

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.