

By Senator Gruters

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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

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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 from certain dealers who are allowed a dealer's credit  
37 for collecting tax; deleting the authority of the  
38 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; authorizing  
46 the department to adopt emergency rules; providing for  
47 expiration of the authority; providing for  
48 severability; providing effective dates.

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

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

54 212.02 Definitions.—The following terms and phrases when  
55 used in this chapter have the meanings ascribed to them in this  
56 section, except where the context clearly indicates a different  
57 meaning:

58 (14)

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

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

64 212.02 Definitions.—The following terms and phrases when  
65 used in this chapter have the meanings ascribed to them in this  
66 section, except where the context clearly indicates a different  
67 meaning:

68 (14)

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

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

73 212.05 Sales, storage, use tax.—It is hereby declared to be  
74 the legislative intent that every person is exercising a taxable  
75 privilege who engages in the business of selling tangible  
76 personal property at retail in this state, including the  
77 business of making remote ~~mail order~~ sales; ~~or~~ who rents or  
78 furnishes any of the things or services taxable under this  
79 chapter; ~~or~~ who stores for use or consumption in this state any  
80 item or article of tangible personal property as defined herein  
81 and who leases or rents such property within the state.

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

85 (a)1.a. At the rate of 6 percent of the sales price of each  
86 item or article of tangible personal property when sold at  
87 retail in this state, computed on each taxable sale for the

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88 purpose of remitting the amount of tax due the state, and  
89 including each and every retail sale.

90 b. Each occasional or isolated sale of an aircraft, boat,  
91 mobile home, or motor vehicle of a class or type which is  
92 required to be registered, licensed, titled, or documented in  
93 this state or by the United States Government shall be subject  
94 to tax at the rate provided in this paragraph. The department  
95 shall by rule adopt any nationally recognized publication for  
96 valuation of used motor vehicles as the reference price list for  
97 any used motor vehicle which is required to be licensed pursuant  
98 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
99 party to an occasional or isolated sale of such a vehicle  
100 reports to the tax collector a sales price which is less than 80  
101 percent of the average loan price for the specified model and  
102 year of such vehicle as listed in the most recent reference  
103 price list, the tax levied under this paragraph shall be  
104 computed by the department on such average loan price unless the  
105 parties to the sale have provided to the tax collector an  
106 affidavit signed by each party, or other substantial proof,  
107 stating the actual sales price. Any party to such sale who  
108 reports a sales price less than the actual sales price is guilty  
109 of a misdemeanor of the first degree, punishable as provided in  
110 s. 775.082 or s. 775.083. The department shall collect or  
111 attempt to collect from such party any delinquent sales taxes.  
112 In addition, such party shall pay any tax due and any penalty  
113 and interest assessed plus a penalty equal to twice the amount  
114 of the additional tax owed. Notwithstanding any other provision  
115 of law, the Department of Revenue may waive or compromise any  
116 penalty imposed pursuant to this subparagraph.

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117           2. This paragraph does not apply to the sale of a boat or  
118 aircraft by or through a registered dealer under this chapter to  
119 a purchaser who, at the time of taking delivery, is a  
120 nonresident of this state, does not make his or her permanent  
121 place of abode in this state, and is not engaged in carrying on  
122 in this state any employment, trade, business, or profession in  
123 which the boat or aircraft will be used in this state, or is a  
124 corporation none of the officers or directors of which is a  
125 resident of, or makes his or her permanent place of abode in,  
126 this state, or is a noncorporate entity that has no individual  
127 vested with authority to participate in the management,  
128 direction, or control of the entity's affairs who is a resident  
129 of, or makes his or her permanent abode in, this state. For  
130 purposes of this exemption, either a registered dealer acting on  
131 his or her own behalf as seller, a registered dealer acting as  
132 broker on behalf of a seller, or a registered dealer acting as  
133 broker on behalf of the purchaser may be deemed to be the  
134 selling dealer. This exemption shall not be allowed unless:

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

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

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

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

152

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

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

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

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

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175 of this section;

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

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

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

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

202 (III) Decals shall display information to identify the boat  
203 as a qualifying boat under this sub-subparagraph, including, but

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204 not limited to, the decal's date of expiration.

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

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

218 (VI) Any nonresident purchaser of a boat who removes a  
219 decal before permanently removing the boat from the state, or  
220 defaces, changes, modifies, or alters a decal in a manner  
221 affecting its expiration date before its expiration, or who  
222 causes or allows the same to be done by another, will be  
223 considered prima facie to have committed a fraudulent act to  
224 evade the tax and will be liable for payment of the tax plus a  
225 mandatory penalty of 200 percent of the tax, and shall be liable  
226 for fine and punishment as provided by law for a conviction of a  
227 misdemeanor of the first degree, as provided in s. 775.082 or s.  
228 775.083.

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

232 (VIII) The department is hereby authorized to adopt

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233 emergency rules pursuant to s. 120.54(4) to administer and  
234 enforce the provisions of this subparagraph.

235  
236 If the purchaser fails to remove the qualifying boat from this  
237 state within the maximum 180 days after purchase or a  
238 nonqualifying boat or an aircraft from this state within 10 days  
239 after purchase or, when the boat or aircraft is repaired or  
240 altered, within 20 days after completion of such repairs or  
241 alterations, or permits the boat or aircraft to return to this  
242 state within 6 months from the date of departure, except as  
243 provided in s. 212.08(7)(fff), or if the purchaser fails to  
244 furnish the department with any of the documentation required by  
245 this subparagraph within the prescribed time period, the  
246 purchaser shall be liable for use tax on the cost price of the  
247 boat or aircraft and, in addition thereto, payment of a penalty  
248 to the Department of Revenue equal to the tax payable. This  
249 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
250 The maximum 180-day period following the sale of a qualifying  
251 boat tax-exempt to a nonresident may not be tolled for any  
252 reason.

253 (b) At the rate of 6 percent of the cost price of each item  
254 or article of tangible personal property when the same is not  
255 sold but is used, consumed, distributed, or stored for use or  
256 consumption in this state; however, for tangible property  
257 originally purchased exempt from tax for use exclusively for  
258 lease and which is converted to the owner's own use, tax may be  
259 paid on the fair market value of the property at the time of  
260 conversion. If the fair market value of the property cannot be  
261 determined, use tax at the time of conversion shall be based on

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262 the owner's acquisition cost. Under no circumstances may the  
263 aggregate amount of sales tax from leasing the property and use  
264 tax due at the time of conversion be less than the total sales  
265 tax that would have been due on the original acquisition cost  
266 paid by the owner.

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

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

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

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

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

285 3. The tax imposed by this chapter does not apply to the  
286 lease or rental of a commercial motor vehicle as defined in s.  
287 316.003(13) (a) to one lessee or rentee for a period of not less  
288 than 12 months when tax was paid on the purchase price of such  
289 vehicle by the lessor. To the extent tax was paid with respect  
290 to the purchase of such vehicle in another state, territory of

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291 the United States, or the District of Columbia, the Florida tax  
292 payable shall be reduced in accordance with the provisions of s.  
293 212.06(7). This subparagraph shall only be available when the  
294 lease or rental of such property is an established business or  
295 part of an established business or the same is incidental or  
296 germane to such business.

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

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

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

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

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

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

319 (IV) No additional tax under this chapter or chapter 202 is

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320 due or payable if a purchaser of a prepaid calling arrangement  
321 who has paid tax under this chapter on the sale or recharge of  
322 such arrangement applies one or more units of the prepaid  
323 calling arrangement to obtain communications services as  
324 described in s. 202.11(9)(b)3., other services that are not  
325 communications services, or products.

326 b. The installation of telecommunication and telegraphic  
327 equipment.

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

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

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

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

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

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

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

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

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

370 (h)1. A tax is imposed at the rate of 4 percent on the  
371 charges for the use of coin-operated amusement machines. The tax  
372 shall be calculated by dividing the gross receipts from such  
373 charges for the applicable reporting period by a divisor,  
374 determined as provided in this subparagraph, to compute gross  
375 taxable sales, and then subtracting gross taxable sales from  
376 gross receipts to arrive at the amount of tax due. For counties  
377 that do not impose a discretionary sales surtax, the divisor is

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

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

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

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

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

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407 be the lessee and operator of the machine and is responsible for  
408 the payment of the tax on sales, unless such responsibility is  
409 otherwise provided for in a written agreement between him or her  
410 and the machine owner.

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

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

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436 being operated at that location than are listed on the  
437 certificate. The fee for the new certificate shall be based on  
438 the number of additional machines identified on the application  
439 form times \$30.

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

447 d. Operators of coin-operated amusement machines must  
448 obtain a separate sales and use tax certificate of registration  
449 for each county in which such machines are located. One sales  
450 and use tax certificate of registration is sufficient for all of  
451 the operator's machines within a single county.

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

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

459 6. The department may adopt rules necessary to administer  
460 the provisions of this paragraph.

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

462 a. Detective, burglar protection, and other protection  
463 services (NAICS National Numbers 561611, 561612, 561613, and  
464 561621). Fingerprint services required under s. 790.06 or s.

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465 790.062 are not subject to the tax. Any law enforcement officer,  
466 as defined in s. 943.10, who is performing approved duties as  
467 determined by his or her local law enforcement agency in his or  
468 her capacity as a law enforcement officer, and who is subject to  
469 the direct and immediate command of his or her law enforcement  
470 agency, and in the law enforcement officer's uniform as  
471 authorized by his or her law enforcement agency, is performing  
472 law enforcement and public safety services and is not performing  
473 detective, burglar protection, or other protective services, if  
474 the law enforcement officer is performing his or her approved  
475 duties in a geographical area in which the law enforcement  
476 officer has arrest jurisdiction. Such law enforcement and public  
477 safety services are not subject to tax irrespective of whether  
478 the duty is characterized as "extra duty," "off-duty," or  
479 "secondary employment," and irrespective of whether the officer  
480 is paid directly or through the officer's agency by an outside  
481 source. The term "law enforcement officer" includes full-time or  
482 part-time law enforcement officers, and any auxiliary law  
483 enforcement officer, when such auxiliary law enforcement officer  
484 is working under the direct supervision of a full-time or part-  
485 time law enforcement officer.

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

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

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

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

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

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523 the reason for the exemption, and the sales invoice number. The  
524 monthly log shall be maintained pursuant to the same  
525 requirements and subject to the same penalties imposed for the  
526 keeping of similar records pursuant to this chapter.

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

531 a. Is not legal tender;

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

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

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

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

547 4. With respect to any transaction that involves the sale  
548 of coins or currency taxable under this paragraph in which the  
549 taxable amount represented by the sale of such coins or currency  
550 exceeds \$500, the entire amount represented by the sale of such  
551 coins or currency is exempt from the tax imposed under this

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552 paragraph. The dealer must maintain proper documentation, as  
553 prescribed by rule of the department, to identify that portion  
554 of a transaction which involves the sale of coins or currency  
555 and is exempt under this subparagraph.

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

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

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

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

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

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

578 (5) Notwithstanding any other provision of this chapter,  
579 the maximum amount of tax imposed under this chapter and  
580 collected on each sale or use of a boat in this state may not

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581 exceed \$18,000 and on each repair of a boat in this state may  
582 not exceed \$60,000.

583 Section 4. Section 212.0596, Florida Statutes, is amended  
584 to read:

585 212.0596 Taxation of remote ~~mail-order~~ sales.—

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

596 (2) Every dealer as defined in s. 212.06(2)(c) who makes a  
597 remote ~~mail-order~~ sale is subject to the power of this state to  
598 levy and collect the tax imposed by this chapter when any of the  
599 following applies:

600 (a) The dealer is a corporation doing business under the  
601 laws of this state or is a person domiciled in, a resident of,  
602 or a citizen of, ~~this state.~~†

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

608 (c) The dealer has agents in this state who solicit  
609 business or transact business on behalf of the dealer,

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610 regardless of whether the remote ~~mail-order~~ sales thus subject  
611 to taxation by this state result from or are related in any  
612 other way to such solicitation or transaction of business. For  
613 purposes of this paragraph, ~~except that~~ a printer who mails or  
614 delivers for an out-of-state print purchaser material the  
615 printer printed for it is ~~shall~~ not be deemed to be the print  
616 purchaser's agent. ~~for purposes of this paragraph;~~

617 (d) The property was delivered in this state in fulfillment  
618 of a sales contract that was entered into in this state, in  
619 accordance with applicable conflict of laws rules, when a person  
620 in this state accepted an offer by ordering the property.†

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

629 (f) Through compact or reciprocity with another  
630 jurisdiction of the United States, that jurisdiction uses its  
631 taxing power and its jurisdiction over the retailer in support  
632 of this state's taxing power.†

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

635 (h) The dealer is subject to service of process under s.  
636 48.181.†

637 (i) The dealer's remote ~~mail-order~~ sales are subject to the  
638 power of this state to tax sales or to require the dealer to

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639 collect use taxes under a statute or statutes of the United  
640 States.~~†~~

641 (j) The dealer owns real property or tangible personal  
642 property that is physically in this state. For purposes of this  
643 paragraph, except that a dealer whose only property, (including  
644 property owned by an affiliate,) in this state is located at the  
645 premises of a printer with which the vendor has contracted for  
646 printing~~†~~ and is either a final printed product, ~~or~~ property  
647 that which becomes a part of the final printed product, or  
648 property from which the printed product is produced, is not  
649 deemed to own such property. ~~for purposes of this paragraph;†~~

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

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

667 (3) (a) Every person ~~dealer~~ engaged in the business of

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668 making a substantial number of remote ~~mail order~~ sales is a  
669 dealer for purposes of this chapter ~~subject to the requirements~~  
670 ~~of this chapter for cooperation of dealers in collection of~~  
671 ~~taxes and in administration of this chapter, except that no fee~~  
672 ~~shall be imposed upon such dealer for carrying out any required~~  
673 ~~activity.~~

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

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

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

683  
684 For purposes of this paragraph, tangible personal property  
685 delivered to a location within this state is presumed to be  
686 used, consumed, distributed, or stored to be used or consumed in  
687 this state.

688 (4) The department shall, with the consent of another  
689 jurisdiction of the United States whose cooperation is needed,  
690 enforce this chapter in that jurisdiction, either directly or,  
691 at the option of that jurisdiction, through its officers or  
692 employees.

693 (5) The tax required under this section to be collected and  
694 any amount unreturned to a purchaser that is not tax but was  
695 collected from the purchaser under the representation that it  
696 was tax constitute funds of the State of Florida from the moment

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697 of collection.

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

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

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

716 212.05965 Taxation of marketplace sales.-

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

718 (a) "Marketplace" means any physical place or electronic  
719 medium through which tangible personal property is offered for  
720 sale.

721 (b) "Marketplace provider" means a person who facilitates a  
722 retail sale by a marketplace seller by listing or advertising  
723 for sale by the marketplace seller tangible personal property in  
724 a marketplace, and who directly, or indirectly through  
725 agreements or arrangements with third parties, collects payment

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726 from the customer and transmits the payment to the marketplace  
727 seller, regardless of whether the marketplace provider receives  
728 compensation or other consideration in exchange for its  
729 services.

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

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

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

749 b. "Delivery network courier" means an individual who  
750 provides delivery services through a delivery network company  
751 website or mobile application using a personal means of  
752 transportation, such as a motor vehicle as defined in s.  
753 320.01(1), bicycle, scooter, or other similar means of  
754 transportation; using public transportation; or by walking.

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755 c. "Delivery services" means the pickup and delivery by a  
756 delivery network courier of one or more local products from a  
757 local merchant to a customer, which may include the selection,  
758 collection, and purchase of the local product in connection with  
759 the delivery. The term does not include any delivery requiring  
760 more than 75 miles of travel from the local merchant to the  
761 customer.

762 d. "Local merchant" means a kitchen, restaurant, or a  
763 third-party merchant, including a grocery store, retail store,  
764 convenience store, or business of another type, which is not  
765 under common ownership or control of the delivery network  
766 company.

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

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

774 (2) Every marketplace provider that has a physical presence  
775 in this state or that is making or facilitating through a  
776 marketplace a substantial number of remote sales as defined in  
777 s. 212.0596(3)(b) is subject to the requirements imposed by this  
778 chapter on dealers for registration and for the collection and  
779 remittance of taxes.

780 (3) A marketplace provider shall certify to its marketplace  
781 sellers that it will collect and remit the tax imposed under  
782 this chapter on taxable retail sales made through the  
783 marketplace. Such certification may be included in the agreement

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784 between the marketplace provider and marketplace seller.

785 (4) (a) A marketplace seller may not collect and remit the  
786 tax under this chapter on a taxable retail sale when the sale is  
787 made through the marketplace and the marketplace provider  
788 certifies, as required under subsection (3), that it will  
789 collect and remit such tax. A marketplace seller shall exclude  
790 such sales made through the marketplace from the marketplace  
791 seller's tax return under s. 212.11.

792 (b)1. A marketplace seller that has a physical presence in  
793 this state shall register and shall collect and remit the tax  
794 imposed under this chapter on all taxable retail sales made  
795 outside of the marketplace.

796 2. A marketplace seller making a substantial number of  
797 remote sales as defined in s. 212.0596(3)(b) shall register and  
798 shall collect and remit the tax imposed under this chapter on  
799 all taxable retail sales made outside of the marketplace. Sales  
800 made through the marketplace are not considered for the purposes  
801 of determining whether the seller has made a substantial number  
802 of remote sales.

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

812 (b) The marketplace provider is relieved of liability for

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813 the tax on the retail sale and the marketplace seller or  
814 customer is liable for the tax imposed under this chapter if the  
815 marketplace provider demonstrates to the department's  
816 satisfaction that the marketplace provider made a reasonable  
817 effort to obtain accurate information related to the retail  
818 sales facilitated through the marketplace from the marketplace  
819 seller, but that the failure to collect and pay the correct  
820 amount of tax imposed under this chapter was due to the  
821 marketplace seller providing incorrect or incomplete information  
822 to the marketplace provider. This paragraph does not apply to a  
823 retail sale for which the marketplace provider is the seller if  
824 the marketplace provider and marketplace seller are related  
825 parties or if transactions between a marketplace seller and  
826 marketplace buyer are not conducted at arm's length.

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

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

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

839 (9) For purposes of this section, the limitations in ss.  
840 213.30(3) and 213.756(2) apply.

841 (10) This section may not be construed to authorize the

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842 state to collect sales tax from both the marketplace provider  
843 and the marketplace seller on the same retail sale.

844 Section 6. Paragraph (c) of subsection (2) and paragraph  
845 (a) of subsection (5) of section 212.06, Florida Statutes, are  
846 amended to read:

847 212.06 Sales, storage, use tax; collectible from dealers;  
848 "dealer" defined; dealers to collect from purchasers;  
849 legislative intent as to scope of tax.-

850 (2)

851 (c) The term "dealer" is further defined to mean every  
852 person, as used in this chapter, who sells at retail or who  
853 offers for sale at retail, or who has in his or her possession  
854 for sale at retail; or for use, consumption, or distribution; or  
855 for storage to be used or consumed in this state, tangible  
856 personal property as defined herein, including a retailer who  
857 transacts a remote mail-order sale or who is a marketplace  
858 provider under s. 212.05965.

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

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

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

897 b. For purposes of this subparagraph, "a cooperating state"  
898 is one determined by the executive director of the department to  
899 cooperate satisfactorily with this state in collecting taxes on

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900 remote ~~mail-order~~ sales. No state shall be so determined unless  
901 it meets all the following minimum requirements:

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

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

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

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

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

923 c. For purposes of this subparagraph, "sales of tangible  
924 personal property to be transported to a cooperating state"  
925 means remote ~~mail-order~~ sales to a person who is in the  
926 cooperating state at the time the order is executed, from a  
927 dealer who receives that order in this state.

928 d. The tax levied by sub-subparagraph a. shall be at the

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929 rate at which such a sale would have been taxed pursuant to the  
930 cooperating state's tax laws if consummated in the cooperating  
931 state by a dealer and a purchaser, both of whom were physically  
932 present in that state at the time of the sale.

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

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

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

957 Section 7. Paragraph (a) of subsection (1) and paragraph

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958 (a) of subsection (5) of section 212.12, Florida Statutes, are  
959 amended to read:

960 212.12 Dealer's credit for collecting tax; penalties for  
961 noncompliance; powers of Department of Revenue in dealing with  
962 delinquents; brackets applicable to taxable transactions;  
963 records required.—

964 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose  
965 of compensating persons granting licenses for and the lessors of  
966 real and personal property taxed hereunder, for the purpose of  
967 compensating dealers in tangible personal property, for the  
968 purpose of compensating dealers providing communication services  
969 and taxable services, for the purpose of compensating owners of  
970 places where admissions are collected, and for the purpose of  
971 compensating remitters of any taxes or fees reported on the same  
972 documents utilized for the sales and use tax, as compensation  
973 for the keeping of prescribed records, filing timely tax  
974 returns, and the proper accounting and remitting of taxes by  
975 them, such seller, person, lessor, dealer, owner, and remitter  
976 ~~(except dealers who make mail order sales)~~ who files the return  
977 required pursuant to s. 212.11 only by electronic means and who  
978 pays the amount due on such return only by electronic means  
979 shall be allowed 2.5 percent of the amount of the tax due,  
980 accounted for, and remitted to the department in the form of a  
981 deduction. However, if the amount of the tax due and remitted to  
982 the department by electronic means for the reporting period  
983 exceeds \$1,200, an allowance is not allowed for all amounts in  
984 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,  
985 the term "electronic means" has the same meaning as provided in  
986 s. 213.755(2) (c).

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987       ~~2. The executive director of the department is authorized~~  
988 ~~to negotiate a collection allowance, pursuant to rules~~  
989 ~~promulgated by the department, with a dealer who makes mail~~  
990 ~~order sales. The rules of the department shall provide~~  
991 ~~guidelines for establishing the collection allowance based upon~~  
992 ~~the dealer's estimated costs of collecting the tax, the volume~~  
993 ~~and value of the dealer's mail order sales to purchasers in this~~  
994 ~~state, and the administrative and legal costs and likelihood of~~  
995 ~~achieving collection of the tax absent the cooperation of the~~  
996 ~~dealer. However, in no event shall the collection allowance~~  
997 ~~negotiated by the executive director exceed 10 percent of the~~  
998 ~~tax remitted for a reporting period.~~

999       (5) (a) The department is authorized to audit or inspect the  
1000 records and accounts of dealers defined herein, including audits  
1001 or inspections of dealers who make remote mail order sales ~~to~~  
1002 ~~the extent permitted by another state~~, and to correct by credit  
1003 any overpayment of tax, and, in the event of a deficiency, an  
1004 assessment shall be made and collected. No administrative  
1005 finding of fact is necessary prior to the assessment of any tax  
1006 deficiency.

1007       Section 8. Paragraph (f) of subsection (3) of section  
1008 212.18, Florida Statutes, is amended to read:

1009       212.18 Administration of law; registration of dealers;  
1010 rules.—

1011       (3)

1012       (f) As used in this paragraph, the term "exhibitor" means a  
1013 person who enters into an agreement authorizing the display of  
1014 tangible personal property or services at a convention or a  
1015 trade show. The following provisions apply to the registration

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1016 of exhibitors as dealers under this chapter:

1017 1. An exhibitor whose agreement prohibits the sale of  
1018 tangible personal property or services subject to the tax  
1019 imposed in this chapter is not required to register as a dealer.

1020 2. An exhibitor whose agreement provides for the sale at  
1021 wholesale only of tangible personal property or services subject  
1022 to the tax imposed by this chapter must obtain a resale  
1023 certificate from the purchasing dealer but is not required to  
1024 register as a dealer.

1025 3. An exhibitor whose agreement authorizes the retail sale  
1026 of tangible personal property or services subject to the tax  
1027 imposed by this chapter must register as a dealer and collect  
1028 the tax on such sales.

1029 4. An exhibitor who makes a remote ~~mail order~~ sale pursuant  
1030 to s. 212.0596 must register as a dealer.

1031  
1032 A person who conducts a convention or a trade show must make his  
1033 or her exhibitor's agreements available to the department for  
1034 inspection and copying.

1035 Section 9. For the purpose of incorporating the amendment  
1036 made by this act to section 212.0596, Florida Statutes, in a  
1037 reference thereto, subsection (4) of section 212.20, Florida  
1038 Statutes, is reenacted to read:

1039 212.20 Funds collected, disposition; additional powers of  
1040 department; operational expense; refund of taxes adjudicated  
1041 unconstitutionally collected.—

1042 (4) When there has been a final adjudication that any tax  
1043 pursuant to s. 212.0596 was levied, collected, or both, contrary  
1044 to the Constitution of the United States or the State

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1045 Constitution, the department shall, in accordance with rules,  
1046 determine, based upon claims for refund and other evidence and  
1047 information, who paid such tax or taxes, and refund to each such  
1048 person the amount of tax paid. For purposes of this subsection,  
1049 a "final adjudication" is a decision of a court of competent  
1050 jurisdiction from which no appeal can be taken or from which the  
1051 official or officials of this state with authority to make such  
1052 decisions has or have decided not to appeal.

1053 Section 10. (1) The Department of Revenue is authorized,  
1054 and all conditions are deemed met, to adopt emergency rules  
1055 pursuant to s. 120.54(4), Florida Statutes, for the purpose of  
1056 administering this act.

1057 (2) Notwithstanding any other law, emergency rules adopted  
1058 pursuant to subsection (1) are effective for 6 months after  
1059 adoption and may be renewed during the pendency of procedures to  
1060 adopt permanent rules addressing the subject of the emergency  
1061 rules.

1062 (3) This section shall take effect upon this act becoming a  
1063 law and expires July 1, 2021.

1064 Section 11. If any provision of this act or its application  
1065 to any person or circumstance is held invalid, the invalidity  
1066 does not affect other provisions or applications of the act  
1067 which can be given effect without the invalid provision or  
1068 application, and to this end the provisions of this act are  
1069 severable.

1070 Section 12. Except as otherwise expressly provided in this  
1071 act and except for this section, which shall take effect upon  
1072 this act becoming a law, this act shall take effect July 1,  
1073 2020.