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LEGISLATIVE ACTION

Senate	.	House
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Floor: WD	.	
03/09/2012 10:02 PM	.	
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Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Between lines 318 and 319
insert:

Section 2. Subsection (2) of section 212.0596, Florida
Statutes, is amended to read:

212.0596 Taxation of mail order sales.—

(2) Every dealer as defined in s. 212.06(2)(c) who makes a
mail order sale is subject to the power of this state to levy
and collect the tax imposed by this chapter when:

(a) The dealer is a corporation doing business under the
laws of this state or a person domiciled in, a resident of, or a
citizen of, this state;



401932

14 (b) The dealer maintains retail establishments or offices
15 in this state, whether the mail order sales thus subject to
16 taxation by this state result from or are related in any other
17 way to the activities of such establishments or offices;

18 (c) The dealer has agents in this state who solicit
19 business or transact business on behalf of the dealer, whether
20 the mail order sales thus subject to taxation by this state
21 result from or are related in any other way to such solicitation
22 or transaction of business, except that a printer who mails or
23 delivers for an out-of-state print purchaser material the
24 printer printed for it shall not be deemed to be the print
25 purchaser's agent for purposes of this paragraph;

26 (d) The property was delivered in this state in fulfillment
27 of a sales contract that was entered into in this state, in
28 accordance with applicable conflict of laws rules, when a person
29 in this state accepted an offer by ordering the property;

30 (e) The dealer, by purposefully or systematically
31 exploiting the market provided by this state by any media-
32 assisted, media-facilitated, or media-solicited means,
33 including, but not limited to, direct mail advertising,
34 unsolicited distribution of catalogs, computer-assisted
35 shopping, television, radio, or other electronic media, or
36 magazine or newspaper advertisements or other media, creates
37 nexus with this state;

38 (f) Through compact or reciprocity with another
39 jurisdiction of the United States, that jurisdiction uses its
40 taxing power and its jurisdiction over the retailer in support
41 of this state's taxing power;

42 (g) The dealer consents, expressly or by implication, to



401932

43 the imposition of the tax imposed by this chapter;

44 (h) The dealer is subject to service of process under s.
45 48.181;

46 (i) The dealer's mail order sales are subject to the power
47 of this state to tax sales or to require the dealer to collect
48 use taxes under a statute or statutes of the United States;

49 (j) The dealer owns real property or tangible personal
50 property that is physically in this state, except that a dealer
51 whose only property (including property owned by an affiliate)
52 in this state is located at the premises of a printer with which
53 the vendor has contracted for printing, and is either a final
54 printed product, or property which becomes a part of the final
55 printed product, or property from which the printed product is
56 produced, is not deemed to own such property for purposes of
57 this paragraph;

58 (k) The dealer and any affiliated person that,
59 notwithstanding its form of organization, bears the same
60 relationship to the dealer as, ~~while not having nexus with this~~
61 ~~state on any of the bases described in paragraphs (a) - (j) or~~
62 ~~paragraph (l),~~ is a corporation that is a member of an
63 affiliated group of corporations, as defined in s. 1504(a) of
64 the Internal Revenue Code, whose members are includable under s.
65 1504(b) of the Internal Revenue Code, and whose members are
66 eligible to file a consolidated tax return for federal corporate
67 income tax purposes bears to ~~and any parent or subsidiary~~
68 corporation in the affiliated group; the affiliated person has
69 nexus with this state; and: ~~on one or more of the bases~~
70 ~~described in paragraphs (a) - (j) or paragraph (l); or~~

71 1. The dealer sells a similar line of products as the



72 affiliated person and does so under the same or a similar
73 business name;

74 2. The affiliated person uses its in-state employees or in-
75 state facilities to advertise, promote, or facilitate sales by
76 the dealer to customers;

77 3. The affiliated person maintains an office, distribution
78 facility, warehouse, storage place, or similar place of business
79 in this state to facilitate the delivery of property or services
80 sold by the dealer to the dealer's customers;

81 4. The affiliated person uses trademarks, service marks, or
82 trade names in this state which are the same or substantially
83 similar to those used by the dealer; or

84 5. The affiliated person delivers, installs, assembles, or
85 performs maintenance services for the dealer's customers within
86 this state; or

87 (1) The dealer or the dealer's activities have sufficient
88 connection with or relationship to this state or its residents
89 of some type other than those described in paragraphs (a)-(k) to
90 create nexus empowering this state to tax its mail order sales
91 or to require the dealer to collect sales tax or accrue use tax.

93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete line 6

96 and insert:

97 rock; amending s. 212.0596, F.S.; revising the
98 conditions, requirements, and criteria that subject a
99 dealer to the state's power to impose and collect the
100 tax on sales, use, and other transactions on mail



401932

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order sales; amending s. 212.07, F.S.; conforming a
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