

1 A bill to be entitled
2 An act relating to the sales and use tax; amending s.
3 212.02, F.S.; revising the definition of the term
4 "retail sale"; amending s. 212.05, F.S.; conforming a
5 provision to changes made by the act; amending s.
6 212.0596, F.S.; renaming the term "mail order sale" to
7 "remote sale" and revising the definition; revising
8 conditions under which certain dealers are subject to
9 sales tax levies and collection; defining the term
10 "making a substantial number of remote sales";
11 deleting an exemption for certain dealers from
12 collecting local option surtaxes; conforming
13 provisions to changes made by the act; creating s.
14 212.05965, F.S.; defining terms; providing that
15 certain marketplace providers are subject to
16 registration, collection, and remittance requirements
17 for sales taxes; requiring marketplace providers to
18 provide a certain certification to their marketplace
19 sellers; specifying requirements for marketplace
20 sellers; requiring marketplace providers to allow the
21 Department of Revenue to examine and audit their books
22 and records; specifying the examination and audit
23 authority of the department; providing that a
24 marketplace seller, and not the marketplace provider,
25 is liable for sales tax collection and remittance

26 | under certain circumstances; authorizing marketplace
27 | providers and marketplace sellers to enter into
28 | agreements for the recovery of certain taxes,
29 | interest, and penalties; authorizing the department to
30 | settle and compromise taxes, interest, or penalties
31 | assessed on sales conducted through a marketplace;
32 | providing construction and applicability; amending s.
33 | 212.06, F.S.; revising the definition of the term
34 | "dealer"; conforming provisions to changes made by the
35 | act; amending s. 212.12, F.S.; deleting an exclusion
36 | relating to certain dealers who are allowed a dealer's
37 | credit for collecting tax; deleting the authority of
38 | the department's executive director to negotiate a
39 | collection allowance with certain dealers; conforming
40 | a provision to changes made by the act; amending s.
41 | 212.18, F.S.; conforming a provision to changes made
42 | by the act; reenacting s. 212.20(4), F.S., relating to
43 | refunds of taxes adjudicated unconstitutionally
44 | collected, to incorporate the amendment made to s.
45 | 212.0596, F.S., in a reference thereto; amending s.
46 | 213.27, F.S.; conforming provisions to changes made by
47 | the act; authorizing the department to adopt emergency
48 | rules; providing for expiration of the authority;
49 | providing effective dates.

50

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

52

53 Section 1. Paragraph (e) of subsection (14) of section
54 212.02, Florida Statutes, is amended to read:

55 212.02 Definitions.—The following terms and phrases when
56 used in this chapter have the meanings ascribed to them in this
57 section, except where the context clearly indicates a different
58 meaning:

59 (14)

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

62 Section 2. Effective October 1, 2020, paragraph (f) is
63 added to subsection (14) of section 212.02, Florida Statutes, to
64 read:

65 212.02 Definitions.—The following terms and phrases when
66 used in this chapter have the meanings ascribed to them in this
67 section, except where the context clearly indicates a different
68 meaning:

69 (14)

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

72 Section 3. Section 212.05, Florida Statutes, is amended to
73 read:

74 212.05 Sales, storage, use tax.—It is hereby declared to
75 be the legislative intent that every person is exercising a

76 taxable privilege who engages in the business of selling
 77 tangible personal property at retail in this state, including
 78 the business of making remote ~~mail-order~~ sales; ~~or~~ who rents or
 79 furnishes any of the things or services taxable under this
 80 chapter; ~~or~~ who stores for use or consumption in this state any
 81 item or article of tangible personal property as defined herein
 82 and who leases or rents such property within the state.

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

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

91 b. Each occasional or isolated sale of an aircraft, boat,
 92 mobile home, or motor vehicle of a class or type which is
 93 required to be registered, licensed, titled, or documented in
 94 this state or by the United States Government shall be subject
 95 to tax at the rate provided in this paragraph. The department
 96 shall by rule adopt any nationally recognized publication for
 97 valuation of used motor vehicles as the reference price list for
 98 any used motor vehicle which is required to be licensed pursuant
 99 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
 100 party to an occasional or isolated sale of such a vehicle

101 reports to the tax collector a sales price which is less than 80
102 percent of the average loan price for the specified model and
103 year of such vehicle as listed in the most recent reference
104 price list, the tax levied under this paragraph shall be
105 computed by the department on such average loan price unless the
106 parties to the sale have provided to the tax collector an
107 affidavit signed by each party, or other substantial proof,
108 stating the actual sales price. Any party to such sale who
109 reports a sales price less than the actual sales price is guilty
110 of a misdemeanor of the first degree, punishable as provided in
111 s. 775.082 or s. 775.083. The department shall collect or
112 attempt to collect from such party any delinquent sales taxes.
113 In addition, such party shall pay any tax due and any penalty
114 and interest assessed plus a penalty equal to twice the amount
115 of the additional tax owed. Notwithstanding any other provision
116 of law, the Department of Revenue may waive or compromise any
117 penalty imposed pursuant to this subparagraph.

118 2. This paragraph does not apply to the sale of a boat or
119 aircraft by or through a registered dealer under this chapter to
120 a purchaser who, at the time of taking delivery, is a
121 nonresident of this state, does not make his or her permanent
122 place of abode in this state, and is not engaged in carrying on
123 in this state any employment, trade, business, or profession in
124 which the boat or aircraft will be used in this state, or is a
125 corporation none of the officers or directors of which is a

126 resident of, or makes his or her permanent place of abode in,
127 this state, or is a noncorporate entity that has no individual
128 vested with authority to participate in the management,
129 direction, or control of the entity's affairs who is a resident
130 of, or makes his or her permanent abode in, this state. For
131 purposes of this exemption, either a registered dealer acting on
132 his or her own behalf as seller, a registered dealer acting as
133 broker on behalf of a seller, or a registered dealer acting as
134 broker on behalf of the purchaser may be deemed to be the
135 selling dealer. This exemption shall not be allowed unless:

136 a. The purchaser removes a qualifying boat, as described
137 in sub-subparagraph f., from the state within 90 days after the
138 date of purchase or extension, or the purchaser removes a
139 nonqualifying boat or an aircraft from this state within 10 days
140 after the date of purchase or, when the boat or aircraft is
141 repaired or altered, within 20 days after completion of the
142 repairs or alterations; or if the aircraft will be registered in
143 a foreign jurisdiction and:

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

147 (II) The purchaser removes the aircraft from the state to
148 a foreign jurisdiction within 10 days after the date the
149 aircraft is registered by the applicable foreign airworthiness
150 authority; and

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

153

154 For purposes of this sub-subparagraph, the term "foreign
155 jurisdiction" means any jurisdiction outside of the United
156 States or any of its territories;

157 b. The purchaser, within 30 days from the date of
158 departure, provides the department with written proof that the
159 purchaser licensed, registered, titled, or documented the boat
160 or aircraft outside the state. If such written proof is
161 unavailable, within 30 days the purchaser shall provide proof
162 that the purchaser applied for such license, title,
163 registration, or documentation. The purchaser shall forward to
164 the department proof of title, license, registration, or
165 documentation upon receipt;

166 c. The purchaser, within 10 days of removing the boat or
167 aircraft from Florida, furnishes the department with proof of
168 removal in the form of receipts for fuel, dockage, slippage,
169 tie-down, or hangaring from outside of Florida. The information
170 so provided must clearly and specifically identify the boat or
171 aircraft;

172 d. The selling dealer, within 5 days of the date of sale,
173 provides to the department a copy of the sales invoice, closing
174 statement, bills of sale, and the original affidavit signed by
175 the purchaser attesting that he or she has read the provisions

176 | of this section;

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

179 | f. Unless the nonresident purchaser of a boat of 5 net
180 | tons of admeasurement or larger intends to remove the boat from
181 | this state within 10 days after the date of purchase or when the
182 | boat is repaired or altered, within 20 days after completion of
183 | the repairs or alterations, the nonresident purchaser applies to
184 | the selling dealer for a decal which authorizes 90 days after
185 | the date of purchase for removal of the boat. The nonresident
186 | purchaser of a qualifying boat may apply to the selling dealer
187 | within 60 days after the date of purchase for an extension decal
188 | that authorizes the boat to remain in this state for an
189 | additional 90 days, but not more than a total of 180 days,
190 | before the nonresident purchaser is required to pay the tax
191 | imposed by this chapter. The department is authorized to issue
192 | decals in advance to dealers. The number of decals issued in
193 | advance to a dealer shall be consistent with the volume of the
194 | dealer's past sales of boats which qualify under this sub-
195 | subparagraph. The selling dealer or his or her agent shall mark
196 | and affix the decals to qualifying boats in the manner
197 | prescribed by the department, before delivery of the boat.

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

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

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

206 (IV) The department is authorized to require dealers who
207 purchase decals to file reports with the department and may
208 prescribe all necessary records by rule. All such records are
209 subject to inspection by the department.

210 (V) Any dealer or his or her agent who issues a decal
211 falsely, fails to affix a decal, mismarks the expiration date of
212 a decal, or fails to properly account for decals will be
213 considered prima facie to have committed a fraudulent act to
214 evade the tax and will be liable for payment of the tax plus a
215 mandatory penalty of 200 percent of the tax, and shall be liable
216 for fine and punishment as provided by law for a conviction of a
217 misdemeanor of the first degree, as provided in s. 775.082 or s.
218 775.083.

219 (VI) Any nonresident purchaser of a boat who removes a
220 decal before permanently removing the boat from the state, or
221 defaces, changes, modifies, or alters a decal in a manner
222 affecting its expiration date before its expiration, or who
223 causes or allows the same to be done by another, will be
224 considered prima facie to have committed a fraudulent act to
225 evade the tax and will be liable for payment of the tax plus a

226 | mandatory penalty of 200 percent of the tax, and shall be liable
227 | for fine and punishment as provided by law for a conviction of a
228 | misdemeanor of the first degree, as provided in s. 775.082 or s.
229 | 775.083.

230 | (VII) The department is authorized to adopt rules
231 | necessary to administer and enforce this subparagraph and to
232 | publish the necessary forms and instructions.

233 | (VIII) The department is hereby authorized to adopt
234 | emergency rules pursuant to s. 120.54(4) to administer and
235 | enforce the provisions of this subparagraph.

236 |
237 | If the purchaser fails to remove the qualifying boat from this
238 | state within the maximum 180 days after purchase or a
239 | nonqualifying boat or an aircraft from this state within 10 days
240 | after purchase or, when the boat or aircraft is repaired or
241 | altered, within 20 days after completion of such repairs or
242 | alterations, or permits the boat or aircraft to return to this
243 | state within 6 months from the date of departure, except as
244 | provided in s. 212.08(7)(fff), or if the purchaser fails to
245 | furnish the department with any of the documentation required by
246 | this subparagraph within the prescribed time period, the
247 | purchaser shall be liable for use tax on the cost price of the
248 | boat or aircraft and, in addition thereto, payment of a penalty
249 | to the Department of Revenue equal to the tax payable. This
250 | penalty shall be in lieu of the penalty imposed by s. 212.12(2).

251 The maximum 180-day period following the sale of a qualifying
252 boat tax-exempt to a nonresident may not be tolled for any
253 reason.

254 (b) At the rate of 6 percent of the cost price of each
255 item or article of tangible personal property when the same is
256 not sold but is used, consumed, distributed, or stored for use
257 or consumption in this state; however, for tangible property
258 originally purchased exempt from tax for use exclusively for
259 lease and which is converted to the owner's own use, tax may be
260 paid on the fair market value of the property at the time of
261 conversion. If the fair market value of the property cannot be
262 determined, use tax at the time of conversion shall be based on
263 the owner's acquisition cost. Under no circumstances may the
264 aggregate amount of sales tax from leasing the property and use
265 tax due at the time of conversion be less than the total sales
266 tax that would have been due on the original acquisition cost
267 paid by the owner.

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

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

274 a. If the motor vehicle is rented in Florida, the entire
275 amount of such rental is taxable, even if the vehicle is dropped

276 | off in another state.

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

279 | 2. Except as provided in subparagraph 3., for the lease or
280 | rental of a motor vehicle for a period of not less than 12
281 | months, sales tax is due on the lease or rental payments if the
282 | vehicle is registered in this state; provided, however, that no
283 | tax shall be due if the taxpayer documents use of the motor
284 | vehicle outside this state and tax is being paid on the lease or
285 | rental payments in another state.

286 | 3. The tax imposed by this chapter does not apply to the
287 | lease or rental of a commercial motor vehicle as defined in s.
288 | 316.003(13)(a) to one lessee or rentee for a period of not less
289 | than 12 months when tax was paid on the purchase price of such
290 | vehicle by the lessor. To the extent tax was paid with respect
291 | to the purchase of such vehicle in another state, territory of
292 | the United States, or the District of Columbia, the Florida tax
293 | payable shall be reduced in accordance with the provisions of s.
294 | 212.06(7). This subparagraph shall only be available when the
295 | lease or rental of such property is an established business or
296 | part of an established business or the same is incidental or
297 | germane to such business.

298 | (d) At the rate of 6 percent of the lease or rental price
299 | paid by a lessee or rentee, or contracted or agreed to be paid
300 | by a lessee or rentee, to the owner of the tangible personal

301 property.

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

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

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

308 (II) If the sale or recharge of the prepaid calling
309 arrangement does not take place at the dealer's place of
310 business, it shall be deemed to have taken place at the
311 customer's shipping address or, if no item is shipped, at the
312 customer's address or the location associated with the
313 customer's mobile telephone number.

314 (III) The sale or recharge of a prepaid calling
315 arrangement shall be treated as a sale of tangible personal
316 property for purposes of this chapter, regardless of whether a
317 tangible item evidencing such arrangement is furnished to the
318 purchaser, and such sale within this state subjects the selling
319 dealer to the jurisdiction of this state for purposes of this
320 subsection.

321 (IV) No additional tax under this chapter or chapter 202
322 is due or payable if a purchaser of a prepaid calling
323 arrangement who has paid tax under this chapter on the sale or
324 recharge of such arrangement applies one or more units of the
325 prepaid calling arrangement to obtain communications services as

326 described in s. 202.11(9)(b)3., other services that are not
327 communications services, or products.

328 b. The installation of telecommunication and telegraphic
329 equipment.

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

334 2. Section 212.17(3), regarding credit for tax paid on
335 charges subsequently found to be worthless, is equally
336 applicable to any tax paid under this section on charges for
337 prepaid calling arrangements, telecommunication or telegraph
338 services, or electric power subsequently found to be
339 uncollectible. As used in this paragraph, the term "charges"
340 does not include any excise or similar tax levied by the Federal
341 Government, a political subdivision of this state, or a
342 municipality upon the purchase, sale, or recharge of prepaid
343 calling arrangements or upon the purchase or sale of
344 telecommunication, television system program, or telegraph
345 service or electric power, which tax is collected by the seller
346 from the purchaser.

347 (f) At the rate of 6 percent on the sale, rental, use,
348 consumption, or storage for use in this state of machines and
349 equipment, and parts and accessories therefor, used in
350 manufacturing, processing, compounding, producing, mining, or

351 quarrying personal property for sale or to be used in furnishing
 352 communications, transportation, or public utility services.

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

355 2. Notwithstanding other provisions of this chapter,
 356 inserts of printed materials which are distributed with a
 357 newspaper or magazine are a component part of the newspaper or
 358 magazine, and neither the sale nor use of such inserts is
 359 subject to tax when:

360 a. Printed by a newspaper or magazine publisher or
 361 commercial printer and distributed as a component part of a
 362 newspaper or magazine, which means that the items after being
 363 printed are delivered directly to a newspaper or magazine
 364 publisher by the printer for inclusion in editions of the
 365 distributed newspaper or magazine;

366 b. Such publications are labeled as part of the designated
 367 newspaper or magazine publication into which they are to be
 368 inserted; and

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

372 (h)1. A tax is imposed at the rate of 4 percent on the
 373 charges for the use of coin-operated amusement machines. The tax
 374 shall be calculated by dividing the gross receipts from such
 375 charges for the applicable reporting period by a divisor,

376 determined as provided in this subparagraph, to compute gross
377 taxable sales, and then subtracting gross taxable sales from
378 gross receipts to arrive at the amount of tax due. For counties
379 that do not impose a discretionary sales surtax, the divisor is
380 equal to 1.04; for counties that impose a 0.5 percent
381 discretionary sales surtax, the divisor is equal to 1.045; for
382 counties that impose a 1 percent discretionary sales surtax, the
383 divisor is equal to 1.050; and for counties that impose a 2
384 percent sales surtax, the divisor is equal to 1.060. If a county
385 imposes a discretionary sales surtax that is not listed in this
386 subparagraph, the department shall make the applicable divisor
387 available in an electronic format or otherwise. Additional
388 divisors shall bear the same mathematical relationship to the
389 next higher and next lower divisors as the new surtax rate bears
390 to the next higher and next lower surtax rates for which
391 divisors have been established. When a machine is activated by a
392 slug, token, coupon, or any similar device which has been
393 purchased, the tax is on the price paid by the user of the
394 device for such device.

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

399 a. If the owner of the machine is also the operator of it,
400 he or she shall be liable for payment of the tax without any

401 deduction for rent or a license fee paid to a location owner for
402 the use of any real property on which the machine is located.

403 b. If the owner or lessee of the machine is also its
404 operator, he or she shall be liable for payment of the tax on
405 the purchase or lease of the machine, as well as the tax on
406 sales generated through the machine.

407 c. If the proprietor of the business where the machine is
408 located does not own the machine, he or she shall be deemed to
409 be the lessee and operator of the machine and is responsible for
410 the payment of the tax on sales, unless such responsibility is
411 otherwise provided for in a written agreement between him or her
412 and the machine owner.

413 3.a. An operator of a coin-operated amusement machine may
414 not operate or cause to be operated in this state any such
415 machine until the operator has registered with the department
416 and has conspicuously displayed an identifying certificate
417 issued by the department. The identifying certificate shall be
418 issued by the department upon application from the operator. The
419 identifying certificate shall include a unique number, and the
420 certificate shall be permanently marked with the operator's
421 name, the operator's sales tax number, and the maximum number of
422 machines to be operated under the certificate. An identifying
423 certificate shall not be transferred from one operator to
424 another. The identifying certificate must be conspicuously
425 displayed on the premises where the coin-operated amusement

426 machines are being operated.

427 b. The operator of the machine must obtain an identifying
428 certificate before the machine is first operated in the state
429 and by July 1 of each year thereafter. The annual fee for each
430 certificate shall be based on the number of machines identified
431 on the application times \$30 and is due and payable upon
432 application for the identifying device. The application shall
433 contain the operator's name, sales tax number, business address
434 where the machines are being operated, and the number of
435 machines in operation at that place of business by the operator.
436 No operator may operate more machines than are listed on the
437 certificate. A new certificate is required if more machines are
438 being operated at that location than are listed on the
439 certificate. The fee for the new certificate shall be based on
440 the number of additional machines identified on the application
441 form times \$30.

442 c. A penalty of \$250 per machine is imposed on the
443 operator for failing to properly obtain and display the required
444 identifying certificate. A penalty of \$250 is imposed on the
445 lessee of any machine placed in a place of business without a
446 proper current identifying certificate. Such penalties shall
447 apply in addition to all other applicable taxes, interest, and
448 penalties.

449 d. Operators of coin-operated amusement machines must
450 obtain a separate sales and use tax certificate of registration

451 for each county in which such machines are located. One sales
452 and use tax certificate of registration is sufficient for all of
453 the operator's machines within a single county.

454 4. The provisions of this paragraph do not apply to coin-
455 operated amusement machines owned and operated by churches or
456 synagogues.

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

461 6. The department may adopt rules necessary to administer
462 the provisions of this paragraph.

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

464 a. Detective, burglar protection, and other protection
465 services (NAICS National Numbers 561611, 561612, 561613, and
466 561621). Fingerprint services required under s. 790.06 or s.
467 790.062 are not subject to the tax. Any law enforcement officer,
468 as defined in s. 943.10, who is performing approved duties as
469 determined by his or her local law enforcement agency in his or
470 her capacity as a law enforcement officer, and who is subject to
471 the direct and immediate command of his or her law enforcement
472 agency, and in the law enforcement officer's uniform as
473 authorized by his or her law enforcement agency, is performing
474 law enforcement and public safety services and is not performing
475 detective, burglar protection, or other protective services, if

476 the law enforcement officer is performing his or her approved
477 duties in a geographical area in which the law enforcement
478 officer has arrest jurisdiction. Such law enforcement and public
479 safety services are not subject to tax irrespective of whether
480 the duty is characterized as "extra duty," "off-duty," or
481 "secondary employment," and irrespective of whether the officer
482 is paid directly or through the officer's agency by an outside
483 source. The term "law enforcement officer" includes full-time or
484 part-time law enforcement officers, and any auxiliary law
485 enforcement officer, when such auxiliary law enforcement officer
486 is working under the direct supervision of a full-time or part-
487 time law enforcement officer.

488 b. Nonresidential cleaning, excluding cleaning of the
489 interiors of transportation equipment, and nonresidential
490 building pest control services (NAICS National Numbers 561710
491 and 561720).

492 2. As used in this paragraph, "NAICS" means those
493 classifications contained in the North American Industry
494 Classification System, as published in 2007 by the Office of
495 Management and Budget, Executive Office of the President.

496 3. Charges for detective, burglar protection, and other
497 protection security services performed in this state but used
498 outside this state are exempt from taxation. Charges for
499 detective, burglar protection, and other protection security
500 services performed outside this state and used in this state are

501 subject to tax.

502 4. If a transaction involves both the sale or use of a
503 service taxable under this paragraph and the sale or use of a
504 service or any other item not taxable under this chapter, the
505 consideration paid must be separately identified and stated with
506 respect to the taxable and exempt portions of the transaction or
507 the entire transaction shall be presumed taxable. The burden
508 shall be on the seller of the service or the purchaser of the
509 service, whichever applicable, to overcome this presumption by
510 providing documentary evidence as to which portion of the
511 transaction is exempt from tax. The department is authorized to
512 adjust the amount of consideration identified as the taxable and
513 exempt portions of the transaction; however, a determination
514 that the taxable and exempt portions are inaccurately stated and
515 that the adjustment is applicable must be supported by
516 substantial competent evidence.

517 5. Each seller of services subject to sales tax pursuant
518 to this paragraph shall maintain a monthly log showing each
519 transaction for which sales tax was not collected because the
520 services meet the requirements of subparagraph 3. for out-of-
521 state use. The log must identify the purchaser's name, location
522 and mailing address, and federal employer identification number,
523 if a business, or the social security number, if an individual,
524 the service sold, the price of the service, the date of sale,
525 the reason for the exemption, and the sales invoice number. The

526 monthly log shall be maintained pursuant to the same
527 requirements and subject to the same penalties imposed for the
528 keeping of similar records pursuant to this chapter.

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

533 a. Is not legal tender;

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

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

538 2. Such tax shall be at a rate of 6 percent of the price
539 at which the coin or currency is sold, exchanged, or traded,
540 except that, with respect to a coin or currency which is legal
541 tender of the United States and which is sold, exchanged, or
542 traded, such tax shall not be levied.

543 3. There are exempt from this tax exchanges of coins or
544 currency which are in general circulation in, and legal tender
545 of, one nation for coins or currency which are in general
546 circulation in, and legal tender of, another nation when
547 exchanged solely for use as legal tender and at an exchange rate
548 based on the relative value of each as a medium of exchange.

549 4. With respect to any transaction that involves the sale
550 of coins or currency taxable under this paragraph in which the

551 taxable amount represented by the sale of such coins or currency
552 exceeds \$500, the entire amount represented by the sale of such
553 coins or currency is exempt from the tax imposed under this
554 paragraph. The dealer must maintain proper documentation, as
555 prescribed by rule of the department, to identify that portion
556 of a transaction which involves the sale of coins or currency
557 and is exempt under this subparagraph.

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

562 (l) Florists located in this state are liable for sales
563 tax on sales to retail customers regardless of where or by whom
564 the items sold are to be delivered. Florists located in this
565 state are not liable for sales tax on payments received from
566 other florists for items delivered to customers in this state.

567 (m) Operators of game concessions or other concessionaires
568 who customarily award tangible personal property as prizes may,
569 in lieu of paying tax on the cost price of such property, pay
570 tax on 25 percent of the gross receipts from such concession
571 activity.

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

575 (3) The tax so levied is in addition to all other taxes,

576 whether levied in the form of excise, license, or privilege
 577 taxes, and in addition to all other fees and taxes levied.

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

580 (5) Notwithstanding any other provision of this chapter,
 581 the maximum amount of tax imposed under this chapter and
 582 collected on each sale or use of a boat in this state may not
 583 exceed \$18,000 and on each repair of a boat in this state may
 584 not exceed \$60,000.

585 Section 4. Section 212.0596, Florida Statutes, is amended
 586 to read:

587 212.0596 Taxation of remote ~~mail order~~ sales.-

588 (1) For purposes of this chapter, a "remote ~~mail order~~
 589 sale" means ~~is~~ a retail sale of tangible personal property,
 590 ordered by mail, telephone, the Internet, or other means of
 591 communication, ~~from a dealer who receives the order~~ outside of
 592 this state in another state of the United States, or in a
 593 ~~commonwealth, territory, or other area under the jurisdiction of~~
 594 ~~the United States,~~ and transports the property or causes the
 595 property to be transported, ~~whether or not by mail,~~ from any
 596 jurisdiction ~~of the United States,~~ including this state, to a
 597 person in this state, including the person who ordered the
 598 property.

599 (2) Every dealer as defined in s. 212.06(2)(c) who makes a
 600 remote ~~mail order~~ sale is subject to the power of this state to

601 levy and collect the tax imposed by this chapter when any of the
602 following applies:

603 (a) The dealer is a corporation doing business under the
604 laws of this state or is a person domiciled in, a resident of,
605 or a citizen of~~,~~ this state~~.~~

606 (b) The dealer maintains retail establishments or offices
607 in this state, regardless of whether the remote ~~mail-order~~ sales
608 thus subject to taxation by this state result from or are
609 related in any other way to the activities of such
610 establishments or offices~~.~~

611 (c) The dealer has agents in this state who solicit
612 business or transact business on behalf of the dealer,
613 regardless of whether the remote ~~mail-order~~ sales thus subject
614 to taxation by this state result from or are related in any
615 other way to such solicitation or transaction of business. For
616 purposes of this paragraph, ~~except that~~ a printer who mails or
617 delivers for an out-of-state print purchaser material ~~the~~
618 ~~printer~~ printed by the printer for the purchaser is ~~it shall~~ not
619 ~~be~~ deemed to be the print purchaser's agent. ~~for purposes of~~
620 ~~this paragraph.~~

621 (d) The property was delivered in this state in
622 fulfillment of a sales contract that was entered into in this
623 state, in accordance with applicable conflict of laws rules,
624 when a person in this state accepted an offer by ordering the
625 property~~.~~

626 (e) The dealer, by purposefully or systematically
627 exploiting the market provided by this state by any media-
628 assisted, media-facilitated, or media-solicited means,
629 including, but not limited to, direct mail advertising,
630 unsolicited distribution of catalogs, computer-assisted
631 shopping, television, radio, or other electronic media, or
632 magazine or newspaper advertisements or other media, creates
633 nexus with this state.†

634 (f) Through compact or reciprocity with another
635 jurisdiction of the United States, that jurisdiction uses its
636 taxing power and its jurisdiction over the retailer in support
637 of this state's taxing power.†

638 (g) The dealer consents, expressly or by implication, to
639 ~~the imposition of~~ the tax imposed by this chapter.†

640 (h) The dealer is subject to service of process under s.
641 48.181.†

642 (i) The dealer's remote ~~mail order~~ sales are subject to
643 the power of this state to tax sales or to require the dealer to
644 collect use taxes under a statute or statutes of the United
645 States.†

646 (j) The dealer owns real property or tangible personal
647 property that is physically in this state. For purposes of this
648 paragraph, ~~except that~~ a dealer whose only property, ~~(including~~
649 ~~property owned by an affiliate,~~) in this state is located at the
650 premises of a printer with which the vendor has contracted for

651 printing, and is either a final printed product, ~~or~~ property
 652 that ~~which~~ becomes a part of the final printed product, or
 653 property from which the printed product is produced, is not
 654 deemed to own such property. ~~for purposes of this paragraph;~~

655 (k) The dealer, while not having nexus with this state on
 656 any of the bases described in paragraphs (a)-(j) or paragraph
 657 (l), is a corporation that is a member of an affiliated group of
 658 corporations, as defined in s. 1504(a) of the Internal Revenue
 659 Code, whose members are includable under s. 1504(b) of the
 660 Internal Revenue Code and whose members are eligible to file a
 661 consolidated tax return for federal corporate income tax
 662 purposes and any parent or subsidiary corporation in the
 663 affiliated group has nexus with this state on one or more of the
 664 bases described in paragraphs (a)-(j) or paragraph (l). ~~;~~ ~~or~~

665 (l) The dealer or the dealer's activities, have sufficient
 666 ~~connection with or relationship to this state or its residents~~
 667 ~~of some type~~ other than those described in paragraphs (a)-(k),
 668 result in making a substantial number of remote sales under
 669 subsection (3) to create nexus empowering this state to tax its
 670 ~~mail order sales or to require the dealer to collect sales tax~~
 671 ~~or accrue use tax.~~

672 (3) (a) Every person ~~dealer engaged in the business of~~
 673 making a substantial number of remote ~~mail order~~ sales is a
 674 dealer for purposes of this chapter ~~subject to the requirements~~
 675 ~~of this chapter for cooperation of dealers in collection of~~

676 ~~taxes and in administration of this chapter, except that no fee~~
677 ~~shall be imposed upon such dealer for carrying out any required~~
678 ~~activity.~~

679 (b) As used in this section, the term "making a
680 substantial number of remote sales" means:

681 1. Conducting 200 or more retail sales of tangible
682 personal property in the previous calendar year to be delivered
683 to a location within this state; or

684 2. Conducting any number of retail sales of tangible
685 personal property in an amount exceeding \$100,000 in the
686 previous calendar year to be delivered to a location within this
687 state.

688
689 For purposes of this paragraph, tangible personal property
690 delivered to a location within this state is presumed to be
691 used, consumed, distributed, or stored to be used or consumed in
692 this state.

693 (4) The department shall, with the consent of another
694 jurisdiction of the United States whose cooperation is needed,
695 enforce this chapter in that jurisdiction, either directly or,
696 at the option of that jurisdiction, through its officers or
697 employees.

698 (5) The tax required under this section to be collected
699 and any amount unreturned to a purchaser that is not tax but was
700 collected from the purchaser under the representation that it

701 was tax constitute funds of the State of Florida from the moment
702 of collection.

703 ~~(6) Notwithstanding other provisions of law, a dealer who~~
704 ~~makes a mail order sale in this state is exempt from collecting~~
705 ~~and remitting any local option surtax on the sale, unless the~~
706 ~~dealer is located in a county that imposes a surtax within the~~
707 ~~meaning of s. 212.054(3)(a), the order is placed through the~~
708 ~~dealer's location in such county, and the property purchased is~~
709 ~~delivered into such county or into another county in this state~~
710 ~~that levies the surtax, in which case the provisions of s.~~
711 ~~212.054(3)(a) are applicable.~~

712 ~~(7)~~ The department may establish by rule procedures for
713 collecting the use tax from unregistered persons who but for
714 their remote mail order purchases would not be required to remit
715 sales or use tax directly to the department. The procedures may
716 provide for waiver of registration, provisions for irregular
717 remittance of tax, elimination of the collection allowance, and
718 nonapplication of local option surtaxes.

719 Section 5. Effective October 1, 2020, section 212.05965,
720 Florida Statutes, is created to read:

721 212.05965 Taxation of marketplace sales.-

722 (1) As used in this section, the term:

723 (a) "Marketplace" means any physical place or electronic
724 medium through which tangible personal property is offered for
725 sale.

726 (b) "Marketplace provider" means a person who facilitates
727 a retail sale by a marketplace seller by listing or advertising
728 for sale on behalf of the marketplace seller tangible personal
729 property in a marketplace, and who directly, or indirectly
730 through agreements or arrangements with third parties, collects
731 payment from the customer and transmits the payment to the
732 marketplace seller, regardless of whether the marketplace
733 provider receives compensation or other consideration in
734 exchange for its services.

735 1. The term does not include a person who solely provides
736 travel agency services. As used in this subparagraph, the term
737 "travel agency services" means arranging, booking, or otherwise
738 facilitating for a commission, fee, or other consideration
739 vacation or travel packages, rental cars, or other travel
740 reservations; tickets for domestic or foreign travel by air,
741 rail, ship, bus, or other mode of transportation; or hotel or
742 other lodging accommodations.

743 2. The term does not include a person who is a delivery
744 network company unless the delivery network company is a
745 registered dealer for purposes of this chapter and the delivery
746 network company notifies all local merchants that sell through
747 the delivery network company's website or mobile application
748 that the delivery network company is subject to the requirements
749 of a marketplace provider under this section. As used in this
750 subparagraph, the term:

751 a. "Delivery network company" means a person who maintains
752 a website or mobile application to facilitate delivery services,
753 the sale of local products, or both.

754 b. "Delivery network courier" means an individual who
755 provides delivery services through a delivery network company
756 website or mobile application using a personal means of
757 transportation, such as a motor vehicle as defined in s. 320.01,
758 bicycle, scooter, or other similar means of transportation;
759 using public transportation; or by walking.

760 c. "Delivery services" means the pickup by a delivery
761 network courier of one or more local products from a local
762 merchant and delivery to a customer, and may include the
763 selection, collection, and purchase of the local product in
764 connection with the delivery. The term does not include a
765 delivery requiring more than 75 miles of travel from the local
766 merchant to the customer.

767 d. "Local merchant" means a kitchen, restaurant, or third-
768 party merchant, including a grocery store, retail store,
769 convenience store, or business of another type, which is not
770 under common ownership or control of the delivery network
771 company.

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

775 (c) "Marketplace seller" means a person who has an

776 agreement with a marketplace provider and who makes retail sales
777 of tangible personal property through a marketplace owned,
778 operated, or controlled by the marketplace provider.

779 (2) Every marketplace provider who has a physical presence
780 in this state or who makes or facilitates through a marketplace
781 a substantial number of remote sales as defined in s.
782 212.0596(3)(b) is subject to the requirements imposed by this
783 chapter on dealers for registration and for the collection and
784 remittance of taxes.

785 (3) A marketplace provider shall certify to his or her
786 marketplace sellers that he or she will collect and remit the
787 tax imposed under this chapter on taxable retail sales made
788 through the marketplace. Such certification may be included in
789 the agreement between the marketplace provider and marketplace
790 seller.

791 (4)(a) A marketplace seller may not collect and remit the
792 tax under this chapter on a taxable retail sale when the sale is
793 made through the marketplace and the marketplace provider
794 certifies, as required under subsection (3), that he or she will
795 collect and remit such tax. A marketplace seller shall exclude
796 such sales made through the marketplace from the marketplace
797 seller's tax return under s. 212.11.

798 (b)1. A marketplace seller who has a physical presence in
799 this state shall register and shall collect and remit the tax
800 imposed under this chapter on all taxable retail sales made

801 outside of the marketplace.

802 2. A marketplace seller who makes a substantial number of
803 remote sales as defined in s. 212.0596(3)(b) must register and
804 collect and remit the tax imposed under this chapter on all
805 taxable retail sales made outside of the marketplace. Sales made
806 through the marketplace are not considered for the purposes of
807 determining whether the seller has made a substantial number of
808 remote sales.

809 (5)(a) A marketplace provider shall allow the department
810 to examine and audit its books and records pursuant to s.
811 212.13. For retail sales facilitated through a marketplace, the
812 department may not examine or audit the books and records of
813 marketplace sellers, nor may the department assess marketplace
814 sellers except to the extent the marketplace provider seeks
815 relief under paragraph (b). The department may examine, audit,
816 and assess a marketplace seller for retail sales made outside of
817 the marketplace under paragraph (4)(b).

818 (b) The marketplace provider is relieved of liability for
819 the tax on the retail sale and the marketplace seller or
820 customer is liable for the tax imposed under this chapter if the
821 marketplace provider demonstrates to the department's
822 satisfaction that the marketplace provider made a reasonable
823 effort to obtain accurate information related to the retail
824 sales facilitated through the marketplace from the marketplace
825 seller, but that the failure to collect and pay the correct

826 amount of tax imposed under this chapter was due to the
827 marketplace seller providing incorrect or incomplete information
828 to the marketplace provider. This paragraph does not apply to a
829 retail sale for which the marketplace provider is the seller if
830 the marketplace provider and marketplace seller are related
831 parties or if transactions between a marketplace seller and
832 marketplace buyer are not conducted at arm's length.

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

835 (7) A marketplace provider and marketplace seller may
836 agree by contract or otherwise that if a marketplace provider
837 pays the tax imposed under this chapter on a retail sale
838 facilitated through a marketplace for a marketplace seller as a
839 result of an audit or otherwise, the marketplace provider has
840 the right to recover such tax and any associated interest and
841 penalties from the marketplace seller.

842 (8) Consistent with s. 213.21, the department may settle
843 and compromise any tax, interest, or penalty assessed on retail
844 sales conducted through a marketplace.

845 (9) For purposes of this section, the limitations in ss.
846 213.30(3) and 213.756(2) apply.

847 (10) This section does not authorize the state to collect
848 sales tax from both the marketplace provider and the marketplace
849 seller on the same retail sale.

850 Section 6. Paragraph (c) of subsection (2) and paragraph

851 (a) of subsection (5) of section 212.06, Florida Statutes, are
 852 amended to read:

853 212.06 Sales, storage, use tax; collectible from dealers;
 854 "dealer" defined; dealers to collect from purchasers;
 855 legislative intent as to scope of tax.-

856 (2)

857 (c) The term "dealer" is further defined to mean every
 858 person, as used in this chapter, who sells at retail or who
 859 offers for sale at retail, or who has in his or her possession
 860 for sale at retail; or for use, consumption, or distribution; or
 861 for storage to be used or consumed in this state, tangible
 862 personal property as defined herein, including a retailer who
 863 transacts a remote ~~mail-order~~ sale.

864 (5)(a)1. Except as provided in subparagraph 2., it is not
 865 the intention of this chapter to levy a tax upon tangible
 866 personal property imported, produced, or manufactured in this
 867 state for export, provided that tangible personal property may
 868 not be considered as being imported, produced, or manufactured
 869 for export unless the importer, producer, or manufacturer
 870 delivers the same to a licensed exporter for exporting or to a
 871 common carrier for shipment outside the state or mails the same
 872 by United States mail to a destination outside the state; or, in
 873 the case of aircraft being exported under their own power to a
 874 destination outside the continental limits of the United States,
 875 by submission to the department of a duly signed and validated

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

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

901 purposes set forth herein.

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

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

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

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

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

924 (V) Such state agrees to provide to the department records
925 obtained by it from retailers or dealers in such state showing

926 delivery of tangible personal property into this state upon
927 which no sales or use tax has been paid in a manner similar to
928 that provided in sub-subparagraph g.

929 c. For purposes of this subparagraph, "sales of tangible
930 personal property to be transported to a cooperating state"
931 means remote ~~mail-order~~ sales to a person who is in the
932 cooperating state at the time the order is executed, from a
933 dealer who receives that order in this state.

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

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

949 f. The department is authorized to perform such acts and
950 to provide such cooperation to a cooperating state with

951 reference to the tax levied by sub-subparagraph a. as is
 952 required of the cooperating state by sub-subparagraph b.

953 g. In furtherance of this act, dealers selling tangible
 954 personal property for delivery in another state shall make
 955 available to the department, upon request of the department,
 956 records of all tangible personal property so sold. Such records
 957 shall include a description of the property, the name and
 958 address of the purchaser, the name and address of the person to
 959 whom the property was sent, the purchase price of the property,
 960 information regarding whether sales tax was paid in this state
 961 on the purchase price, and such other information as the
 962 department may by rule prescribe.

963 Section 7. Paragraph (a) of subsection (1) and paragraph
 964 (a) of subsection (5) of section 212.12, Florida Statutes, are
 965 amended to read:

966 212.12 Dealer's credit for collecting tax; penalties for
 967 noncompliance; powers of Department of Revenue in dealing with
 968 delinquents; brackets applicable to taxable transactions;
 969 records required.—

970 (1) (a) ~~1~~. Notwithstanding any other law and for the purpose
 971 of compensating persons granting licenses for and the lessors of
 972 real and personal property taxed hereunder, for the purpose of
 973 compensating dealers in tangible personal property, for the
 974 purpose of compensating dealers providing communication services
 975 and taxable services, for the purpose of compensating owners of

976 places where admissions are collected, and for the purpose of
977 compensating remitters of any taxes or fees reported on the same
978 documents utilized for the sales and use tax, as compensation
979 for the keeping of prescribed records, filing timely tax
980 returns, and the proper accounting and remitting of taxes by
981 them, such seller, person, lessor, dealer, owner, and remitter
982 ~~(except dealers who make mail order sales)~~ who files the return
983 required pursuant to s. 212.11 only by electronic means and who
984 pays the amount due on such return only by electronic means
985 shall be allowed 2.5 percent of the amount of the tax due,
986 accounted for, and remitted to the department in the form of a
987 deduction. However, if the amount of the tax due and remitted to
988 the department by electronic means for the reporting period
989 exceeds \$1,200, an allowance is not allowed for all amounts in
990 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
991 the term "electronic means" has the same meaning as provided in
992 s. 213.755(2)(c).

993 ~~2. The executive director of the department is authorized~~
994 ~~to negotiate a collection allowance, pursuant to rules~~
995 ~~promulgated by the department, with a dealer who makes mail~~
996 ~~order sales. The rules of the department shall provide~~
997 ~~guidelines for establishing the collection allowance based upon~~
998 ~~the dealer's estimated costs of collecting the tax, the volume~~
999 ~~and value of the dealer's mail order sales to purchasers in this~~
1000 ~~state, and the administrative and legal costs and likelihood of~~

1001 ~~achieving collection of the tax absent the cooperation of the~~
 1002 ~~dealer. However, in no event shall the collection allowance~~
 1003 ~~negotiated by the executive director exceed 10 percent of the~~
 1004 ~~tax remitted for a reporting period.~~

1005 (5) (a) The department is authorized to audit or inspect
 1006 the records and accounts of dealers defined herein, including
 1007 audits or inspections of dealers who make remote ~~mail order~~
 1008 ~~sales to the extent permitted by another state,~~ and to correct
 1009 by credit any overpayment of tax, and, in the event of a
 1010 deficiency, an assessment shall be made and collected. No
 1011 administrative finding of fact is necessary prior to the
 1012 assessment of any tax deficiency.

1013 Section 8. Paragraph (f) of subsection (3) of section
 1014 212.18, Florida Statutes, is amended to read:

1015 212.18 Administration of law; registration of dealers;
 1016 rules.—

1017 (3)

1018 (f) As used in this paragraph, the term "exhibitor" means
 1019 a person who enters into an agreement authorizing the display of
 1020 tangible personal property or services at a convention or a
 1021 trade show. The following provisions apply to the registration
 1022 of exhibitors as dealers under this chapter:

1023 1. An exhibitor whose agreement prohibits the sale of
 1024 tangible personal property or services subject to the tax
 1025 imposed in this chapter is not required to register as a dealer.

1026 2. An exhibitor whose agreement provides for the sale at
 1027 wholesale only of tangible personal property or services subject
 1028 to the tax imposed by this chapter must obtain a resale
 1029 certificate from the purchasing dealer but is not required to
 1030 register as a dealer.

1031 3. An exhibitor whose agreement authorizes the retail sale
 1032 of tangible personal property or services subject to the tax
 1033 imposed by this chapter must register as a dealer and collect
 1034 the tax on such sales.

1035 4. An exhibitor who makes a remote ~~mail order~~ sale
 1036 pursuant to s. 212.0596 must register as a dealer.

1037
 1038 A person who conducts a convention or a trade show must make his
 1039 or her exhibitor's agreements available to the department for
 1040 inspection and copying.

1041 Section 9. For the purpose of incorporating the amendment
 1042 made by this act to section 212.0596, Florida Statutes, in a
 1043 reference thereto, subsection (4) of section 212.20, Florida
 1044 Statutes, is reenacted to read:

1045 212.20 Funds collected, disposition; additional powers of
 1046 department; operational expense; refund of taxes adjudicated
 1047 unconstitutionally collected.—

1048 (4) When there has been a final adjudication that any tax
 1049 pursuant to s. 212.0596 was levied, collected, or both, contrary
 1050 to the Constitution of the United States or the State

1051 Constitution, the department shall, in accordance with rules,
 1052 determine, based upon claims for refund and other evidence and
 1053 information, who paid such tax or taxes, and refund to each such
 1054 person the amount of tax paid. For purposes of this subsection,
 1055 a "final adjudication" is a decision of a court of competent
 1056 jurisdiction from which no appeal can be taken or from which the
 1057 official or officials of this state with authority to make such
 1058 decisions has or have decided not to appeal.

1059 Section 10. Subsection (5) of section 213.27, Florida
 1060 Statutes, is amended to read:

1061 213.27 Contracts with debt collection agencies and certain
 1062 vendors.—

1063 (5) The department may, for the purpose of ascertaining
 1064 the amount of or collecting any taxes due from a person making
 1065 remote sales that are subject to s. 212.0596(2) or s. 212.05965
 1066 ~~doing mail order business in this state~~, contract with any
 1067 auditing agency doing business within or without this state for
 1068 the purpose of conducting an audit of such remote sales ~~mail~~
 1069 ~~order business~~; however, such audit agency may not conduct an
 1070 audit on behalf of the department of any person domiciled in
 1071 this state, person registered for sales and use tax purposes in
 1072 this state, or corporation filing a Florida corporate tax
 1073 return, if any such person or corporation objects to such audit
 1074 in writing to the department and the auditing agency. The
 1075 department shall notify the taxpayer by mail at least 30 days

1076 | before the department assigns the collection of such taxes.

1077 | Section 11. (1) The Department of Revenue is authorized,
 1078 | and all conditions are deemed met, to adopt emergency rules
 1079 | pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 1080 | administering this act.

1081 | (2) Notwithstanding any other law, emergency rules adopted
 1082 | pursuant to subsection (1) are effective for 6 months after
 1083 | adoption and may be renewed during the pendency of procedures to
 1084 | adopt permanent rules addressing the subject of the emergency
 1085 | rules.

1086 | (3) This section shall take effect upon this act becoming
 1087 | a law and expires July 1, 2021.

1088 | Section 12. Except as otherwise expressly provided in this
 1089 | act and except for this section, which shall take effect upon
 1090 | this act becoming a law, this act shall take effect July 1,
 1091 | 2020.