



273154

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/01/2011	.	
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The Committee on Budget (Thrasher) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 460 and 461  
insert:

Section 11. Paragraph (h) of subsection (1) of section  
212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be  
the legislative intent that every person is exercising a taxable  
privilege who engages in the business of selling tangible  
personal property at retail in this state, including the  
business of making mail order sales, or who rents or furnishes  
any of the things or services taxable under this chapter, or who  
stores for use or consumption in this state any item or article



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14 of tangible personal property as defined herein and who leases  
15 or rents such property within the state.

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

19 (h) 1.a. Except as provided in subparagraph b., a tax is  
20 imposed at the rate of 4 percent on the charges for the use of  
21 coin-operated amusement machines. The tax shall be calculated by  
22 dividing the gross receipts from such charges for the applicable  
23 reporting period by a divisor, determined as provided in this  
24 subparagraph, to compute gross taxable sales, and then  
25 subtracting gross taxable sales from gross receipts to arrive at  
26 the amount of tax due. For counties that do not impose a  
27 discretionary sales surtax, the divisor is equal to 1.04; for  
28 counties that impose a 0.5 percent discretionary sales surtax,  
29 the divisor is equal to 1.045; for counties that impose a 1  
30 percent discretionary sales surtax, the divisor is equal to  
31 1.050; and for counties that impose a 2 percent sales surtax,  
32 the divisor is equal to 1.060. If a county imposes a  
33 discretionary sales surtax that is not listed in this  
34 subparagraph, the department shall make the applicable divisor  
35 available in an electronic format or otherwise. Additional  
36 divisors shall bear the same mathematical relationship to the  
37 next higher and next lower divisors as the new surtax rate bears  
38 to the next higher and next lower surtax rates for which  
39 divisors have been established. When a machine is activated by a  
40 slug, token, coupon, or any similar device which has been  
41 purchased, the tax is on the price paid by the user of the  
42 device for such device.



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43           b. A tax is imposed at the rate of 1 percent on the charges  
44 for the use of coin-operated amusement machines operated on the  
45 licensed premises of a pari-mutuel facility located in a city or  
46 county that chooses to license the use of such machines and  
47 imposes an additional licensing fee or other fees on the  
48 operator or the machines located at pari-mutuel facilities  
49 within the jurisdiction of the county or city. The tax shall be  
50 calculated by dividing the gross receipts from such charges for  
51 the applicable reporting period by a divisor, determined as  
52 provided in this sub-subparagraph, to compute gross taxable  
53 sales, and then subtracting gross taxable sales from gross  
54 receipts to arrive at the amount of tax due. For this sub-  
55 subparagraph, the divisor is equal to 1.01.

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

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

64           b. If the owner or lessee of the machine is also its  
65 operator, he or she shall be liable for payment of the tax on  
66 the purchase or lease of the machine, as well as the tax on  
67 sales generated through the machine.

68           c. If the proprietor of the business where the machine is  
69 located does not own the machine, he or she shall be deemed to  
70 be the lessee and operator of the machine and is responsible for  
71 the payment of the tax on sales, unless such responsibility is



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72 otherwise provided for in a written agreement between him or her  
73 and the machine owner.

74 3.a. An operator of a coin-operated amusement machine may  
75 not operate or cause to be operated in this state any such  
76 machine until the operator has registered with the department  
77 and has conspicuously displayed an identifying certificate  
78 issued by the department. The identifying certificate shall be  
79 issued by the department upon application from the operator. The  
80 identifying certificate shall include a unique number, and the  
81 certificate shall be permanently marked with the operator's  
82 name, the operator's sales tax number, and the maximum number of  
83 machines to be operated under the certificate. An identifying  
84 certificate shall not be transferred from one operator to  
85 another. The identifying certificate must be conspicuously  
86 displayed on the premises where the coin-operated amusement  
87 machines are being operated.

88 b. The operator of the machine must obtain an identifying  
89 certificate before the machine is first operated in the state  
90 and by July 1 of each year thereafter. The annual fee for each  
91 certificate shall be based on the number of machines identified  
92 on the application times \$30 and is due and payable upon  
93 application for the identifying device. The application shall  
94 contain the operator's name, sales tax number, business address  
95 where the machines are being operated, and the number of  
96 machines in operation at that place of business by the operator.  
97 No operator may operate more machines than are listed on the  
98 certificate. A new certificate is required if more machines are  
99 being operated at that location than are listed on the  
100 certificate. The fee for the new certificate shall be based on



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101 the number of additional machines identified on the application  
102 form times \$30.

103 c. A penalty of \$250 per machine is imposed on the operator  
104 for failing to properly obtain and display the required  
105 identifying certificate. A penalty of \$250 is imposed on the  
106 lessee of any machine placed in a place of business without a  
107 proper current identifying certificate. Such penalties shall  
108 apply in addition to all other applicable taxes, interest, and  
109 penalties.

110 d. Operators of coin-operated amusement machines must  
111 obtain a separate sales and use tax certificate of registration  
112 for each county in which such machines are located. One sales  
113 and use tax certificate of registration is sufficient for all of  
114 the operator's machines within a single county.

115 4. The provisions of this paragraph do not apply to coin-  
116 operated amusement machines owned and operated by churches or  
117 synagogues.

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

122 6. The department may adopt rules necessary to administer  
123 the provisions of this paragraph.

124  
125 ===== T I T L E A M E N D M E N T =====

126 And the title is amended as follows:

127 Delete line 41

128 and insert:

129 review erroneous tax certificates; amending s. 212.05,



130 F.S.; imposing a tax on the charges for the use of  
131 coin-operated amusement machines operated on the  
132 licensed premises of a pari-mutuel facility located in  
133 certain cities or counties; amending s. 213.69