad-debt allowance provided by
 3115 this subsection. The certified service provider shall credit or
 3116 refund to the seller the full amount of a bad-debt allowance or
 3117 refund received.

3118 (e) For the purposes of reporting a payment received on a
 3119 previously claimed bad debt, the payments made on a debt or
 3120 account shall first be applied proportionally to the taxable
 3121 price of the property or service and the sales tax on such
 3122 property, and second to interest, service charges, and other
 3123 charges.

3124 (f) In situations in which the books and records of the
 3125 party claiming the bad-debt allowance support an allocation of
 3126 the bad debts among states that are members of the Streamlined
 3127 Sales and Use Tax Agreement, the allocation is permitted among
 3128 those states.

3129 Section 14. Paragraphs (a) and (e) of subsection (3) of
 3130 section 212.18, Florida Statutes, are amended to read:

3131 212.18 Administration of law; registration of dealers;
 3132 rules.—

3133 (3) (a) Every person desiring to engage in or conduct
 3134 business in this state as a dealer, as defined in this chapter,
 3135 or to lease, rent, or let or grant licenses in living quarters
 3136 or sleeping or housekeeping accommodations in hotels, apartment

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3137 houses, roominghouses, or tourist or trailer camps that are
3138 subject to tax under s. 212.03, or to lease, rent, or let or
3139 grant licenses in real property, as defined in this chapter, and
3140 every person who sells or receives anything of value by way of
3141 admissions, must file with the department an application for a
3142 certificate of registration for each place of business, showing
3143 the names of the persons who have interests in such business and
3144 their residences, the address of the business, and such other
3145 data as the department may reasonably require. However, owners
3146 and operators of vending machines or newspaper rack machines are
3147 required to obtain only one certificate of registration for each
3148 county in which such machines are located. The department, by
3149 rule, may authorize a dealer that uses independent sellers to
3150 sell its merchandise to remit tax on the retail sales price
3151 charged to the ultimate consumer in lieu of having the
3152 independent seller register as a dealer and remit the tax. The
3153 department may appoint the county tax collector as the
3154 department's agent to accept applications for registrations. The
3155 application must be made to the department before the person,
3156 firm, copartnership, or corporation may engage in such business,
3157 and it must be accompanied by a registration fee of \$5. ~~However,~~
3158 ~~a registration fee is not required to accompany an application~~
3159 ~~to engage in or conduct business to make mail order sales.~~ The
3160 department may waive the registration fee for applications
3161 submitted through the department's Internet registration process
3162 or central electronic registration system provided by member
3163 states of the Streamlined Sales and Use Tax Agreement.

3164 (e) As used in this paragraph, the term "exhibitor" means

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3165 a person who enters into an agreement authorizing the display of
3166 tangible personal property or services at a convention or a
3167 trade show. The following provisions apply to the registration
3168 of exhibitors as dealers under this chapter:

3169 1. An exhibitor whose agreement prohibits the sale of
3170 tangible personal property or services subject to the tax
3171 imposed in this chapter is not required to register as a dealer.

3172 2. An exhibitor whose agreement provides for the sale at
3173 wholesale only of tangible personal property or services subject
3174 to the tax imposed in this chapter must obtain a resale
3175 certificate from the purchasing dealer but is not required to
3176 register as a dealer.

3177 3. An exhibitor whose agreement authorizes the retail sale
3178 of tangible personal property or services subject to the tax
3179 imposed in this chapter must register as a dealer and collect
3180 the tax imposed under this chapter on such sales.

3181 ~~4. Any exhibitor who makes a mail order sale pursuant to~~
3182 ~~s. 212.0596 must register as a dealer.~~

3183 A Any person who conducts a convention or a trade show must make
3184 their exhibitor's agreements available to the department for
3185 inspection and copying.

3186 Section 15. Section 212.20, Florida Statutes, is amended
3187 to read:

3188 212.20 Funds collected, disposition; additional powers of
3189 department; operational expense; refund of taxes adjudicated
3190 unconstitutionally collected.—

3191 (1) The department shall pay over to the Chief Financial
3192 Officer of the state all funds received and collected by it

3193 | under the provisions of this chapter, to be credited to the
 3194 | account of the General Revenue Fund of the state.

3195 | (2) The department is authorized to employ all necessary
 3196 | assistants to administer this chapter properly and is also
 3197 | authorized to purchase all necessary supplies and equipment
 3198 | which may be required for this purpose.

3199 | (3) The estimated amount of money needed for the
 3200 | administration of this chapter shall be included by the
 3201 | department in its annual legislative budget request for the
 3202 | operation of its office.

3203 | ~~(4) When there has been a final adjudication that any tax~~
 3204 | ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
 3205 | ~~to the Constitution of the United States or the State~~
 3206 | ~~Constitution, the department shall, in accordance with rules,~~
 3207 | ~~determine, based upon claims for refund and other evidence and~~
 3208 | ~~information, who paid such tax or taxes, and refund to each such~~
 3209 | ~~person the amount of tax paid. For purposes of this subsection,~~
 3210 | ~~a "final adjudication" is a decision of a court of competent~~
 3211 | ~~jurisdiction from which no appeal can be taken or from which the~~
 3212 | ~~official or officials of this state with authority to make such~~
 3213 | ~~decisions has or have decided not to appeal.~~

3214 | (4)~~(5)~~ For the purposes of this section, the term:

3215 | (a) "Proceeds" means all tax or fee revenue collected or
 3216 | received by the department, including interest and penalties.

3217 | (b) "Reallocate" means reduction of the accounts of
 3218 | initial deposit and redeposit into the indicated account.

3219 | (5)~~(6)~~ Distribution of all proceeds under this chapter and
 3220 | s. 202.18(1)(b) and (2)(b) shall be as follows:

3221 (a) Proceeds from the convention development taxes
 3222 authorized under s. 212.0305 shall be reallocated to the
 3223 Convention Development Tax Clearing Trust Fund.

3224 (b) Proceeds from discretionary sales surtaxes imposed
 3225 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
 3226 Discretionary Sales Surtax Clearing Trust Fund.

3227 (c) Proceeds from the fees imposed under ss.
 3228 212.05(1)(h)3. and 212.18(3) shall remain with the General
 3229 Revenue Fund.

3230 (d) The proceeds of all other taxes and fees imposed
 3231 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 3232 and (2)(b) shall be distributed as follows:

3233 1. In a ~~any~~ fiscal year, the greater of \$500 million,
 3234 minus an amount equal to 4.6 percent of the proceeds of the
 3235 taxes collected pursuant to chapter 201, or 5.2 percent of all
 3236 other taxes and fees imposed pursuant to this chapter or
 3237 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
 3238 deposited in monthly installments into the General Revenue Fund.

3239 2. After the distribution under subparagraph 1., 8.814
 3240 percent of the amount remitted by a sales tax dealer located
 3241 within a participating county pursuant to s. 218.61 shall be
 3242 transferred into the Local Government Half-cent Sales Tax
 3243 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 3244 transferred shall be reduced by 0.1 percent, and the department
 3245 shall distribute this amount to the Public Employees Relations
 3246 Commission Trust Fund less \$5,000 each month, which shall be
 3247 added to the amount calculated in subparagraph 3. and
 3248 distributed accordingly.

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3249 3. After the distribution under subparagraphs 1. and 2.,
 3250 0.095 percent shall be transferred to the Local Government Half-
 3251 cent Sales Tax Clearing Trust Fund and distributed pursuant to
 3252 s. 218.65.

3253 4. After the distributions under subparagraphs 1., 2., and
 3254 3., 2.0440 percent of the available proceeds shall be
 3255 transferred monthly to the Revenue Sharing Trust Fund for
 3256 Counties pursuant to s. 218.215.

3257 5. After the distributions under subparagraphs 1., 2., and
 3258 3., 1.3409 percent of the available proceeds shall be
 3259 transferred monthly to the Revenue Sharing Trust Fund for
 3260 Municipalities pursuant to s. 218.215. If the total revenue to
 3261 be distributed pursuant to this subparagraph is at least as
 3262 great as the amount due from the Revenue Sharing Trust Fund for
 3263 Municipalities and the former Municipal Financial Assistance
 3264 Trust Fund in state fiscal year 1999-2000, no municipality shall
 3265 receive less than the amount due from the Revenue Sharing Trust
 3266 Fund for Municipalities and the former Municipal Financial
 3267 Assistance Trust Fund in state fiscal year 1999-2000. If the
 3268 total proceeds to be distributed are less than the amount
 3269 received in combination from the Revenue Sharing Trust Fund for
 3270 Municipalities and the former Municipal Financial Assistance
 3271 Trust Fund in state fiscal year 1999-2000, each municipality
 3272 shall receive an amount proportionate to the amount it was due
 3273 in state fiscal year 1999-2000.

3274 6. Of the remaining proceeds:

3275 a. In each fiscal year, the sum of \$29,915,500 shall be
 3276 divided into as many equal parts as there are counties in the

3277 state, and one part shall be distributed to each county. The
 3278 distribution among the several counties must begin each fiscal
 3279 year on or before January 5th and continue monthly for a total
 3280 of 4 months. If a local or special law required that ~~any~~ moneys
 3281 accruing to a county in fiscal year 1999-2000 under the then-
 3282 existing provisions of s. 550.135 be paid directly to the
 3283 district school board, special district, or a municipal
 3284 government, such payment must continue until the local or
 3285 special law is amended or repealed. The state covenants with
 3286 holders of bonds or other instruments of indebtedness issued by
 3287 local governments, special districts, or district school boards
 3288 before July 1, 2000, that it is not the intent of this
 3289 subparagraph to adversely affect the rights of those holders or
 3290 relieve local governments, special districts, or district school
 3291 boards of the duty to meet their obligations as a result of
 3292 previous pledges or assignments or trusts entered into which
 3293 obligated funds received from the distribution to county
 3294 governments under then-existing s. 550.135. This distribution
 3295 specifically is in lieu of funds distributed under s. 550.135
 3296 before July 1, 2000.

3297 b. The department shall distribute \$166,667 monthly
 3298 pursuant to s. 288.1162 to each applicant certified as a
 3299 facility for a new or retained professional sports franchise
 3300 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
 3301 monthly by the department to each certified applicant as defined
 3302 in s. 288.11621 for a facility for a spring training franchise.
 3303 However, not more than \$416,670 may be distributed monthly in
 3304 the aggregate to all certified applicants for facilities for

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3305 | spring training franchises. Distributions begin 60 days after
3306 | such certification and continue for not more than 30 years,
3307 | except as otherwise provided in s. 288.11621. A certified
3308 | applicant identified in this sub-subparagraph may not receive
3309 | more in distributions than expended by the applicant for the
3310 | public purposes provided for in s. 288.1162(5) or s.
3311 | 288.11621(3).

3312 | c. Beginning 30 days after notice by the Department of
3313 | Economic Opportunity to the Department of Revenue that an
3314 | applicant has been certified as the professional golf hall of
3315 | fame pursuant to s. 288.1168 and is open to the public, \$166,667
3316 | shall be distributed monthly, for up to 300 months, to the
3317 | applicant.

3318 | d. Beginning 30 days after notice by the Department of
3319 | Economic Opportunity to the Department of Revenue that the
3320 | applicant has been certified as the International Game Fish
3321 | Association World Center facility pursuant to s. 288.1169, and
3322 | the facility is open to the public, \$83,333 shall be distributed
3323 | monthly, for up to 168 months, to the applicant. This
3324 | distribution is subject to reduction pursuant to s. 288.1169. A
3325 | lump sum payment of \$999,996 shall be made, after certification
3326 | and before July 1, 2000.

3327 | e. The department shall distribute up to \$55,555 monthly
3328 | to each certified applicant as defined in s. 288.11631 for a
3329 | facility used by a single spring training franchise, or up to
3330 | \$111,110 monthly to each certified applicant as defined in s.
3331 | 288.11631 for a facility used by more than one spring training
3332 | franchise. Monthly distributions begin 60 days after such

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3333 certification or July 1, 2016, whichever is later, and continue
3334 for not more than 30 years, except as otherwise provided in s.
3335 288.11631. A certified applicant identified in this sub-
3336 subparagraph may not receive more in distributions than expended
3337 by the applicant for the public purposes provided in s.
3338 288.11631(3).

3339 7. All other proceeds must remain in the General Revenue
3340 Fund.

3341 Section 16. Section 213.052, Florida Statutes, is created
3342 to read:

3343 213.052 Notice of state sales and use tax rate changes.-

3344 (1) A sales or use tax rate change imposed under chapter
3345 212 is effective on January 1, April 1, July 1, or October 1.
3346 The Department of Revenue shall provide notice of such rate
3347 change to all affected sellers 60 days before the effective date
3348 of the rate change.

3349 (2) Failure of a seller to receive notice does not relieve
3350 the seller of its obligation to collect sales or use tax.

3351 Section 17. Section 213.0521, Florida Statutes, is created
3352 to read:

3353 213.0521 Effective date of state sales and use tax rate
3354 changes.-The effective date for services covering a period
3355 starting before and ending after the effective date of a
3356 legislative act is as follows:

3357 (1) For a rate increase, the new rate applies to the first
3358 billing period starting on or after the effective date.

3359 (2) For a rate decrease, the new rate applies to bills
3360 rendered on or after the effective date.

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3361 Section 18. Section 213.215, Florida Statutes, is created
 3362 to read:

3363 213.215 Sales and use tax amnesty upon registration in
 3364 accordance with the Streamlined Sales and Use Tax Agreement.-

3365 (1) Amnesty shall be provided for uncollected or unpaid
 3366 sales or use tax to a seller who registers to pay or to collect
 3367 and remit applicable sales or use tax in accordance with the
 3368 terms of the Streamlined Sales and Use Tax Agreement authorized
 3369 under s. 213.256, if the seller was not registered with the
 3370 Department of Revenue in the 12-month period before the
 3371 effective date of participation in the agreement by this state.

3372 (2) The amnesty precludes assessment for uncollected or
 3373 unpaid sales or use tax, together with penalty or interest for
 3374 sales made during the period the seller was not registered with
 3375 the Department of Revenue, if registration occurs within 12
 3376 months after the effective date of this state's participation in
 3377 the agreement.

3378 (3) The amnesty is not available to a seller with respect
 3379 to a matter for which the seller received notice of the
 3380 commencement of an audit if the audit is not finally resolved,
 3381 including related administrative and judicial processes.

3382 (4) The amnesty is not available for sales or use taxes
 3383 already paid or remitted to the state or to taxes collected by
 3384 the seller.

3385 (5) The amnesty is fully effective, absent the seller's
 3386 fraud or intentional misrepresentation of a material fact, as
 3387 long as the seller continues registration and continues payment
 3388 or collection and remittance of applicable sales or use taxes

3389 for at least 36 months.

3390 (6) The amnesty applies only to sales or use taxes due
 3391 from a seller in its capacity as a seller and not to sales or
 3392 use taxes due from a seller in its capacity as a buyer.

3393 Section 19. Subsections (1) and (2) of section 213.256,
 3394 Florida Statutes, are amended to read:

3395 213.256 Simplified Sales and Use Tax Administration Act.—

3396 (1) As used in this section and ss. 213.2562 and 213.2567,
 3397 the term:

3398 (a) "Agent" means, for purposes of carrying out the
 3399 responsibilities placed on a dealer, a person appointed by the
 3400 seller to represent the seller before the department.

3401 ~~"Department" means the Department of Revenue.~~

3402 (b) "Agreement" means the Streamlined Sales and Use Tax
 3403 Agreement ~~as amended and adopted on January 27, 2001, by the~~
 3404 ~~Executive Committee of the National Conference of State~~
 3405 ~~Legislatures.~~

3406 (c) "Certified automated system" means software certified
 3407 ~~jointly by the state states that are signatories to the~~
 3408 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a
 3409 transaction, determine the amount of tax to remit to the
 3410 appropriate state, and maintain a record of the transaction.

3411 (d) "Certified service provider" means an agent certified
 3412 ~~jointly by the states that are signatories to the agreement to~~
 3413 perform all of the seller's sales tax functions other than the
 3414 seller's obligation to remit tax on its own purchases.

3415 (e) "Department" means the Department of Revenue.

3416 (f) "Governing board" means the governing board of the

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3417 agreement.

3418 (g)1. "Model 1 seller" means a seller that has selected a
 3419 certified service provider as the seller's agent to perform all
 3420 of the seller's sales and use tax functions other than the
 3421 seller's obligation to remit tax on the seller's purchases.

3422 2. "Model 2 seller" means a seller that has selected a
 3423 certified automated system to perform part of the seller's sales
 3424 and use tax functions, but retains responsibility for remitting
 3425 the tax.

3426 3. "Model 3 seller" means a seller that has sales in at
 3427 least 5 member states, has total annual sales revenue of at
 3428 least \$500 million, has a proprietary system that calculates the
 3429 amount of tax due each jurisdiction, and has entered into a
 3430 performance agreement with the member states which establishes a
 3431 tax performance standard for the seller.

3432
 3433 As used in this paragraph, a seller includes an affiliated group
 3434 of sellers using the same proprietary system.

3435 (h)(e) "Person" means an individual, trust, estate,
 3436 fiduciary, partnership, limited liability company, limited
 3437 liability partnership, corporation, or ~~any~~ other legal entity.

3438 (i) "Registered under this agreement" means registration
 3439 by a seller with the member states under the central
 3440 registration system.

3441 (j)(f) "Sales tax" means the tax levied under chapter 212.

3442 (k)(g) "Seller" means a any person making sales, leases,
 3443 or rentals of personal property or services.

3444 (l)(h) "State" means a any state of the United States and

3445 the District of Columbia.

3446 (m) ~~(i)~~ "Use tax" means the tax levied under chapter 212.

3447 (2) (a) The executive director of the department is
 3448 authorized to ~~shall~~ enter into an agreement ~~the Streamlined~~
 3449 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
 3450 and modernize sales and use tax administration in order to
 3451 substantially reduce the burden of tax compliance for all
 3452 sellers and for all types of commerce. In furtherance of the
 3453 agreement, the executive director of the department or his or
 3454 her designee shall act jointly with other states that are
 3455 members of the agreement to establish standards for
 3456 certification of a certified service provider and certified
 3457 automated systems ~~system~~ and central registration systems
 3458 ~~establish performance standards for multistate sellers.~~

3459 (b) The executive director of the department or his or her
 3460 designee shall take other actions reasonably required to
 3461 administer this section. Other actions authorized by this
 3462 section include, but are not limited to, the adoption of rules
 3463 and the joint procurement, with other member states, of goods
 3464 and services in furtherance of the cooperative agreement.

3465 (c) The executive director of the department or his or her
 3466 designee may represent this state before the other states that
 3467 are signatories to the agreement.

3468 (d) The executive director of the department or his or her
 3469 designee is authorized to prepare and submit from time to time
 3470 such reports and certifications as may be determined necessary
 3471 according to the terms of an agreement and to enter into such
 3472 other agreements with the governing board, member states, and

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3473 service providers as are determined by the executive director to
 3474 facilitate the administration of the tax laws of this state.

3475 Section 20. Section 213.2562, Florida Statutes, is created
 3476 to read:

3477 213.2562 Approval of software to calculate tax.—The
 3478 department shall review software submitted to the governing
 3479 board for certification as a certified automated system. If the
 3480 software accurately reflects the taxability of product
 3481 categories included in the program, the department shall certify
 3482 the approval of the software to the governing board.

3483 Section 21. Section 213.2567, Florida Statutes, is created
 3484 to read:

3485 213.2567 Simplified Sales and Use Tax Agreement
 3486 registration, certification, liability, and audit.—

3487 (1) A seller that registers under the agreement agrees to
 3488 collect and remit sales and use taxes for all taxable sales into
 3489 the member states, including member states joining after the
 3490 seller's registration. Withdrawal or revocation of this state
 3491 does not relieve a seller of its responsibility to remit taxes
 3492 previously or subsequently collected on behalf of the state.

3493 (a) When registering, the seller may select a model 1,
 3494 model 2, or model 3 method of remittance or other method allowed
 3495 by state law to remit the taxes collected.

3496 (b) A seller may be registered by an agent. Such an
 3497 appointment must be in writing and submitted to a member state.

3498 (2) (a) A certified service provider is the agent of a
 3499 model 1 seller with whom the certified service provider has
 3500 contracted for the collection and remittance of sales and use

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3501 taxes. As the model 1 seller's agent, the certified service
3502 provider is liable for sales and use tax due this state on all
3503 sales transactions it processes for the model 1 seller, except
3504 as set out in paragraph (b).

3505 (b) A model 1 seller is not liable to the state for sales
3506 or use tax due on transactions processed by the certified
3507 service provider unless the model 1 seller has misrepresented
3508 the type of items it sells or has committed fraud. In the
3509 absence of probable cause to believe that the model 1 seller has
3510 committed fraud or made a material misrepresentation, the model
3511 1 seller is not subject to audit on the transactions processed
3512 by the certified service provider. A model 1 seller is subject
3513 to audit for transactions that have not been processed by the
3514 certified service provider. The member states acting jointly may
3515 perform a system check of the model 1 seller and review the
3516 model 1 seller's procedures to determine if the certified
3517 service provider's system is functioning properly and to
3518 determine the extent to which the model 1 seller's transactions
3519 are being processed by the certified service provider.

3520 (3) A model 2 seller that uses a certified automated
3521 system remains responsible and is liable to this state for
3522 reporting and remitting tax. However, a model 2 seller is not
3523 responsible for errors in reliance on a certified automated
3524 system.

3525 (4) A model 3 seller is liable for the failure of the
3526 proprietary system to meet the performance standard.

3527 (5) A person that provides a certified automated system is
3528 not liable for errors contained in software that was approved by

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3529 the department and certified to the governing board. However,
3530 such person:

3531 (a) Is responsible for the proper functioning of that
3532 system;

3533 (b) Is liable to this state for underpayments of tax
3534 attributable to errors in the functioning of the certified
3535 automated system; and

3536 (c) Is liable for the misclassification of an item or
3537 transaction that is not corrected within 10 days after the
3538 receipt of notice from the department.

3539 (6) The executive director of the department or his or her
3540 designee may certify a person as a certified service provider if
3541 the person meets all of the following requirements:

3542 (a) Uses a certified automated system;

3543 (b) Integrates its certified automated system with the
3544 system of a seller for whom the person collects tax so that the
3545 tax due on a sale is determined at the time of the sale;

3546 (c) Agrees to remit the taxes it collects at the time and
3547 in the manner specified by chapter 212;

3548 (d) Agrees to file returns on behalf of the sellers for
3549 whom it collects tax;

3550 (e) Agrees to protect the privacy of tax information it
3551 obtains in accordance with s. 213.053; and

3552 (f) Enters into a contract with the department and agrees
3553 to comply with the terms of the contract.

3554 (7) The department shall review software submitted to the
3555 governing board for certification as a certified automated
3556 system. The executive director of the department shall certify

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3557 the approval of the software to the governing board if the
3558 software:

3559 (a) Determines the applicable state and local sales and
3560 use tax rate for a transaction in accordance with s. 212.06(3)
3561 and (4);

3562 (b) Determines whether an item is exempt from tax;

3563 (c) Determines the amount of tax to be remitted for each
3564 taxpayer for a reporting period; and

3565 (d) Can generate reports and returns as required by the
3566 governing board.

3567 (8) The department may by rule establish one or more sales
3568 tax performance standards for model 3 sellers.

3569 (9) Disclosure of information necessary under this section
3570 must be made according to a written agreement between the
3571 executive director of the department or his or her designee and
3572 the certified service provider. The certified service provider
3573 is bound by the same requirements of confidentiality as the
3574 department employees. Breach of confidentiality is a misdemeanor
3575 of the first degree, punishable as provided in s. 775.082 or s.
3576 775.083.

3577 Section 22. It is the intent of the Legislature to urge
3578 the United States Congress to consider adequate protections for
3579 small businesses engaging in both offline and online
3580 transactions from added costs, administrative burdens, and
3581 requirements imposed on intermediaries relating to the
3582 collection and remittance of sales and use tax.

3583 Section 23. The executive director of the Department of
3584 Revenue may adopt emergency rules to implement this act.

3585 Notwithstanding any other law, the emergency rules shall remain
 3586 effective for 6 months after the date of adoption and may be
 3587 renewed during the pendency of procedures to adopt rules
 3588 addressing the subject of the emergency rules.

3589 Section 24. Paragraph (a) of subsection (5) of section
 3590 11.45, Florida Statutes, is amended to read:

3591 11.45 Definitions; duties; authorities; reports; rules.—

3592 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3593 (a) The Legislative Auditing Committee shall direct the
 3594 Auditor General to make an audit of a ~~any~~ municipality whenever
 3595 petitioned to do so by at least 20 percent of the registered
 3596 electors in the last general election of that municipality
 3597 pursuant to this subsection. The supervisor of elections of the
 3598 county in which the municipality is located shall certify
 3599 whether or not the petition contains the signatures of at least
 3600 20 percent of the registered electors of the municipality. After
 3601 the completion of the audit, the Auditor General shall determine
 3602 whether the municipality has the fiscal resources necessary to
 3603 pay the cost of the audit. The municipality shall pay the cost
 3604 of the audit within 90 days after the Auditor General's
 3605 determination that the municipality has the available resources.
 3606 If the municipality fails to pay the cost of the audit, the
 3607 Department of Revenue shall, upon certification of the Auditor
 3608 General, withhold from that portion of the distribution pursuant
 3609 to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to
 3610 such municipality, a sum sufficient to pay the cost of the audit
 3611 and shall deposit that sum into the General Revenue Fund of the
 3612 state.

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3613 Section 25. Subsection (6) of section 196.012, Florida
 3614 Statutes, is amended to read:

3615 196.012 Definitions.—For the purpose of this chapter, the
 3616 following terms are defined as follows, except where the context
 3617 clearly indicates otherwise:

3618 (6) Governmental, municipal, or public purpose or function
 3619 shall be deemed to be served or performed when the lessee under
 3620 a ~~any~~ leasehold interest created in property of the United
 3621 States, the state or ~~any of~~ its political subdivisions, or a ~~any~~
 3622 municipality, agency, special district, authority, or other
 3623 public body corporate of the state is demonstrated to perform a
 3624 function or serve a governmental purpose which could properly be
 3625 performed or served by an appropriate governmental unit or which
 3626 is demonstrated to perform a function or serve a purpose which
 3627 would otherwise be a valid subject for the allocation of public
 3628 funds. For purposes of the preceding sentence, an activity
 3629 undertaken by a lessee which is permitted under the terms of its
 3630 lease of real property designated as an aviation area on an
 3631 airport layout plan which has been approved by the Federal
 3632 Aviation Administration and which real property is used for the
 3633 administration, operation, business offices and activities
 3634 related specifically thereto in connection with the conduct of
 3635 an aircraft full service fixed base operation which provides
 3636 goods and services to the general aviation public in the
 3637 promotion of air commerce shall be deemed an activity which
 3638 serves a governmental, municipal, or public purpose or function.
 3639 An ~~Any~~ activity undertaken by a lessee which is permitted under
 3640 the terms of its lease of real property designated as a public

3641 | airport as defined in s. 332.004(14) by municipalities,
 3642 | agencies, special districts, authorities, or other public bodies
 3643 | corporate and public bodies politic of the state, a spaceport as
 3644 | defined in s. 331.303, or which is located in a deepwater port
 3645 | identified in s. 403.021(9)(b) and owned by one of the foregoing
 3646 | governmental units, subject to a leasehold or other possessory
 3647 | interest of a nongovernmental lessee that is deemed to perform
 3648 | an aviation, airport, aerospace, maritime, or port purpose or
 3649 | operation shall be deemed an activity that serves a
 3650 | governmental, municipal, or public purpose. The use by a lessee,
 3651 | licensee, or management company of real property or a portion
 3652 | thereof as a convention center, visitor center, sports facility
 3653 | with permanent seating, concert hall, arena, stadium, park, or
 3654 | beach is deemed a use that serves a governmental, municipal, or
 3655 | public purpose or function when access to the property is open
 3656 | to the general public with or without a charge for admission. If
 3657 | property deeded to a municipality by the United States is
 3658 | subject to a requirement that the Federal Government, through a
 3659 | schedule established by the Secretary of the Interior, determine
 3660 | that the property is being maintained for public historic
 3661 | preservation, park, or recreational purposes and if those
 3662 | conditions are not met the property will revert back to the
 3663 | Federal Government, then such property shall be deemed to serve
 3664 | a municipal or public purpose. The term "governmental purpose"
 3665 | also includes a direct use of property on federal lands in
 3666 | connection with the Federal Government's Space Exploration
 3667 | Program or spaceport activities as defined in s. 212.02-~~(22)~~.
 3668 | Real property and tangible personal property owned by the

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3669 Federal Government or Space Florida and used for defense and
3670 space exploration purposes or which is put to a use in support
3671 thereof shall be deemed to perform an essential national
3672 governmental purpose and shall be exempt. "Owned by the lessee"
3673 as used in this chapter does not include personal property,
3674 buildings, or other real property improvements used for the
3675 administration, operation, business offices and activities
3676 related specifically thereto in connection with the conduct of
3677 an aircraft full service fixed based operation which provides
3678 goods and services to the general aviation public in the
3679 promotion of air commerce provided that the real property is
3680 designated as an aviation area on an airport layout plan
3681 approved by the Federal Aviation Administration. For purposes of
3682 determination of "ownership," buildings and other real property
3683 improvements which will revert to the airport authority or other
3684 governmental unit upon expiration of the term of the lease shall
3685 be deemed "owned" by the governmental unit and not the lessee.
3686 Providing two-way telecommunications services to the public for
3687 hire by the use of a telecommunications facility, as defined in
3688 s. 364.02(14), and for which a certificate is required under
3689 chapter 364 does not constitute an exempt use for purposes of s.
3690 196.199, unless the telecommunications services are provided by
3691 the operator of a public-use airport, as defined in s. 332.004,
3692 for the operator's provision of telecommunications services for
3693 the airport or its tenants, concessionaires, or licensees, or
3694 unless the telecommunications services are provided by a public
3695 hospital.

3696 Section 26. Paragraph (b) of subsection (1) and paragraph

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3697 (b) of subsection (2) of section 202.18, Florida Statutes, are
 3698 amended to read:

3699 202.18 Allocation and disposition of tax proceeds.—The
 3700 proceeds of the communications services taxes remitted under
 3701 this chapter shall be treated as follows:

3702 (1) The proceeds of the taxes remitted under s.
 3703 202.12(1) (a) shall be divided as follows:

3704 (b) The remaining portion shall be distributed according
 3705 to s. 212.20(5) ~~s. 212.20(6)~~.

3706 (2) The proceeds of the taxes remitted under s.
 3707 202.12(1) (b) shall be divided as follows:

3708 (b) Sixty-three percent of the remainder shall be
 3709 allocated to the state and distributed pursuant to s. 212.20(5)
 3710 ~~s. 212.20(6)~~, except that the proceeds allocated pursuant to s.
 3711 212.20(5) (d)2. ~~s. 212.20(6) (d)2.~~ shall be prorated to the
 3712 participating counties in the same proportion as that month's
 3713 collection of the taxes and fees imposed pursuant to chapter 212
 3714 and paragraph (1) (b).

3715 Section 27. Paragraphs (f), (g), (h), and (i) of
 3716 subsection (1) of section 203.01, Florida Statutes, are amended
 3717 to read:

3718 203.01 Tax on gross receipts for utility and
 3719 communications services.—

3720 (1)

3721 (f) A ~~Any~~ person who imports into this state electricity,
 3722 natural gas, or manufactured gas, or severs natural gas, for
 3723 that person's own use or consumption as a substitute for
 3724 purchasing utility, transportation, or delivery services taxable

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3725 | under this chapter and who cannot demonstrate payment of the tax
3726 | imposed by this chapter must register with the Department of
3727 | Revenue and pay into the State Treasury each month an amount
3728 | equal to the cost price of such electricity, natural gas, or
3729 | manufactured gas times the rate set forth in paragraph (b),
3730 | reduced by the amount of a ~~any~~ like tax lawfully imposed on and
3731 | paid by the person from whom the electricity, natural gas, or
3732 | manufactured gas was purchased or a ~~any~~ person who provided
3733 | delivery service or transportation service in connection with
3734 | the electricity, natural gas, or manufactured gas. For purposes
3735 | of this paragraph, the term "cost price" has the meaning
3736 | ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of
3737 | payment and the amount of such reductions in tax shall be made
3738 | according to rules of the Department of Revenue.

3739 | (g) Electricity produced by cogeneration or by small power
3740 | producers which is transmitted and distributed by a public
3741 | utility between two locations of a customer of the utility
3742 | pursuant to s. 366.051 is subject to the tax imposed by this
3743 | section. The tax shall be applied to the cost price of such
3744 | electricity as provided in s. 212.02~~(4)~~ and shall be paid each
3745 | month by the producer of such electricity.

3746 | (h) Electricity produced by cogeneration or by small power
3747 | producers during the 12-month period ending June 30 of each year
3748 | which is in excess of nontaxable electricity produced during the
3749 | 12-month period ending June 30, 1990, is subject to the tax
3750 | imposed by this section. The tax shall be applied to the cost
3751 | price of such electricity as provided in s. 212.02~~(4)~~ and shall
3752 | be paid each month, beginning with the month in which total

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3753 production exceeds the production of nontaxable electricity for
 3754 the 12-month period ending June 30, 1990. For purposes of this
 3755 paragraph, "nontaxable electricity" means electricity produced
 3756 by cogeneration or by small power producers which is not subject
 3757 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)
 3758 may be credited against taxes due under this paragraph.
 3759 Electricity generated as part of an industrial manufacturing
 3760 process which manufactures products from phosphate rock, raw
 3761 wood fiber, paper, citrus, or an ~~any~~ agricultural product shall
 3762 not be subject to the tax imposed by this paragraph. "Industrial
 3763 manufacturing process" means the entire process conducted at the
 3764 location where the process takes place.

3765 (i) A ~~Any~~ person other than a cogenerator or small power
 3766 producer described in paragraph (h) who produces for his or her
 3767 own use electrical energy which is a substitute for electrical
 3768 energy produced by an electric utility as defined in s. 366.02
 3769 is subject to the tax imposed by this section. The tax shall be
 3770 applied to the cost price of such electrical energy as provided
 3771 in s. 212.02~~(4)~~ and shall be paid each month. The provisions of
 3772 this paragraph do not apply to an ~~any~~ electrical energy produced
 3773 and used by an electric utility.

3774 Section 28. Paragraph (a) of subsection (1) of section
 3775 212.031, Florida Statutes, is amended to read:

3776 212.031 Tax on rental or license fee for use of real
 3777 property.—

3778 (1) (a) It is declared to be the legislative intent that
 3779 every person is exercising a taxable privilege who engages in
 3780 the business of renting, leasing, letting, or granting a license

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3781 for the use of ~~any~~ real property unless such property is:
 3782 1. Assessed as agricultural property under s. 193.461.
 3783 2. Used exclusively as dwelling units.
 3784 3. Property subject to tax on parking, docking, or storage
 3785 spaces under s. 212.03(6).
 3786 4. Recreational property or the common elements of a
 3787 condominium when subject to a lease between the developer or
 3788 owner thereof and the condominium association in its own right
 3789 or as agent for the owners of individual condominium units or
 3790 the owners of individual condominium units. However, only the
 3791 lease payments on such property shall be exempt from the tax
 3792 imposed by this chapter, and any other use made by the owner or
 3793 the condominium association shall be fully taxable under this
 3794 chapter.
 3795 5. A public or private street or right-of-way and poles,
 3796 conduits, fixtures, and similar improvements located on such
 3797 streets or rights-of-way, occupied or used by a utility or
 3798 provider of communications services, as defined by s. 202.11,
 3799 for utility or communications or television purposes. For
 3800 purposes of this subparagraph, the term "utility" means a ~~any~~
 3801 person providing utility services as defined in s. 203.012. This
 3802 exception also applies to property, wherever located, on which
 3803 the following are placed: towers, antennas, cables, accessory
 3804 structures, or equipment, not including switching equipment,
 3805 used in the provision of mobile communications services as
 3806 defined in s. 202.11. For purposes of this chapter, towers used
 3807 in the provision of mobile communications services, as defined
 3808 in s. 202.11, are considered to be fixtures.

3809 6. A public street or road which is used for
3810 transportation purposes.

3811 7. Property used at an airport exclusively for the purpose
3812 of aircraft landing or aircraft taxiing or property used by an
3813 airline for the purpose of loading or unloading passengers or
3814 property onto or from aircraft or for fueling aircraft.

3815 8.a. Property used at a port authority, as defined in s.
3816 315.02(2), exclusively for the purpose of oceangoing vessels or
3817 tugs docking, or such vessels mooring on property used by a port
3818 authority for the purpose of loading or unloading passengers or
3819 cargo onto or from such a vessel, or property used at a port
3820 authority for fueling such vessels, or to the extent that the
3821 amount paid for the use of ~~any~~ property at the port is based on
3822 the charge for the amount of tonnage actually imported or
3823 exported through the port by a tenant.

3824 b. The amount charged for the use of ~~any~~ property at the
3825 port in excess of the amount charged for tonnage actually
3826 imported or exported shall remain subject to tax except as
3827 provided in sub-subparagraph a.

3828 9. Property used as an integral part of the performance of
3829 qualified production services. As used in this subparagraph, the
3830 term "qualified production services" means an ~~any~~ activity or
3831 service performed directly in connection with the production of
3832 a qualified motion picture, as defined in s. 212.06(1)(b), and
3833 includes:

3834 a. Photography, sound and recording, casting, location
3835 managing and scouting, shooting, creation of special and optical
3836 effects, animation, adaptation (language, media, electronic, or

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3837 otherwise), technological modifications, computer graphics, set
 3838 and stage support (such as electricians, lighting designers and
 3839 operators, greensmen, prop managers and assistants, and grips),
 3840 wardrobe (design, preparation, and management), hair and makeup
 3841 (design, production, and application), performing (such as
 3842 acting, dancing, and playing), designing and executing stunts,
 3843 coaching, consulting, writing, scoring, composing,
 3844 choreographing, script supervising, directing, producing,
 3845 transmitting dailies, dubbing, mixing, editing, cutting,
 3846 looping, printing, processing, duplicating, storing, and
 3847 distributing;

3848 b. The design, planning, engineering, construction,
 3849 alteration, repair, and maintenance of real or personal property
 3850 including stages, sets, props, models, paintings, and facilities
 3851 principally required for the performance of those services
 3852 listed in sub-subparagraph a.; and

3853 c. Property management services directly related to
 3854 property used in connection with the services described in sub-
 3855 subparagraphs a. and b.

3856 This exemption will inure to the taxpayer upon presentation of
 3857 the certificate of exemption issued to the taxpayer under the
 3858 provisions of s. 288.1258.

3859 10. Leased, subleased, licensed, or rented to a person
 3860 providing food and drink concessionaire services within the
 3861 premises of a convention hall, exhibition hall, auditorium,
 3862 stadium, theater, arena, civic center, performing arts center,
 3863 publicly owned recreational facility, or a ~~any~~ business operated
 3864 under a permit issued pursuant to chapter 550. A person

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3865 providing retail concessionaire services involving the sale of
3866 food and drink or other tangible personal property within the
3867 premises of an airport shall be subject to tax on the rental of
3868 real property used for that purpose, but shall not be subject to
3869 the tax on a ~~any~~ license to use the property. For purposes of
3870 this subparagraph, the term "sale" shall not include the leasing
3871 of tangible personal property.

3872 11. Property occupied pursuant to an instrument calling
3873 for payments which the department has declared, in a Technical
3874 Assistance Advisement issued on or before March 15, 1993, to be
3875 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
3876 Administrative Code; provided that this subparagraph shall only
3877 apply to property occupied by the same person before and after
3878 the execution of the subject instrument and only to those
3879 payments made pursuant to such instrument, exclusive of renewals
3880 and extensions thereof occurring after March 15, 1993.

3881 12. Property used or occupied predominantly for space
3882 flight business purposes. As used in this subparagraph, "space
3883 flight business" means the manufacturing, processing, or
3884 assembly of a space facility, space propulsion system, space
3885 vehicle, satellite, or station of any kind possessing the
3886 capacity for space flight, as defined by s. 212.02~~(23)~~, or
3887 components thereof, and also means the following activities
3888 supporting space flight: vehicle launch activities, flight
3889 operations, ground control or ground support, and all
3890 administrative activities directly related thereto. Property
3891 shall be deemed to be used or occupied predominantly for space
3892 flight business purposes if more than 50 percent of the

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3893 | property, or improvements thereon, is used for one or more space
 3894 | flight business purposes. Possession by a landlord, lessor, or
 3895 | licensor of a signed written statement from the tenant, lessee,
 3896 | or licensee claiming the exemption shall relieve the landlord,
 3897 | lessor, or licensor from the responsibility of collecting the
 3898 | tax, and the department shall look solely to the tenant, lessee,
 3899 | or licensee for recovery of such tax if it determines that the
 3900 | exemption was not applicable.

3901 | 13. Rented, leased, subleased, or licensed to a person
 3902 | providing telecommunications, data systems management, or
 3903 | Internet services at a publicly or privately owned convention
 3904 | hall, civic center, or meeting space at a public lodging
 3905 | establishment as defined in s. 509.013. This subparagraph
 3906 | applies only to that portion of the rental, lease, or license
 3907 | payment that is based upon a percentage of sales, revenue
 3908 | sharing, or royalty payments and not based upon a fixed price.
 3909 | This subparagraph is intended to be clarifying and remedial in
 3910 | nature and shall apply retroactively. This subparagraph does not
 3911 | provide a basis for an assessment of any tax not paid, or create
 3912 | a right to a refund of any tax paid, pursuant to this section
 3913 | before July 1, 2010.

3914 | Section 29. Paragraph (b) of subsection (1) of section
 3915 | 212.052, Florida Statutes, is amended to read:

3916 | 212.052 Research or development costs; exemption.—

3917 | (1) For the purposes of the exemption provided in this
 3918 | section:

3919 | (b) The term "costs" means cost price as defined in s.
 3920 | 212.02~~(4)~~.

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3921 Section 30. Paragraph (c) of subsection (2), paragraph (c)
 3922 of subsection (3), and paragraphs (c) and (i) of subsection (8)
 3923 of section 212.055, Florida Statutes, are amended to read:

3924 212.055 Discretionary sales surtaxes; legislative intent;
 3925 authorization and use of proceeds.—It is the legislative intent
 3926 that an ~~any~~ authorization for imposition of a discretionary
 3927 sales surtax shall be published in the Florida Statutes as a
 3928 subsection of this section, irrespective of the duration of the
 3929 levy. Each enactment shall specify the types of counties
 3930 authorized to levy; the rate or rates which may be imposed; the
 3931 maximum length of time the surtax may be imposed, if any; the
 3932 procedure which must be followed to secure voter approval, if
 3933 required; the purpose for which the proceeds may be expended;
 3934 and such other requirements as the Legislature may provide.
 3935 Taxable transactions and administrative procedures shall be as
 3936 provided in s. 212.054.

3937 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3938 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax
 3939 levied under this subsection shall be distributed to the county
 3940 and the municipalities within such county in which the surtax
 3941 was collected, according to:

3942 1. An interlocal agreement between the county governing
 3943 authority and the governing bodies of the municipalities
 3944 representing a majority of the county's municipal population,
 3945 which agreement may include a school district with the consent
 3946 of the county governing authority and the governing bodies of
 3947 the municipalities representing a majority of the county's
 3948 municipal population; or

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3949 2. If there is no interlocal agreement, according to the
3950 formula provided in s. 218.62.

3951
3952 A ~~Any~~ change in the distribution formula must take effect on the
3953 first day of a ~~any~~ month that begins at least 60 days after
3954 written notification of that change has been made to the
3955 department.

3956 (3) SMALL COUNTY SURTAX.—

3957 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax
3958 levied under this subsection shall be distributed to the county
3959 and the municipalities within the county in which the surtax was
3960 collected, according to:

3961 1. An interlocal agreement between the county governing
3962 authority and the governing bodies of the municipalities
3963 representing a majority of the county's municipal population,
3964 which agreement may include a school district with the consent
3965 of the county governing authority and the governing bodies of
3966 the municipalities representing a majority of the county's
3967 municipal population; or

3968 2. If there is no interlocal agreement, according to the
3969 formula provided in s. 218.62.

3970
3971 A ~~Any~~ change in the distribution formula shall take effect on
3972 the first day of a ~~any~~ month that begins at least 60 days after
3973 written notification of that change has been made to the
3974 department.

3975 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3976 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the

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3977 discretionary sales surtax collected under this subsection, less
 3978 an administrative fee that may be retained by the Department of
 3979 Revenue, shall be distributed by the department to the county.
 3980 The county shall distribute the proceeds it receives from the
 3981 department to the participating jurisdictions that have entered
 3982 into an interlocal agreement with the county under this
 3983 subsection. The county may also charge an administrative fee for
 3984 receiving and distributing the surtax in the amount of the
 3985 actual costs incurred, not to exceed 2 percent of the surtax
 3986 collected.

3987 (i) Surtax collections shall be initiated on January 1 of
 3988 the year following a successful referendum ~~in order to coincide~~
 3989 ~~with s. 212.054(5).~~

3990 Section 31. Subsection (3) of section 212.13, Florida
 3991 Statutes, is amended to read:

3992 212.13 Records required to be kept; power to inspect;
 3993 audit procedure.—

3994 (3) For the purpose of enforcement of this chapter, every
 3995 manufacturer and seller of tangible personal property or
 3996 services licensed within this state is required to permit the
 3997 department to examine his or her books and records at all
 3998 reasonable hours, and, upon his or her refusal, the department
 3999 may require him or her to permit such examination by resort to
 4000 the circuit courts of this state, subject however to the right
 4001 of removal of the cause to the judicial circuit wherein such
 4002 person's business is located or wherein such person's books and
 4003 records are kept, provided further that such person's books and
 4004 records are kept within the state. When the dealer has made an

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4005 allocation or attribution pursuant to the definition of sales
 4006 price in s. 212.02(16), the department may prescribe by rule the
 4007 books and records that must be made available during an audit of
 4008 the dealer's books and records and examples of methods for
 4009 determining the reasonableness thereof. Books and records kept
 4010 in the regular course of business include, but are not limited
 4011 to, general ledgers, price lists, cost records, customer
 4012 billings, billing system reports, tariffs, and other regulatory
 4013 filings and rules of regulatory authorities. Such record may be
 4014 required to be made available to the department in an electronic
 4015 format when so kept by the dealer. The dealer may support the
 4016 allocation of charges with books and records kept in the regular
 4017 course of business covering the dealer's entire service area,
 4018 including territories outside this state. During an audit, the
 4019 department may reasonably require production of ~~any~~ additional
 4020 books and records found necessary to assist in its
 4021 determination.

4022 Section 32. Subsection (1) of section 212.15, Florida
 4023 Statutes, is amended to read:

4024 212.15 Taxes declared state funds; penalties for failure
 4025 to remit taxes; due and delinquent dates; judicial review.—

4026 (1) The taxes imposed by this chapter shall, ~~except as~~
 4027 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the
 4028 moment of collection and shall for each month be due to the
 4029 department on the first day of the succeeding month and be
 4030 delinquent on the 21st day of such month. All returns postmarked
 4031 after the 20th day of such month are delinquent.

4032 Section 33. Subsection (3) of section 213.015, Florida

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4033 Statutes, is amended to read:

4034 213.015 Taxpayer rights.—There is created a Florida
 4035 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
 4036 and property of Florida taxpayers are adequately safeguarded and
 4037 protected during tax assessment, collection, and enforcement
 4038 processes administered under the revenue laws of this state. The
 4039 Taxpayer's Bill of Rights compiles, in one document, brief but
 4040 comprehensive statements which explain, in simple, nontechnical
 4041 terms, the rights and obligations of the Department of Revenue
 4042 and taxpayers. Section 192.0105 provides additional rights
 4043 afforded to payors of property taxes and assessments. The rights
 4044 afforded taxpayers to ensure that their privacy and property are
 4045 safeguarded and protected during tax assessment and collection
 4046 are available only insofar as they are implemented in other
 4047 parts of the Florida Statutes or rules of the Department of
 4048 Revenue. The rights so guaranteed Florida taxpayers in the
 4049 Florida Statutes and the departmental rules are:

4050 (3) The right to be represented or advised by counsel or
 4051 other qualified representatives at any time in administrative
 4052 interactions with the department, the right to procedural
 4053 safeguards with respect to recording of interviews during tax
 4054 determination or collection processes conducted by the
 4055 department, the right to be treated in a professional manner by
 4056 department personnel, and the right to have audits, inspections
 4057 of records, and interviews conducted at a reasonable time and
 4058 place except in criminal and internal investigations (see ss.
 4059 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),
 4060 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,

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4061 | 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4062 | Section 34. Subsection (3) of section 218.245, Florida

4063 | Statutes, is amended to read:

4064 | 218.245 Revenue sharing; apportionment.—

4065 | (3) Revenues attributed to the increase in distribution to

4066 | the Revenue Sharing Trust Fund for Municipalities pursuant to s.

4067 | 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409

4068 | percent provided in chapter 2003-402, Laws of Florida, shall be

4069 | distributed to each eligible municipality and a ~~any~~ unit of

4070 | local government that is consolidated as provided by s. 9, Art.

4071 | VIII of the State Constitution of 1885, as preserved by s. 6(e),

4072 | Art. VIII, 1968 revised constitution, as follows: each eligible

4073 | local government's allocation shall be based on the amount it

4074 | received from the half-cent sales tax under s. 218.61 in the

4075 | prior state fiscal year divided by the total receipts under s.

4076 | 218.61 in the prior state fiscal year for all eligible local

4077 | governments. However, for the purpose of calculating this

4078 | distribution, the amount received from the half-cent sales tax

4079 | under s. 218.61 in the prior state fiscal year by a unit of

4080 | local government which is consolidated as provided by s. 9, Art.

4081 | VIII of the State Constitution of 1885, as amended, and as

4082 | preserved by s. 6(e), Art. VIII, of the Constitution as revised

4083 | in 1968, shall be reduced by 50 percent for such local

4084 | government and for the total receipts. For eligible

4085 | municipalities that began participating in the allocation of

4086 | half-cent sales tax under s. 218.61 in the previous state fiscal

4087 | year, their annual receipts shall be calculated by dividing

4088 | their actual receipts by the number of months they participated,

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4089 and the result multiplied by 12.

4090 Section 35. Subsections (5), (6), and (7) of section
4091 218.65, Florida Statutes, are amended to read:

4092 218.65 Emergency distribution.—

4093 (5) At the beginning of each fiscal year, the Department
4094 of Revenue shall calculate a base allocation for each eligible
4095 county equal to the difference between the current per capita
4096 limitation times the county's population, minus prior year
4097 ordinary distributions to the county pursuant to ss.
4098 212.20(5)(d)2. ~~212.20(6)(d)2.~~, 218.61, and 218.62. If moneys
4099 deposited into the Local Government Half-cent Sales Tax Clearing
4100 Trust Fund pursuant to s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~,
4101 excluding moneys appropriated for supplemental distributions
4102 pursuant to subsection (8), for the current year are less than
4103 or equal to the sum of the base allocations, each eligible
4104 county shall receive a share of the appropriated amount
4105 proportional to its base allocation. If the deposited amount
4106 exceeds the sum of the base allocations, each county shall
4107 receive its base allocation, and the excess appropriated amount,
4108 less any amounts distributed under subsection (6), shall be
4109 distributed equally on a per capita basis among the eligible
4110 counties.

4111 (6) If moneys deposited in the Local Government Half-cent
4112 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~
4113 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base
4114 allocation to each eligible county, the moneys in the trust fund
4115 may be used to provide a transitional distribution, as specified
4116 in this subsection, to certain counties whose population has

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4117 increased. The transitional distribution shall be made available
 4118 to each county that qualified for a distribution under
 4119 subsection (2) in the prior year but does not, because of the
 4120 requirements of paragraph (2) (a), qualify for a distribution in
 4121 the current year. Beginning on July 1 of the year following the
 4122 year in which the county no longer qualifies for a distribution
 4123 under subsection (2), the county shall receive two-thirds of the
 4124 amount received in the prior year, and beginning July 1 of the
 4125 second year following the year in which the county no longer
 4126 qualifies for a distribution under subsection (2), the county
 4127 shall receive one-third of the amount it received in the last
 4128 year it qualified for the distribution under subsection (2). If
 4129 insufficient moneys are available in the Local Government Half-
 4130 cent Sales Tax Clearing Trust Fund to fully provide such a
 4131 transitional distribution to each county that meets the
 4132 eligibility criteria in this section, each eligible county shall
 4133 receive a share of the available moneys proportional to the
 4134 amount it would have received had moneys been sufficient to
 4135 fully provide such a transitional distribution to each eligible
 4136 county.

4137 (7) There is hereby annually appropriated from the Local
 4138 Government Half-cent Sales Tax Clearing Trust Fund the
 4139 distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to
 4140 be used for emergency and supplemental distributions pursuant to
 4141 this section.

4142 Section 36. Paragraph (q) of subsection (1) of section
 4143 288.1045, Florida Statutes, is amended to read:

4144 288.1045 Qualified defense contractor and space flight

4145 business tax refund program.—

4146 (1) DEFINITIONS.—As used in this section:

4147 (q) "Space flight business" means the manufacturing,
 4148 processing, or assembly of space flight technology products,
 4149 space flight facilities, space flight propulsion systems, or
 4150 space vehicles, satellites, or stations of any kind possessing
 4151 the capability for space flight, as defined by s. 212.02~~(23)~~, or
 4152 components thereof, and includes, in supporting space flight,
 4153 vehicle launch activities, flight operations, ground control or
 4154 ground support, and all administrative activities directly
 4155 related to such activities. The term does not include products
 4156 that are designed or manufactured for general commercial
 4157 aviation or other uses even if those products may also serve an
 4158 incidental use in space flight applications.

4159 Section 37. Paragraphs (a) and (d) of subsection (3) of
 4160 section 288.11621, Florida Statutes, are amended to read:

4161 288.11621 Spring training baseball franchises.—

4162 (3) USE OF FUNDS.—

4163 (a) A certified applicant may use funds provided under s.
 4164 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4165 1. Serve the public purpose of acquiring, constructing,
 4166 reconstructing, or renovating a facility for a spring training
 4167 franchise.

4168 2. Pay or pledge for the payment of debt service on, or to
 4169 fund debt service reserve funds, arbitrage rebate obligations,
 4170 or other amounts payable with respect thereto, bonds issued for
 4171 the acquisition, construction, reconstruction, or renovation of
 4172 such facility, or for the reimbursement of such costs or the

4173 refinancing of bonds issued for such purposes.

4174 3. Assist in the relocation of a spring training franchise
 4175 from one unit of local government to another only if the
 4176 governing board of the current host local government by a
 4177 majority vote agrees to relocation.

4178 (d)1. All certified applicants must place unexpended state
 4179 funds received pursuant to s. 212.20(5)(d)6.b. ~~s.~~
 4180 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use
 4181 only as authorized in this section.

4182 2. A certified applicant may request that the Department
 4183 of Revenue suspend further distributions of state funds made
 4184 available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12
 4185 months after expiration of an existing agreement with a spring
 4186 training franchise to provide the certified applicant with an
 4187 opportunity to enter into a new agreement with a spring training
 4188 franchise, at which time the distributions shall resume.

4189 3. The expenditure of state funds distributed to an
 4190 applicant certified before July 1, 2010, must begin within 48
 4191 months after the initial receipt of the state funds. In
 4192 addition, the construction of, or capital improvements to, a
 4193 spring training facility must be completed within 24 months
 4194 after the project's commencement.

4195 Section 38. Subsection (6) of section 288.1169, Florida
 4196 Statutes, is amended to read:

4197 288.1169 International Game Fish Association World Center
 4198 facility.—

4199 (6) The department must recertify every 10 years that the
 4200 facility is open, that the International Game Fish Association

4201 World Center continues to be the only international
 4202 administrative headquarters, fishing museum, and Hall of Fame in
 4203 the United States recognized by the International Game Fish
 4204 Association, and that the project is meeting the minimum
 4205 projections for attendance or sales tax revenues as required at
 4206 the time of original certification. If the facility is not
 4207 recertified during this 10-year review as meeting the minimum
 4208 projections, then funding shall be abated until certification
 4209 criteria are met. If the project fails to generate \$1 million of
 4210 annual revenues pursuant to paragraph (2)(e), the distribution
 4211 of revenues pursuant to s. 212.20(5)(d)6.d. ~~s. 212.20(6)(d)6.d.~~
 4212 shall be reduced to an amount equal to \$83,333 multiplied by a
 4213 fraction, the numerator of which is the actual revenues
 4214 generated and the denominator of which is \$1 million. Such
 4215 reduction remains in effect until revenues generated by the
 4216 project in a 12-month period equal or exceed \$1 million.

4217 Section 39. Subsection (8) of section 551.102, Florida
 4218 Statutes, is amended to read:

4219 551.102 Definitions.—As used in this chapter, the term:

4220 (8) "Slot machine" means a ~~any~~ mechanical or electrical
 4221 contrivance, terminal that may or may not be capable of
 4222 downloading slot games from a central server system, machine, or
 4223 other device that, upon insertion of a coin, bill, ticket,
 4224 token, or similar object or upon payment of any consideration
 4225 whatsoever, including the use of an ~~any~~ electronic payment
 4226 system except a credit card or debit card, is available to play
 4227 or operate, the play or operation of which, whether by reason of
 4228 skill or application of the element of chance or both, may

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4229 deliver or entitle the person or persons playing or operating
 4230 the contrivance, terminal, machine, or other device to receive
 4231 cash, billets, tickets, tokens, or electronic credits to be
 4232 exchanged for cash or to receive merchandise or anything of
 4233 value whatsoever, whether the payoff is made automatically from
 4234 the machine or manually. The term includes associated equipment
 4235 necessary to conduct the operation of the contrivance, terminal,
 4236 machine, or other device. Slot machines may use spinning reels,
 4237 video displays, or both. A slot machine is not a "coin-operated
 4238 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement
 4239 game or machine as described in s. 849.161, and slot machines
 4240 are not subject to the tax imposed by s. 212.05(1)(h).

4241 Section 40. Paragraph (a) of subsection (1) of section
 4242 790.0655, Florida Statutes, is amended to read:

4243 790.0655 Purchase and delivery of handguns; mandatory
 4244 waiting period; exceptions; penalties.—

4245 (1)(a) There shall be a mandatory 3-day waiting period,
 4246 which shall be 3 days, excluding weekends and legal holidays,
 4247 between the purchase and the delivery at retail of a ~~any~~
 4248 handgun. "Purchase" means the transfer of money or other
 4249 valuable consideration to the retailer. "Handgun" means a
 4250 firearm capable of being carried and used by one hand, such as a
 4251 pistol or revolver. "Retailer" means and includes every person
 4252 engaged in the business of making sales at retail or for
 4253 distribution, or use, or consumption, or storage to be used or
 4254 consumed in this state, as defined in s. 212.02~~(13)~~.

4255 Section 41. Section 212.0596, Florida Statutes, is
 4256 repealed.

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Section 42. This act shall take effect January 1, 2015.