

By the Committees on Appropriations; and Finance and Tax; and Senators Gruters, Perry, Hooper, Torres, Taddeo, Burgess, Ausley, Albritton, Harrell, and Stewart

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1 A bill to be entitled
2 An act relating to taxes and fees on remote sales;
3 amending s. 212.02, F.S.; expanding the definition of
4 the term "retail sale" to include sales facilitated
5 through a marketplace; conforming a provision to
6 changes made by the act; amending s. 212.05, F.S.;
7 conforming a provision to changes made by the act;
8 amending s. 212.054, F.S.; requiring marketplace
9 providers and persons located outside of this state to
10 remit discretionary sales surtax when delivering
11 tangible personal property to a county imposing a
12 surtax; amending s. 212.0596, F.S.; replacing
13 provisions relating to the taxation of mail order
14 sales with provisions relating to the taxation of
15 remote sales; defining the terms "remote sale" and
16 "substantial number of remote sales"; providing that
17 every person making a substantial number of remote
18 sales is a dealer for purposes of the sales and use
19 tax; authorizing the Department of Revenue to adopt
20 rules for collecting use taxes from unregistered
21 persons; requiring marketplace providers and persons
22 required to report remote sales to remit discretionary
23 sales surtax when delivering tangible personal
24 property to a county imposing a surtax; creating s.
25 212.05965, F.S.; defining terms; providing that
26 certain marketplace providers are dealers for purposes
27 of the sales and use tax; requiring marketplace
28 providers to provide a certain certification to their
29 marketplace sellers; specifying requirements for

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30 marketplace sellers; requiring marketplace providers
31 to allow the Department of Revenue to examine and
32 audit their books and records; specifying the
33 examination and audit authority of the department;
34 providing that a marketplace seller, rather than the
35 marketplace provider, is liable for sales tax
36 collection and remittance under certain circumstances;
37 authorizing marketplace providers and marketplace
38 sellers to enter into agreements for the recovery of
39 certain taxes, interest, and penalties; providing
40 construction and applicability; amending s. 212.05965,
41 F.S.; requiring marketplace providers to collect and
42 remit certain additional fees at the time of sale;
43 authorizing marketplace providers and marketplace
44 sellers to contractually agree for marketplace sellers
45 to collect applicable taxes and fees; specifying
46 requirements for marketplace sellers who collect such
47 taxes and fees; providing for liability of sellers who
48 fail to collect or remit such taxes and fees; amending
49 s. 212.06, F.S.; revising the definition of the term
50 "dealer"; conforming provisions to changes made by the
51 act; amending 212.07, F.S.; conforming a cross-
52 reference; amending 212.11, F.S.; requiring certain
53 marketplace providers or persons required to report
54 remote sales to file returns and pay taxes
55 electronically; amending s. 212.12, F.S.; deleting the
56 authority of the department's executive director to
57 negotiate a collection allowance with certain dealers;
58 conforming provisions to changes made by the act;

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59 amending s. 212.18, F.S.; requiring certain
60 marketplace providers or persons required to report
61 remote sales to file a registration application
62 electronically; conforming a provision to changes made
63 by the act; amending s. 212.20, F.S.; providing
64 applicability of requirements for refund of taxes
65 adjudicated unconstitutionally collected to taxes
66 levied or collected pursuant to marketplace
67 provisions; amending s. 213.27, F.S.; conforming
68 provisions to changes made by the act; reenacting s.
69 212.055, F.S., relating to discretionary sales
70 surtaxes, to incorporate the amendment made to s.
71 212.054, F.S., in references thereto; providing
72 applicability; providing relief to certain persons for
73 liability for tax, penalty, and interest due on
74 certain remote sales and owed on certain purchases
75 that occurred before the effective date of the act;
76 providing applicability; prohibiting the department
77 from using data received from marketplace providers or
78 persons making remote sales for certain purposes;
79 providing applicability; providing construction;
80 authorizing the department to adopt emergency rules;
81 providing for expiration of that authority; providing
82 for severability; providing effective dates.

83
84 Be It Enacted by the Legislature of the State of Florida:

85
86 Section 1. Paragraph (e) of subsection (14) of section
87 212.02, Florida Statutes, is amended, and paragraph (f) is added

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88 to that subsection, to read:

89 212.02 Definitions.—The following terms and phrases when
90 used in this chapter have the meanings ascribed to them in this
91 section, except where the context clearly indicates a different
92 meaning:

93 (14)

94 (e) The term "retail sale" includes a remote ~~mail order~~
95 sale, as defined in s. 212.0596(1).

96 (f) The term "retail sale" includes a sale facilitated
97 through a marketplace as defined in s. 212.05965(1).

98 Section 2. Section 212.05, Florida Statutes, is amended to
99 read:

100 212.05 Sales, storage, use tax.—It is hereby declared to be
101 the legislative intent that every person is exercising a taxable
102 privilege who engages in the business of selling tangible
103 personal property at retail in this state, including the
104 business of making or facilitating remote ~~mail order~~ sales; ~~or~~
105 who rents or furnishes any of the things or services taxable
106 under this chapter; ~~or~~ or who stores for use or consumption in
107 this state any item or article of tangible personal property as
108 defined herein and who leases or rents such property within the
109 state.

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

113 (a)1.a. At the rate of 6 percent of the sales price of each
114 item or article of tangible personal property when sold at
115 retail in this state, computed on each taxable sale for the
116 purpose of remitting the amount of tax due the state, and

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117 including each and every retail sale.

118 b. Each occasional or isolated sale of an aircraft, boat,
119 mobile home, or motor vehicle of a class or type which is
120 required to be registered, licensed, titled, or documented in
121 this state or by the United States Government shall be subject
122 to tax at the rate provided in this paragraph. The department
123 shall by rule adopt any nationally recognized publication for
124 valuation of used motor vehicles as the reference price list for
125 any used motor vehicle which is required to be licensed pursuant
126 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
127 party to an occasional or isolated sale of such a vehicle
128 reports to the tax collector a sales price which is less than 80
129 percent of the average loan price for the specified model and
130 year of such vehicle as listed in the most recent reference
131 price list, the tax levied under this paragraph shall be
132 computed by the department on such average loan price unless the
133 parties to the sale have provided to the tax collector an
134 affidavit signed by each party, or other substantial proof,
135 stating the actual sales price. Any party to such sale who
136 reports a sales price less than the actual sales price is guilty
137 of a misdemeanor of the first degree, punishable as provided in
138 s. 775.082 or s. 775.083. The department shall collect or
139 attempt to collect from such party any delinquent sales taxes.
140 In addition, such party shall pay any tax due and any penalty
141 and interest assessed plus a penalty equal to twice the amount
142 of the additional tax owed. Notwithstanding any other provision
143 of law, the Department of Revenue may waive or compromise any
144 penalty imposed pursuant to this subparagraph.

145 2. This paragraph does not apply to the sale of a boat or

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146 aircraft by or through a registered dealer under this chapter to
147 a purchaser who, at the time of taking delivery, is a
148 nonresident of this state, does not make his or her permanent
149 place of abode in this state, and is not engaged in carrying on
150 in this state any employment, trade, business, or profession in
151 which the boat or aircraft will be used in this state, or is a
152 corporation none of the officers or directors of which is a
153 resident of, or makes his or her permanent place of abode in,
154 this state, or is a noncorporate entity that has no individual
155 vested with authority to participate in the management,
156 direction, or control of the entity's affairs who is a resident
157 of, or makes his or her permanent abode in, this state. For
158 purposes of this exemption, either a registered dealer acting on
159 his or her own behalf as seller, a registered dealer acting as
160 broker on behalf of a seller, or a registered dealer acting as
161 broker on behalf of the purchaser may be deemed to be the
162 selling dealer. This exemption shall not be allowed unless:

163 a. The purchaser removes a qualifying boat, as described in
164 sub-subparagraph f., from the state within 90 days after the
165 date of purchase or extension, or the purchaser removes a
166 nonqualifying boat or an aircraft from this state within 10 days
167 after the date of purchase or, when the boat or aircraft is
168 repaired or altered, within 20 days after completion of the
169 repairs or alterations; or if the aircraft will be registered in
170 a foreign jurisdiction and:

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

174 (II) The purchaser removes the aircraft from the state to a

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175 foreign jurisdiction within 10 days after the date the aircraft
176 is registered by the applicable foreign airworthiness authority;
177 and

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

180

181 For purposes of this sub-subparagraph, the term "foreign
182 jurisdiction" means any jurisdiction outside of the United
183 States or any of its territories;

184 b. The purchaser, within 90 days from the date of
185 departure, provides the department with written proof that the
186 purchaser licensed, registered, titled, or documented the boat
187 or aircraft outside the state. If such written proof is
188 unavailable, within 90 days the purchaser shall provide proof
189 that the purchaser applied for such license, title,
190 registration, or documentation. The purchaser shall forward to
191 the department proof of title, license, registration, or
192 documentation upon receipt;

193 c. The purchaser, within 30 days after removing the boat or
194 aircraft from Florida, furnishes the department with proof of
195 removal in the form of receipts for fuel, dockage, slippage,
196 tie-down, or hangaring from outside of Florida. The information
197 so provided must clearly and specifically identify the boat or
198 aircraft;

199 d. The selling dealer, within 30 days after the date of
200 sale, provides to the department a copy of the sales invoice,
201 closing statement, bills of sale, and the original affidavit
202 signed by the purchaser attesting that he or she has read the
203 provisions of this section;

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

206 f. Unless the nonresident purchaser of a boat of 5 net tons
207 of admeasurement or larger intends to remove the boat from this
208 state within 10 days after the date of purchase or when the boat
209 is repaired or altered, within 20 days after completion of the
210 repairs or alterations, the nonresident purchaser applies to the
211 selling dealer for a decal which authorizes 90 days after the
212 date of purchase for removal of the boat. The nonresident
213 purchaser of a qualifying boat may apply to the selling dealer
214 within 60 days after the date of purchase for an extension decal
215 that authorizes the boat to remain in this state for an
216 additional 90 days, but not more than a total of 180 days,
217 before the nonresident purchaser is required to pay the tax
218 imposed by this chapter. The department is authorized to issue
219 decals in advance to dealers. The number of decals issued in
220 advance to a dealer shall be consistent with the volume of the
221 dealer's past sales of boats which qualify under this sub-
222 subparagraph. The selling dealer or his or her agent shall mark
223 and affix the decals to qualifying boats in the manner
224 prescribed by the department, before delivery of the boat.

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

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

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

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233 (IV) The department is authorized to require dealers who
234 purchase decals to file reports with the department and may
235 prescribe all necessary records by rule. All such records are
236 subject to inspection by the department.

237 (V) Any dealer or his or her agent who issues a decal
238 falsely, fails to affix a decal, mismarks the expiration date of
239 a decal, or fails to properly account for decals will be
240 considered prima facie to have committed a fraudulent act to
241 evade the tax and will be liable for payment of the tax plus a
242 mandatory penalty of 200 percent of the tax, and shall be liable
243 for fine and punishment as provided by law for a conviction of a
244 misdemeanor of the first degree, as provided in s. 775.082 or s.
245 775.083.

246 (VI) Any nonresident purchaser of a boat who removes a
247 decal before permanently removing the boat from the state, or
248 defaces, changes, modifies, or alters a decal in a manner
249 affecting its expiration date before its expiration, or who
250 causes or allows the same to be done by another, will be
251 considered prima facie to have committed a fraudulent act to
252 evade the tax and will be liable for payment of the tax plus a
253 mandatory penalty of 200 percent of the tax, and shall be liable
254 for fine and punishment as provided by law for a conviction of a
255 misdemeanor of the first degree, as provided in s. 775.082 or s.
256 775.083.

257 (VII) The department is authorized to adopt rules necessary
258 to administer and enforce this subparagraph and to publish the
259 necessary forms and instructions.

260 (VIII) The department is hereby authorized to adopt
261 emergency rules pursuant to s. 120.54(4) to administer and

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262 enforce the provisions of this subparagraph.

263

264 If the purchaser fails to remove the qualifying boat from this
265 state within the maximum 180 days after purchase or a
266 nonqualifying boat or an aircraft from this state within 10 days
267 after purchase or, when the boat or aircraft is repaired or
268 altered, within 20 days after completion of such repairs or
269 alterations, or permits the boat or aircraft to return to this
270 state within 6 months from the date of departure, except as
271 provided in s. 212.08(7) (fff), or if the purchaser fails to
272 furnish the department with any of the documentation required by
273 this subparagraph within the prescribed time period, the
274 purchaser shall be liable for use tax on the cost price of the
275 boat or aircraft and, in addition thereto, payment of a penalty
276 to the Department of Revenue equal to the tax payable. This
277 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
278 The maximum 180-day period following the sale of a qualifying
279 boat tax-exempt to a nonresident may not be tolled for any
280 reason.

281 (b) At the rate of 6 percent of the cost price of each item
282 or article of tangible personal property when the same is not
283 sold but is used, consumed, distributed, or stored for use or
284 consumption in this state; however, for tangible property
285 originally purchased exempt from tax for use exclusively for
286 lease and which is converted to the owner's own use, tax may be
287 paid on the fair market value of the property at the time of
288 conversion. If the fair market value of the property cannot be
289 determined, use tax at the time of conversion shall be based on
290 the owner's acquisition cost. Under no circumstances may the

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291 aggregate amount of sales tax from leasing the property and use
292 tax due at the time of conversion be less than the total sales
293 tax that would have been due on the original acquisition cost
294 paid by the owner.

295 (c) At the rate of 6 percent of the gross proceeds derived
296 from the lease or rental of tangible personal property, as
297 defined herein; however, the following special provisions apply
298 to the lease or rental of motor vehicles:

299 1. When a motor vehicle is leased or rented for a period of
300 less than 12 months:

301 a. If the motor vehicle is rented in Florida, the entire
302 amount of such rental is taxable, even if the vehicle is dropped
303 off in another state.

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

306 2. Except as provided in subparagraph 3., for the lease or
307 rental of a motor vehicle for a period of not less than 12
308 months, sales tax is due on the lease or rental payments if the
309 vehicle is registered in this state; provided, however, that no
310 tax shall be due if the taxpayer documents use of the motor
311 vehicle outside this state and tax is being paid on the lease or
312 rental payments in another state.

313 3. The tax imposed by this chapter does not apply to the
314 lease or rental of a commercial motor vehicle as defined in s.
315 316.003(13)(a) to one lessee or rentee for a period of not less
316 than 12 months when tax was paid on the purchase price of such
317 vehicle by the lessor. To the extent tax was paid with respect
318 to the purchase of such vehicle in another state, territory of
319 the United States, or the District of Columbia, the Florida tax

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320 payable shall be reduced in accordance with the provisions of s.
321 212.06(7). This subparagraph shall only be available when the
322 lease or rental of such property is an established business or
323 part of an established business or the same is incidental or
324 germane to such business.

325 (d) At the rate of 6 percent of the lease or rental price
326 paid by a lessee or rentee, or contracted or agreed to be paid
327 by a lessee or rentee, to the owner of the tangible personal
328 property.

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

330 a. Prepaid calling arrangements. The tax on charges for
331 prepaid calling arrangements shall be collected at the time of
332 sale and remitted by the selling dealer.

333 (I) "Prepaid calling arrangement" has the same meaning as
334 provided in s. 202.11.

335 (II) If the sale or recharge of the prepaid calling
336 arrangement does not take place at the dealer's place of
337 business, it shall be deemed to have taken place at the
338 customer's shipping address or, if no item is shipped, at the
339 customer's address or the location associated with the
340 customer's mobile telephone number.

341 (III) The sale or recharge of a prepaid calling arrangement
342 shall be treated as a sale of tangible personal property for
343 purposes of this chapter, regardless of whether a tangible item
344 evidencing such arrangement is furnished to the purchaser, and
345 such sale within this state subjects the selling dealer to the
346 jurisdiction of this state for purposes of this subsection.

347 (IV) No additional tax under this chapter or chapter 202 is
348 due or payable if a purchaser of a prepaid calling arrangement

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349 who has paid tax under this chapter on the sale or recharge of
350 such arrangement applies one or more units of the prepaid
351 calling arrangement to obtain communications services as
352 described in s. 202.11(9)(b)3., other services that are not
353 communications services, or products.

354 b. The installation of telecommunication and telegraphic
355 equipment.

356 c. Electrical power or energy, except that the tax rate for
357 charges for electrical power or energy is 4.35 percent. Charges
358 for electrical power and energy do not include taxes imposed
359 under ss. 166.231 and 203.01(1)(a)3.

360 2. Section 212.17(3), regarding credit for tax paid on
361 charges subsequently found to be worthless, is equally
362 applicable to any tax paid under this section on charges for
363 prepaid calling arrangements, telecommunication or telegraph
364 services, or electric power subsequently found to be
365 uncollectible. As used in this paragraph, the term "charges"
366 does not include any excise or similar tax levied by the Federal
367 Government, a political subdivision of this state, or a
368 municipality upon the purchase, sale, or recharge of prepaid
369 calling arrangements or upon the purchase or sale of
370 telecommunication, television system program, or telegraph
371 service or electric power, which tax is collected by the seller
372 from the purchaser.

373 (f) At the rate of 6 percent on the sale, rental, use,
374 consumption, or storage for use in this state of machines and
375 equipment, and parts and accessories therefor, used in
376 manufacturing, processing, compounding, producing, mining, or
377 quarrying personal property for sale or to be used in furnishing

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378 communications, transportation, or public utility services.

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

381 2. Notwithstanding other provisions of this chapter,
382 inserts of printed materials which are distributed with a
383 newspaper or magazine are a component part of the newspaper or
384 magazine, and neither the sale nor use of such inserts is
385 subject to tax when:

386 a. Printed by a newspaper or magazine publisher or
387 commercial printer and distributed as a component part of a
388 newspaper or magazine, which means that the items after being
389 printed are delivered directly to a newspaper or magazine
390 publisher by the printer for inclusion in editions of the
391 distributed newspaper or magazine;

392 b. Such publications are labeled as part of the designated
393 newspaper or magazine publication into which they are to be
394 inserted; and

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

398 (h)1. A tax is imposed at the rate of 4 percent on the
399 charges for the use of coin-operated amusement machines. The tax
400 shall be calculated by dividing the gross receipts from such
401 charges for the applicable reporting period by a divisor,
402 determined as provided in this subparagraph, to compute gross
403 taxable sales, and then subtracting gross taxable sales from
404 gross receipts to arrive at the amount of tax due. For counties
405 that do not impose a discretionary sales surtax, the divisor is
406 equal to 1.04; for counties that impose a 0.5 percent

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407 discretionary sales surtax, the divisor is equal to 1.045; for
408 counties that impose a 1 percent discretionary sales surtax, the
409 divisor is equal to 1.050; and for counties that impose a 2
410 percent sales surtax, the divisor is equal to 1.060. If a county
411 imposes a discretionary sales surtax that is not listed in this
412 subparagraph, the department shall make the applicable divisor
413 available in an electronic format or otherwise. Additional
414 divisors shall bear the same mathematical relationship to the
415 next higher and next lower divisors as the new surtax rate bears
416 to the next higher and next lower surtax rates for which
417 divisors have been established. When a machine is activated by a
418 slug, token, coupon, or any similar device which has been
419 purchased, the tax is on the price paid by the user of the
420 device for such device.

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

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

429 b. If the owner or lessee of the machine is also its
430 operator, he or she shall be liable for payment of the tax on
431 the purchase or lease of the machine, as well as the tax on
432 sales generated through the machine.

433 c. If the proprietor of the business where the machine is
434 located does not own the machine, he or she shall be deemed to
435 be the lessee and operator of the machine and is responsible for

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436 the payment of the tax on sales, unless such responsibility is
437 otherwise provided for in a written agreement between him or her
438 and the machine owner.

439 3.a. An operator of a coin-operated amusement machine may
440 not operate or cause to be operated in this state any such
441 machine until the operator has registered with the department
442 and has conspicuously displayed an identifying certificate
443 issued by the department. The identifying certificate shall be
444 issued by the department upon application from the operator. The
445 identifying certificate shall include a unique number, and the
446 certificate shall be permanently marked with the operator's
447 name, the operator's sales tax number, and the maximum number of
448 machines to be operated under the certificate. An identifying
449 certificate shall not be transferred from one operator to
450 another. The identifying certificate must be conspicuously
451 displayed on the premises where the coin-operated amusement
452 machines are being operated.

453 b. The operator of the machine must obtain an identifying
454 certificate before the machine is first operated in the state
455 and by July 1 of each year thereafter. The annual fee for each
456 certificate shall be based on the number of machines identified
457 on the application times \$30 and is due and payable upon
458 application for the identifying device. The application shall
459 contain the operator's name, sales tax number, business address
460 where the machines are being operated, and the number of
461 machines in operation at that place of business by the operator.
462 No operator may operate more machines than are listed on the
463 certificate. A new certificate is required if more machines are
464 being operated at that location than are listed on the

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465 certificate. The fee for the new certificate shall be based on
466 the number of additional machines identified on the application
467 form times \$30.

468 c. A penalty of \$250 per machine is imposed on the operator
469 for failing to properly obtain and display the required
470 identifying certificate. A penalty of \$250 is imposed on the
471 lessee of any machine placed in a place of business without a
472 proper current identifying certificate. Such penalties shall
473 apply in addition to all other applicable taxes, interest, and
474 penalties.

475 d. Operators of coin-operated amusement machines must
476 obtain a separate sales and use tax certificate of registration
477 for each county in which such machines are located. One sales
478 and use tax certificate of registration is sufficient for all of
479 the operator's machines within a single county.

480 4. The provisions of this paragraph do not apply to coin-
481 operated amusement machines owned and operated by churches or
482 synagogues.

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

487 6. The department may adopt rules necessary to administer
488 the provisions of this paragraph.

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

490 a. Detective, burglar protection, and other protection
491 services (NAICS National Numbers 561611, 561612, 561613, and
492 561621). Fingerprint services required under s. 790.06 or s.
493 790.062 are not subject to the tax. Any law enforcement officer,

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494 as defined in s. 943.10, who is performing approved duties as
495 determined by his or her local law enforcement agency in his or
496 her capacity as a law enforcement officer, and who is subject to
497 the direct and immediate command of his or her law enforcement
498 agency, and in the law enforcement officer's uniform as
499 authorized by his or her law enforcement agency, is performing
500 law enforcement and public safety services and is not performing
501 detective, burglar protection, or other protective services, if
502 the law enforcement officer is performing his or her approved
503 duties in a geographical area in which the law enforcement
504 officer has arrest jurisdiction. Such law enforcement and public
505 safety services are not subject to tax irrespective of whether
506 the duty is characterized as "extra duty," "off-duty," or
507 "secondary employment," and irrespective of whether the officer
508 is paid directly or through the officer's agency by an outside
509 source. The term "law enforcement officer" includes full-time or
510 part-time law enforcement officers, and any auxiliary law
511 enforcement officer, when such auxiliary law enforcement officer
512 is working under the direct supervision of a full-time or part-
513 time law enforcement officer.

514 b. Nonresidential cleaning, excluding cleaning of the
515 interiors of transportation equipment, and nonresidential
516 building pest control services (NAICS National Numbers 561710
517 and 561720).

518 2. As used in this paragraph, "NAICS" means those
519 classifications contained in the North American Industry
520 Classification System, as published in 2007 by the Office of
521 Management and Budget, Executive Office of the President.

522 3. Charges for detective, burglar protection, and other

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523 protection security services performed in this state but used
524 outside this state are exempt from taxation. Charges for
525 detective, burglar protection, and other protection security
526 services performed outside this state and used in this state are
527 subject to tax.

528 4. If a transaction involves both the sale or use of a
529 service taxable under this paragraph and the sale or use of a
530 service or any other item not taxable under this chapter, the
531 consideration paid must be separately identified and stated with
532 respect to the taxable and exempt portions of the transaction or
533 the entire transaction shall be presumed taxable. The burden
534 shall be on the seller of the service or the purchaser of the
535 service, whichever applicable, to overcome this presumption by
536 providing documentary evidence as to which portion of the
537 transaction is exempt from tax. The department is authorized to
538 adjust the amount of consideration identified as the taxable and
539 exempt portions of the transaction; however, a determination
540 that the taxable and exempt portions are inaccurately stated and
541 that the adjustment is applicable must be supported by
542 substantial competent evidence.

543 5. Each seller of services subject to sales tax pursuant to
544 this paragraph shall maintain a monthly log showing each
545 transaction for which sales tax was not collected because the
546 services meet the requirements of subparagraph 3. for out-of-
547 state use. The log must identify the purchaser's name, location
548 and mailing address, and federal employer identification number,
549 if a business, or the social security number, if an individual,
550 the service sold, the price of the service, the date of sale,
551 the reason for the exemption, and the sales invoice number. The

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552 monthly log shall be maintained pursuant to the same
553 requirements and subject to the same penalties imposed for the
554 keeping of similar records pursuant to this chapter.

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

559 a. Is not legal tender;

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

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

564 2. Such tax shall be at a rate of 6 percent of the price at
565 which the coin or currency is sold, exchanged, or traded, except
566 that, with respect to a coin or currency which is legal tender
567 of the United States and which is sold, exchanged, or traded,
568 such tax shall not be levied.

569 3. There are exempt from this tax exchanges of coins or
570 currency which are in general circulation in, and legal tender
571 of, one nation for coins or currency which are in general
572 circulation in, and legal tender of, another nation when
573 exchanged solely for use as legal tender and at an exchange rate
574 based on the relative value of each as a medium of exchange.

575 4. With respect to any transaction that involves the sale
576 of coins or currency taxable under this paragraph in which the
577 taxable amount represented by the sale of such coins or currency
578 exceeds \$500, the entire amount represented by the sale of such
579 coins or currency is exempt from the tax imposed under this
580 paragraph. The dealer must maintain proper documentation, as

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581 prescribed by rule of the department, to identify that portion
582 of a transaction which involves the sale of coins or currency
583 and is exempt under this subparagraph.

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

588 (l) Florists located in this state are liable for sales tax
589 on sales to retail customers regardless of where or by whom the
590 items sold are to be delivered. Florists located in this state
591 are not liable for sales tax on payments received from other
592 florists for items delivered to customers in this state.

593 (m) Operators of game concessions or other concessionaires
594 who customarily award tangible personal property as prizes may,
595 in lieu of paying tax on the cost price of such property, pay
596 tax on 25 percent of the gross receipts from such concession
597 activity.

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

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

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

606 (5) Notwithstanding any other provision of this chapter,
607 the maximum amount of tax imposed under this chapter and
608 collected on each sale or use of a boat in this state may not
609 exceed \$18,000 and on each repair of a boat in this state may

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610 not exceed \$60,000.

611 Section 3. Paragraph (c) of subsection (4) of section
612 212.054, Florida Statutes, is amended to read:

613 212.054 Discretionary sales surtax; limitations,
614 administration, and collection.—

615 (4)

616 (c)1. Any dealer located in a county that does not impose a
617 discretionary sales surtax, as well as a marketplace provider
618 located outside of this state which makes or facilitates a
619 substantial number of remote sales or a person located outside
620 this state who is required to report remote sales, ~~but~~ who
621 collects the surtax due to sales of tangible personal property
622 or services delivered to a county imposing a surtax ~~outside the~~
623 ~~county~~ shall remit monthly the proceeds of the surtax to the
624 department to be deposited into an account in the Discretionary
625 Sales Surtax Clearing Trust Fund which is separate from the
626 county surtax collection accounts. The department shall
627 distribute funds in this account using a distribution factor
628 determined for each county that levies a surtax and multiplied
629 by the amount of funds in the account and available for
630 distribution. The distribution factor for each county equals the
631 product of:

632 a. The county's latest official population determined
633 pursuant to s. 186.901;

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

635 c. The number of months the county has levied a surtax
636 during the most recent distribution period;

637
638 divided by the sum of all such products of the counties levying

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639 the surtax during the most recent distribution period.

640 2. The department shall compute distribution factors for
641 eligible counties once each quarter and make appropriate
642 quarterly distributions.

643 3. A county that fails to timely provide the information
644 required by this section to the department authorizes the
645 department, by such action, to use the best information
646 available to it in distributing surtax revenues to the county.
647 If this information is unavailable to the department, the
648 department may partially or entirely disqualify the county from
649 receiving surtax revenues under this paragraph. A county that
650 fails to provide timely information waives its right to
651 challenge the department's determination of the county's share,
652 if any, of revenues provided under this paragraph.

653 Section 4. Section 212.0596, Florida Statutes, is amended
654 to read:

655 (Substantial rewording of section. See
656 s. 212.0596, F.S., for present text.)

657 212.0596 Taxation of remote sales.—

658 (1) As used in this chapter, the term:

659 (a) "Remote sale" means a retail sale of tangible personal
660 property ordered by mail, telephone, the Internet, or other
661 means of communication from a person who receives the order
662 outside of this state and transports the property or causes the
663 property to be transported from any jurisdiction, including this
664 state, to a location in this state. For purposes of this
665 paragraph, tangible personal property delivered to a location
666 within this state is presumed to be used, consumed, distributed,
667 or stored to be used or consumed in this state.

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668 (b) "Substantial number of remote sales" means any number
669 of taxable remote sales in the previous calendar year in which
670 the sum of the sales prices, as defined in s. 212.02(16),
671 exceeded \$100,000.

672 (2) Every person making a substantial number of remote
673 sales is a dealer for purposes of this chapter.

674 (3) The department may establish by rule procedures for
675 collecting the use tax from unregistered persons who but for
676 their remote purchases would not be required to remit sales or
677 use tax directly to the department. The procedures may provide
678 for waiver of registration, provisions for irregular remittance
679 of tax, elimination of the collection allowance, and
680 nonapplication of local option surtaxes.

681 (4) A marketplace provider that makes or facilitates a
682 substantial number of remote sales or a person who is required
683 to report remote sales is required to collect surtax when the
684 taxable item of tangible personal property is delivered within a
685 county imposing a surtax as provided in s. 212.054(3) (a).

686 Section 5. Section 212.05965, Florida Statutes, is created
687 to read:

688 212.05965 Taxation of marketplace sales.-

689 (1) As used in this chapter, the term:

690 (a) "Marketplace" means any physical place or electronic
691 medium through which tangible personal property is offered for
692 sale.

693 (b) "Marketplace provider" means a person who facilitates a
694 retail sale by a marketplace seller by listing or advertising
695 for sale by the marketplace seller tangible personal property in
696 a marketplace and who directly, or indirectly through agreements

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697 or arrangements with third parties, collects payment from the
698 customer and transmits all or part of the payment to the
699 marketplace seller, regardless of whether the marketplace
700 provider receives compensation or other consideration in
701 exchange for its services.

702 1. The term does not include a person who solely provides
703 travel agency services. As used in this subparagraph, the term
704 "travel agency services" means arranging, booking, or otherwise
705 facilitating for a commission, fee, or other consideration
706 vacation or travel packages, rental cars, or other travel
707 reservations; tickets for domestic or foreign travel by air,
708 rail, ship, bus, or other mode of transportation; or hotel or
709 other lodging accommodations.

710 2. The term does not include a person who is a delivery
711 network company unless the delivery network company is a
712 registered dealer for purposes of this chapter and the delivery
713 network company notifies all local merchants that sell through
714 the delivery network company's website or mobile application
715 that the delivery network company is subject to the requirements
716 of a marketplace provider under this section. As used in this
717 subparagraph, the term:

718 a. "Delivery network company" means a person who maintains
719 a website or mobile application used to facilitate delivery
720 services, the sale of local products, or both.

721 b. "Delivery network courier" means a person who provides
722 delivery services through a delivery network company website or
723 mobile application using a personal means of transportation,
724 such as a motor vehicle as defined in s. 320.01(1), bicycle,
725 scooter, or other similar means of transportation; using public

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726 transportation; or by walking.

727 c. "Delivery services" means the pickup and delivery by a
728 delivery network courier of one or more local products from a
729 local merchant to a customer, which may include the selection,
730 collection, and purchase of the local product in connection with
731 the delivery. The term does not include any delivery requiring
732 more than 75 miles of travel from the local merchant to the
733 customer.

734 d. "Local merchant" means a kitchen, a restaurant, or a
735 third-party merchant, including a grocery store, retail store,
736 convenience store, or business of another type, which is not
737 under common ownership or control of the delivery network
738 company.

739 e. "Local product" means any tangible personal property,
740 including food, but excluding freight, mail, or a package to
741 which postage has been affixed.

742 3. The term does not include a payment processor business
743 that is appointed to handle payment transactions from various
744 channels, such as charge cards, credit cards, or debit cards,
745 and whose sole activity with respect to marketplace sales is to
746 handle payment transactions between two parties.

747 (c) "Marketplace seller" means a person who has an
748 agreement with a marketplace provider and who makes retail sales
749 of tangible personal property through a marketplace owned,
750 operated, or controlled by the marketplace provider.

751 (2) A marketplace provider who has a physical presence in
752 this state or who is making or facilitating through a
753 marketplace a substantial number of remote sales as defined in
754 s. 212.0596(1) is a dealer for purposes of this chapter.

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755 (3) A marketplace provider shall certify to its marketplace
756 sellers that it will collect and remit the tax imposed under
757 this chapter on taxable retail sales made through the
758 marketplace. Such certification may be included in the agreement
759 between the marketplace provider and the marketplace seller.

760 (4) (a) A marketplace seller may not collect and remit the
761 tax under this chapter on a taxable retail sale when the sale is
762 made through the marketplace and the marketplace provider
763 certifies, as required under subsection (3), that it will
764 collect and remit such tax. A marketplace seller shall exclude
765 such sales made through the marketplace from the marketplace
766 seller's tax return under s. 212.11.

767 (b)1. A marketplace seller who has a physical presence in
768 this state shall register and shall collect and remit the tax
769 imposed under this chapter on all taxable retail sales made
770 outside of the marketplace.

771 2. A marketplace seller making a substantial number of
772 remote sales as defined in s. 212.0596(1) shall register and
773 shall collect and remit the tax imposed under this chapter on
774 all taxable retail sales made outside of the marketplace. For
775 the purposes of determining whether a marketplace seller made a
776 substantial number of remote sales, the marketplace seller shall
777 consider only those sales made outside of a marketplace.

778 (5) (a) A marketplace provider shall allow the department to
779 examine and audit its books and records pursuant to s. 212.13.
780 For retail sales facilitated through a marketplace, the
781 department may not examine or audit the books and records of
782 marketplace sellers, nor may the department assess marketplace
783 sellers except to the extent that the marketplace provider seeks

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784 relief under paragraph (b). The department may examine, audit,
785 and assess a marketplace seller for retail sales made outside of
786 a marketplace under paragraph (4) (b). This paragraph does not
787 provide relief to a marketplace seller who is under audit; has
788 been issued a bill, notice, or demand for payment; or is under
789 an administrative or judicial proceeding before July 1, 2021.

790 (b) The marketplace provider is relieved of liability for
791 the tax on the retail sale and the marketplace seller or
792 customer is liable for the tax imposed under this chapter if the
793 marketplace provider demonstrates to the department's
794 satisfaction that the marketplace provider made a reasonable
795 effort to obtain accurate information related to the retail
796 sales facilitated through the marketplace from the marketplace
797 seller, but that the failure to collect and pay the correct
798 amount of tax imposed under this chapter was due to the
799 provision of incorrect or incomplete information to the
800 marketplace provider by the marketplace seller. This paragraph
801 does not apply to a retail sale for which the marketplace
802 provider is the seller if the marketplace provider and the
803 marketplace seller are related parties or if transactions
804 between a marketplace seller and marketplace buyer are not
805 conducted at arm's length.

806 (6) For purposes of registration pursuant to s. 212.18, a
807 marketplace is deemed a separate place of business.

808 (7) A marketplace provider and a marketplace seller may
809 agree by contract or otherwise that if a marketplace provider
810 pays the tax imposed under this chapter on a retail sale
811 facilitated through a marketplace for a marketplace seller as a
812 result of an audit or otherwise, the marketplace provider has

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813 the right to recover such tax and any associated interest and
814 penalties from the marketplace seller.

815 (8) This section may not be construed to authorize the
816 state to collect sales tax from both the marketplace provider
817 and the marketplace seller on the same retail sale.

818 (9) Chapter 213 applies to the administration of this
819 section to the extent that chapter does not conflict with this
820 section.

821 Section 6. Effective April 1, 2022, subsections (10) and
822 (11) are added to section 212.05965, Florida Statutes, as
823 created by this act, to read:

824 212.05965 Taxation of marketplace sales.—

825 (10) Notwithstanding any other law, the marketplace
826 provider is also responsible for collecting and remitting any
827 prepaid wireless E911 fee under s. 365.172, waste tire fee under
828 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
829 time of sale for taxable retail sales made through its
830 marketplace.

831 (11) The marketplace provider and the marketplace seller
832 may contractually agree to have the marketplace seller collect
833 and remit all applicable taxes and fees if the marketplace
834 seller:

835 (a) Has annual U.S. gross sales of more than \$1 billion,
836 including the gross sales of any related entities, and in the
837 case of franchised entities, including the combined sales of all
838 franchisees of a single franchisor;

839 (b) Provides evidence to the marketplace provider that it
840 is registered under s. 212.18; and

841 (c) Notifies the department in a manner prescribed by the

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842 department that the marketplace seller will collect and remit
843 all applicable taxes and fees on its sales through the
844 marketplace and is liable for failure to collect or remit
845 applicable taxes and fees on its sales.

846 Section 7. Paragraph (c) of subsection (2) and paragraph
847 (a) of subsection (5) of section 212.06, Florida Statutes, are
848 amended to read:

849 212.06 Sales, storage, use tax; collectible from dealers;
850 "dealer" defined; dealers to collect from purchasers;
851 legislative intent as to scope of tax.-

852 (2)

853 (c) The term "dealer" is further defined to mean every
854 person, as used in this chapter, who sells at retail or who
855 offers for sale at retail, or who has in his or her possession
856 for sale at retail; or for use, consumption, or distribution; or
857 for storage to be used or consumed in this state, tangible
858 personal property as defined herein, including a retailer who
859 transacts a substantial number of remote sales or a person who
860 is a marketplace provider making or facilitating a substantial
861 number of remote sales ~~mail order sale.~~

862 (5) (a) 1. Except as provided in subparagraph 2., it is not
863 the intention of this chapter to levy a tax upon tangible
864 personal property imported, produced, or manufactured in this
865 state for export, provided that tangible personal property may
866 not be considered as being imported, produced, or manufactured
867 for export unless the importer, producer, or manufacturer
868 delivers the same to a licensed exporter for exporting or to a
869 common carrier for shipment outside the state or mails the same
870 by United States mail to a destination outside the state; or, in

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871 the case of aircraft being exported under their own power to a
872 destination outside the continental limits of the United States,
873 by submission to the department of a duly signed and validated
874 United States customs declaration, showing the departure of the
875 aircraft from the continental United States; and further with
876 respect to aircraft, the canceled United States registry of said
877 aircraft; or in the case of parts and equipment installed on
878 aircraft of foreign registry, by submission to the department of
879 documentation, the extent of which shall be provided by rule,
880 showing the departure of the aircraft from the continental
881 United States; nor is it the intention of this chapter to levy a
882 tax on any sale which the state is prohibited from taxing under
883 the Constitution or laws of the United States. Every retail sale
884 made to a person physically present at the time of sale shall be
885 presumed to have been delivered in this state.

886 2.a. Notwithstanding subparagraph 1., a tax is levied on
887 each sale of tangible personal property to be transported to a
888 cooperating state as defined in sub-subparagraph c., at the rate
889 specified in sub-subparagraph d. However, a Florida dealer will
890 be relieved from the requirements of collecting taxes pursuant
891 to this subparagraph if the Florida dealer obtains from the
892 purchaser an affidavit setting forth the purchaser's name,
893 address, state taxpayer identification number, and a statement
894 that the purchaser is aware of his or her state's use tax laws,
895 is a registered dealer in Florida or another state, or is
896 purchasing the tangible personal property for resale or is
897 otherwise not required to pay the tax on the transaction. The
898 department may, by rule, provide a form to be used for the
899 purposes set forth herein.

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900 b. For purposes of this subparagraph, "a cooperating state"
901 is one determined by the executive director of the department to
902 cooperate satisfactorily with this state in collecting taxes on
903 remote ~~mail-order~~ sales. No state shall be so determined unless
904 it meets all the following minimum requirements:

905 (I) It levies and collects taxes on remote ~~mail-order~~ sales
906 of property transported from that state to persons in this
907 state, as described in s. 212.0596, upon request of the
908 department.

909 (II) The tax so collected shall be at the rate specified in
910 s. 212.05, not including any local option or tourist or
911 convention development taxes collected pursuant to s. 125.0104
912 or this chapter.

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

916 (IV) Such state authorizes the department to audit dealers
917 within its jurisdiction who make remote ~~mail-order~~ sales that
918 are the subject of s. 212.0596, or makes arrangements deemed
919 adequate by the department for auditing them with its own
920 personnel.

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

926 c. For purposes of this subparagraph, "sales of tangible
927 personal property to be transported to a cooperating state"
928 means remote ~~mail-order~~ sales to a person who is in the

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929 cooperating state at the time the order is executed, from a
930 dealer who receives that order in this state.

931 d. The tax levied by sub-subparagraph a. shall be at the
932 rate at which such a sale would have been taxed pursuant to the
933 cooperating state's tax laws if consummated in the cooperating
934 state by a dealer and a purchaser, both of whom were physically
935 present in that state at the time of the sale.

936 e. The tax levied by sub-subparagraph a., when collected,
937 shall be held in the State Treasury in trust for the benefit of
938 the cooperating state and shall be paid to it at a time agreed
939 upon between the department, acting for this state, and the
940 cooperating state or the department or agency designated by it
941 to act for it; however, such payment shall in no event be made
942 later than 30 days from the last day of the calendar quarter
943 after the tax was collected. Funds held in trust for the benefit
944 of a cooperating state shall not be subject to the service
945 charges imposed by s. 215.20.

946 f. The department is authorized to perform such acts and to
947 provide such cooperation to a cooperating state with reference
948 to the tax levied by sub-subparagraph a. as is required of the
949 cooperating state by sub-subparagraph b.

950 g. In furtherance of this act, dealers selling tangible
951 personal property for delivery in another state shall make
952 available to the department, upon request of the department,
953 records of all tangible personal property so sold. Such records
954 shall include a description of the property, the name and
955 address of the purchaser, the name and address of the person to
956 whom the property was sent, the purchase price of the property,
957 information regarding whether sales tax was paid in this state

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958 on the purchase price, and such other information as the
959 department may by rule prescribe.

960 Section 8. Paragraph (b) of subsection (1) of section
961 212.07, Florida Statutes, is amended to read:

962 212.07 Sales, storage, use tax; tax added to purchase
963 price; dealer not to absorb; liability of purchasers who cannot
964 prove payment of the tax; penalties; general exemptions.—

965 (1)

966 (b) A resale must be in strict compliance with s. 212.18
967 and the rules and regulations adopted thereunder. A dealer who
968 makes a sale for resale that is not in strict compliance with s.
969 212.18 and the rules and regulations adopted thereunder is
970 liable for and must pay the tax. A dealer who makes a sale for
971 resale shall document the exempt nature of the transaction, as
972 established by rules adopted by the department, by retaining a
973 copy of the purchaser's resale certificate. In lieu of
974 maintaining a copy of the certificate, a dealer may document,
975 before the time of sale, an authorization number provided
976 telephonically or electronically by the department, or by such
977 other means established by rule of the department. The dealer
978 may rely on a resale certificate issued pursuant to s.
979 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
980 the purchaser, without seeking annual verification of the resale
981 certificate if the dealer makes recurring sales to a purchaser
982 in the normal course of business on a continual basis. For
983 purposes of this paragraph, "recurring sales to a purchaser in
984 the normal course of business" refers to a sale in which the
985 dealer extends credit to the purchaser and records the debt as
986 an account receivable, or in which the dealer sells to a

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987 purchaser who has an established cash or C.O.D. account, similar
988 to an open credit account. For purposes of this paragraph,
989 purchases are made from a selling dealer on a continual basis if
990 the selling dealer makes, in the normal course of business,
991 sales to the purchaser at least once in every 12-month period. A
992 dealer may, through the informal protest provided for in s.
993 213.21 and the rules of the department, provide the department
994 with evidence of the exempt status of a sale. Consumer
995 certificates of exemption executed by those exempt entities that
996 were registered with the department at the time of sale, resale
997 certificates provided by purchasers who were active dealers at
998 the time of sale, and verification by the department of a
999 purchaser's active dealer status at the time of sale in lieu of
1000 a resale certificate shall be accepted by the department when
1001 submitted during the protest period, but may not be accepted in
1002 any proceeding under chapter 120 or any circuit court action
1003 instituted under chapter 72.

1004 Section 9. Paragraphs (f) is added to subsection (4) of
1005 section 212.11, Florida Statutes, to read:

1006 212.11 Tax returns and regulations.—

1007 (4)

1008 (f) A marketplace provider that makes or facilitates a
1009 substantial number of remote sales or a person who is required
1010 to report remote sales shall file returns and pay taxes by
1011 electronic means under s. 213.755.

1012 Section 10. Paragraph (a) of subsection (1) and paragraph
1013 (a) of subsection (5) of section 212.12, Florida Statutes, are
1014 amended to read:

1015 212.12 Dealer's credit for collecting tax; penalties for

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1016 noncompliance; powers of Department of Revenue in dealing with
1017 delinquents; brackets applicable to taxable transactions;
1018 records required.—

1019 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose
1020 of compensating persons granting licenses for and the lessors of
1021 real and personal property taxed hereunder, for the purpose of
1022 compensating dealers in tangible personal property, for the
1023 purpose of compensating dealers providing communication services
1024 and taxable services, for the purpose of compensating owners of
1025 places where admissions are collected, and for the purpose of
1026 compensating remitters of any taxes or fees reported on the same
1027 documents utilized for the sales and use tax, as compensation
1028 for the keeping of prescribed records, filing timely tax
1029 returns, and the proper accounting and remitting of taxes by
1030 them, such seller, person, lessor, dealer, owner, and remitter
1031 ~~(except dealers who make mail order sales)~~ who files the return
1032 required pursuant to s. 212.11 only by electronic means and who
1033 pays the amount due on such return only by electronic means
1034 shall be allowed 2.5 percent of the amount of the tax due,
1035 accounted for, and remitted to the department in the form of a
1036 deduction. However, if the amount of the tax due and remitted to
1037 the department by electronic means for the reporting period
1038 exceeds \$1,200, an allowance is not allowed for all amounts in
1039 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
1040 the term "electronic means" has the same meaning as provided in
1041 s. 213.755(2) (c).

1042 ~~2. The executive director of the department is authorized~~
1043 ~~to negotiate a collection allowance, pursuant to rules~~
1044 ~~promulgated by the department, with a dealer who makes mail~~

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1045 ~~order sales. The rules of the department shall provide~~
1046 ~~guidelines for establishing the collection allowance based upon~~
1047 ~~the dealer's estimated costs of collecting the tax, the volume~~
1048 ~~and value of the dealer's mail order sales to purchasers in this~~
1049 ~~state, and the administrative and legal costs and likelihood of~~
1050 ~~achieving collection of the tax absent the cooperation of the~~
1051 ~~dealer. However, in no event shall the collection allowance~~
1052 ~~negotiated by the executive director exceed 10 percent of the~~
1053 ~~tax remitted for a reporting period.~~

1054 (5) (a) The department is authorized to audit or inspect the
1055 records and accounts of dealers defined herein, including audits
1056 or inspections of dealers who make remote ~~mail order~~ sales ~~to~~
1057 ~~the extent permitted by another state~~, and to correct by credit
1058 any overpayment of tax, and, in the event of a deficiency, an
1059 assessment shall be made and collected. No administrative
1060 finding of fact is necessary prior to the assessment of any tax
1061 deficiency.

1062 Section 11. Present paragraphs (c) through (f) of
1063 subsection (3) of section 212.18, Florida Statutes, are
1064 redesignated as paragraphs (d) through (g), respectively, a new
1065 paragraph (c) is added to that subsection, and present paragraph
1066 (f) of that subsection is amended, to read:

1067 212.18 Administration of law; registration of dealers;
1068 rules.—

1069 (3)

1070 (c) A marketplace provider that makes or facilitates a
1071 substantial number of remote sales or a person who is required
1072 to report remote sales must file with the department an
1073 application for a certificate of registration electronically.

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1074 (g)~~(f)~~ As used in this paragraph, the term "exhibitor"
1075 means a person who enters into an agreement authorizing the
1076 display of tangible personal property or services at a
1077 convention or a trade show. The following provisions apply to
1078 the registration of exhibitors as dealers under this chapter:

1079 1. An exhibitor whose agreement prohibits the sale of
1080 tangible personal property or services subject to the tax
1081 imposed in this chapter is not required to register as a dealer.

1082 2. An exhibitor whose agreement provides for the sale at
1083 wholesale only of tangible personal property or services subject
1084 to the tax imposed by this chapter must obtain a resale
1085 certificate from the purchasing dealer but is not required to
1086 register as a dealer.

1087 3. An exhibitor whose agreement authorizes the retail sale
1088 of tangible personal property or services subject to the tax
1089 imposed by this chapter must register as a dealer and collect
1090 the tax on such sales.

1091 4. An exhibitor who makes a remote ~~mail order~~ sale pursuant
1092 to s. 212.0596 must register as a dealer.

1093
1094 A person who conducts a convention or a trade show must make his
1095 or her exhibitor's agreements available to the department for
1096 inspection and copying.

1097 Section 12. Subsection (4) of section 212.20, Florida
1098 Statutes, is amended to read:

1099 212.20 Funds collected, disposition; additional powers of
1100 department; operational expense; refund of taxes adjudicated
1101 unconstitutionally collected.—

1102 (4) When there has been a final adjudication that any tax

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1103 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
1104 or both, contrary to the Constitution of the United States or
1105 the State Constitution, the department shall, in accordance with
1106 rules, determine, based upon claims for refund and other
1107 evidence and information, who paid such tax or taxes, and refund
1108 to each such person the amount of tax paid. For purposes of this
1109 subsection, a "final adjudication" is a decision of a court of
1110 competent jurisdiction from which no appeal can be taken or from
1111 which the official or officials of this state with authority to
1112 make such decisions has or have decided not to appeal.

1113 Section 13. Subsection (5) of section 213.27, Florida
1114 Statutes, is amended to read:

1115 213.27 Contracts with debt collection agencies and certain
1116 vendors.—

1117 (5) The department may, for the purpose of ascertaining the
1118 amount of or collecting any taxes due from a person making or
1119 facilitating remote sales under s. 212.0596 or s. 212.05965
1120 ~~doing mail order business~~ in this state, contract with any
1121 auditing agency doing business within or without this state for
1122 the purpose of conducting an audit of such person ~~mail order~~
1123 ~~business~~; however, such audit agency may not conduct an audit on
1124 behalf of the department of any person domiciled in this state,
1125 person registered for sales and use tax purposes in this state,
1126 or corporation filing a Florida corporate tax return, if any
1127 such person or corporation objects to such audit in writing to
1128 the department and the auditing agency. The department shall
1129 notify the taxpayer by mail at least 30 days before the
1130 department assigns the collection of such taxes.

1131 Section 14. For the purpose of incorporating the amendment

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1132 made by this act to section 212.054, Florida Statutes, in
1133 references thereto, paragraph (c) of subsection (2), paragraph
1134 (c) of subsection (3), paragraph (c) of subsection (8), and
1135 paragraph (c) of subsection (9) of section 212.055, Florida
1136 Statutes, are reenacted to read:

1137 212.055 Discretionary sales surtaxes; legislative intent;
1138 authorization and use of proceeds.—It is the legislative intent
1139 that any authorization for imposition of a discretionary sales
1140 surtax shall be published in the Florida Statutes as a
1141 subsection of this section, irrespective of the duration of the
1142 levy. Each enactment shall specify the types of counties
1143 authorized to levy; the rate or rates which may be imposed; the
1144 maximum length of time the surtax may be imposed, if any; the
1145 procedure which must be followed to secure voter approval, if
1146 required; the purpose for which the proceeds may be expended;
1147 and such other requirements as the Legislature may provide.
1148 Taxable transactions and administrative procedures shall be as
1149 provided in s. 212.054.

1150 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

1151 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1152 levied under this subsection shall be distributed to the county
1153 and the municipalities within such county in which the surtax
1154 was collected, according to:

1155 1. An interlocal agreement between the county governing
1156 authority and the governing bodies of the municipalities
1157 representing a majority of the county's municipal population,
1158 which agreement may include a school district with the consent
1159 of the county governing authority and the governing bodies of
1160 the municipalities representing a majority of the county's

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1161 municipal population; or

1162 2. If there is no interlocal agreement, according to the
1163 formula provided in s. 218.62.

1164
1165 Any change in the distribution formula must take effect on the
1166 first day of any month that begins at least 60 days after
1167 written notification of that change has been made to the
1168 department.

1169 (3) SMALL COUNTY SURTAX.—

1170 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1171 levied under this subsection shall be distributed to the county
1172 and the municipalities within the county in which the surtax was
1173 collected, according to:

1174 1. An interlocal agreement between the county governing
1175 authority and the governing bodies of the municipalities
1176 representing a majority of the county's municipal population,
1177 which agreement may include a school district with the consent
1178 of the county governing authority and the governing bodies of
1179 the municipalities representing a majority of the county's
1180 municipal population; or

1181 2. If there is no interlocal agreement, according to the
1182 formula provided in s. 218.62.

1183
1184 Any change in the distribution formula shall take effect on the
1185 first day of any month that begins at least 60 days after
1186 written notification of that change has been made to the
1187 department.

1188 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

1189 (c) Pursuant to s. 212.054(4), the proceeds of the

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1190 discretionary sales surtax collected under this subsection, less
1191 an administrative fee that may be retained by the Department of
1192 Revenue, shall be distributed by the department to the county.
1193 The county shall distribute the proceeds it receives from the
1194 department to each local government entity providing emergency
1195 fire rescue services in the county. The surtax proceeds, less an
1196 administrative fee not to exceed 2 percent of the surtax
1197 collected, shall be distributed by the county based on each
1198 entity's average annual expenditures for fire control and
1199 emergency fire rescue services in the 5 fiscal years preceding
1200 the fiscal year in which the surtax takes effect in proportion
1201 to the average annual total of the expenditures for such
1202 entities in the 5 fiscal years preceding the fiscal year in
1203 which the surtax takes effect. The county shall revise the
1204 distribution proportions to reflect a change in the service area
1205 of an entity receiving a distribution of the surtax proceeds. If
1206 an entity declines its share of surtax revenue, such revenue
1207 shall be redistributed proportionally to the entities that are
1208 participating in the sharing of such revenue based on each
1209 participating entity's average annual expenditures for fire
1210 control and emergency fire rescue services in the preceding 5
1211 fiscal years in proportion to the average annual total of the
1212 expenditures for the participating entities in the preceding 5
1213 fiscal years.

1214 (9) PENSION LIABILITY SURTAX.—

1215 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1216 collected under this subsection, less an administrative fee that
1217 may be retained by the department, shall be distributed by the
1218 department to the local government.

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1219 Section 15. This act first applies to remote sales made or
1220 facilitated on or after July 1, 2021, by a person who made or
1221 facilitated a substantial number of remote sales in calendar
1222 year 2020. A marketplace seller shall consider only those sales
1223 made outside of a marketplace to determine whether it made a
1224 substantial number of remote sales in calendar year 2020.

1225 Section 16. (1) A person subject to the requirements of
1226 this act to collect and remit the tax under chapter 212, Florida
1227 Statutes, on remote sales is relieved of liability for tax,
1228 penalty, and interest due on remote sales that occurred before
1229 the effective date of this act, provided that the person
1230 registers with the department before October 1, 2021. This
1231 subsection is also intended to provide relief to a marketplace
1232 seller for remote sales made before the effective date of this
1233 act which were facilitated by a marketplace provider. For a
1234 marketplace provider with a physical presence in this state,
1235 this subsection is intended to provide relief only for sales
1236 facilitated by the marketplace provider on behalf of a
1237 marketplace seller. This subsection does not apply to a person
1238 who is under audit; has been issued a bill, notice, or demand
1239 for payment; or is under an administrative or judicial
1240 proceeding before July 1, 2021.

1241 (2) The department may not use data received from
1242 registered marketplace providers or persons making remote sales
1243 for the purposes of identifying use tax liabilities occurring
1244 before July 1, 2021, from unregistered persons who, but for
1245 their purchases from the registered taxpayer, would not be
1246 required to remit sales or use tax directly to the department.
1247 This subsection does not apply to a person who is under audit;

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1248 has been issued a bill, notice, or demand for payment; or is
1249 under an administrative or judicial proceeding before July 1,
1250 2021.

1251 (3) This section does not establish a right to a refund of
1252 taxes already paid.

1253 Section 17. (1) The Department of Revenue is authorized,
1254 and all conditions are deemed met, to adopt emergency rules
1255 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
1256 administering this act.

1257 (2) Notwithstanding any other law, emergency rules adopted
1258 pursuant to subsection (1) are effective for 6 months after
1259 adoption and may be renewed during the pendency of procedures to
1260 adopt permanent rules addressing the subject of the emergency
1261 rules.

1262 (3) This section shall take effect upon this act becoming a
1263 law and expires July 1, 2022.

1264 Section 18. If any provision of this act or its application
1265 to any person or circumstance is held invalid, the invalidity
1266 does not affect other provisions or applications of the act
1267 which can be given effect without the invalid provision or
1268 application, and to this end the provisions of this act are
1269 severable.

1270 Section 19. Except as otherwise expressly provided in this
1271 act and except for this section, which shall take effect upon
1272 this act becoming a law, this act shall take effect July 1,
1273 2021.