

Tab 2	SB 130 by Hutson ; (Identical to H 00071) Florida Job Growth Grant Fund
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Tab 3	SB 126 by Gruters (CO-INTRODUCERS) Hooper, Gainer, Baxley, Perry, Harrell, Albritton ; (Similar to H 00159) Sales and Use Tax
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Gruters, Chair
Senator Torres, Vice Chair

MEETING DATE: Tuesday, October 15, 2019
TIME: 9:00—10:30 a.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Gruters, Chair; Senator Torres, Vice Chair; Senators Hutson, Stewart, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by Dana Young, President and CEO of VISIT FLORIDA		Presented
2	SB 130 Hutson (Identical H 71)	Florida Job Growth Grant Fund; Authorizing the Governor to approve workforce training grants to certain charter schools under the Florida Job Growth Grant Fund; authorizing certain charter schools to apply for specified grant funds, etc. CM 10/15/2019 Favorable ED AP	Favorable Yeas 5 Nays 0
3	SB 126 Gruters (Similar H 159)	Sales and Use Tax; Revising the definition of the term "retail sale"; renaming the term "mail order sale" to "remote sale" and revising the definition; revising conditions under which certain dealers are subject to sales tax levies and collection; providing that certain marketplace providers are subject to registration, collection, and remittance requirements for sales taxes, etc. CM 10/15/2019 Favorable FT AP	Favorable Yeas 5 Nays 0
4	Other Related Meeting Documents		

VISIT FLORIDA: Delivering Value for Floridians

Senate Committee on Commerce and Tourism

VISITFLORIDA[®]



What is VISIT FLORIDA?

> Record-breaking success

- > More visitors
- > More contributions to Florida's economy
- > More bookings to Florida
- > More media impressions
- > More jobs

VISITFLORIDA[®]



According to the Office of Economic & Demographic Research

- > Currently, tourism-related revenue losses pose the greatest potential risk to the economic outlook
- > Tourism accounted for 13.4% (more than \$3.22 BILLION) of total state sales tax collections in Fiscal Year 2017-18



TOURISM IS FLORIDA'S TOP ECONOMIC DRIVER

In 2017, out-of-state visitors added
\$85.9 BILLION
to Florida's economy. That's more
than the entire GDP of 12 states.

Source: Rockport Analytics, Bureau of Economic Analysis

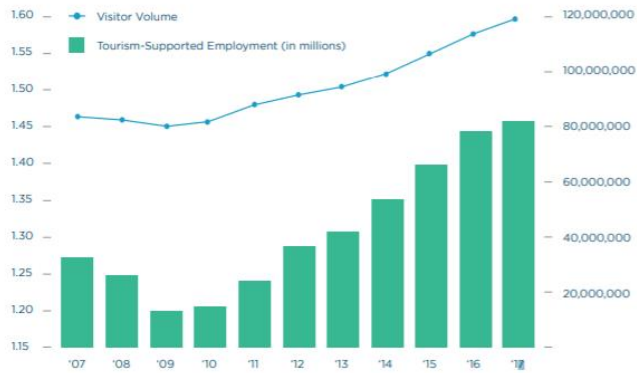
127.0 MILLION
VISITORS

came to Florida in 2018, an 8th
consecutive year of record visitation.

VISIT FLORIDA marketing drives
out-of-state visitors to all of Florida's
67 COUNTIES.

FLORIDA TOURISM IS GROWING FASTER THAN...

**THE U.S. ECONOMY, CONSUMER SPENDING, HEALTH CARE SPENDING,
& SPENDING ON RECREATION.** Source: Rockport Analytics, Bureau of Economic Analysis



Source: Tourism Economics, Rockport Analytics

VISIT FLORIDA IS A SMART INVESTMENT

According to the Florida Legislature's Chief Economist,
every \$1 invested in VISIT FLORIDA yields a
\$2.15 RETURN
on investment to Florida's taxpayers.

People exposed to VISIT FLORIDA's digital advertising in
2018 were almost
TWICE AS LIKELY
to visit Florida and had a more favorable view of the state.

Source: Arrivalist, OmniTrak





FOLLOW YOUR SUNSHINE >

VISIT FLORIDA

VISIT FLORIDA

Pack less, enjoy more.

Find your Mini Vacay.

ESTO, ES, TODO.

SIGUE TU SOL >

VISIT FLORIDA

Enjoy a moment of sunshine.

FIND YOURS >

LOVE, FLORIDA

FOLLOW YOUR SUNSHINE

FOLLOW YOUR SUNSHINE >

VISIT FLORIDA

THIS IS LOCALLY SOURCED SUNSHINE

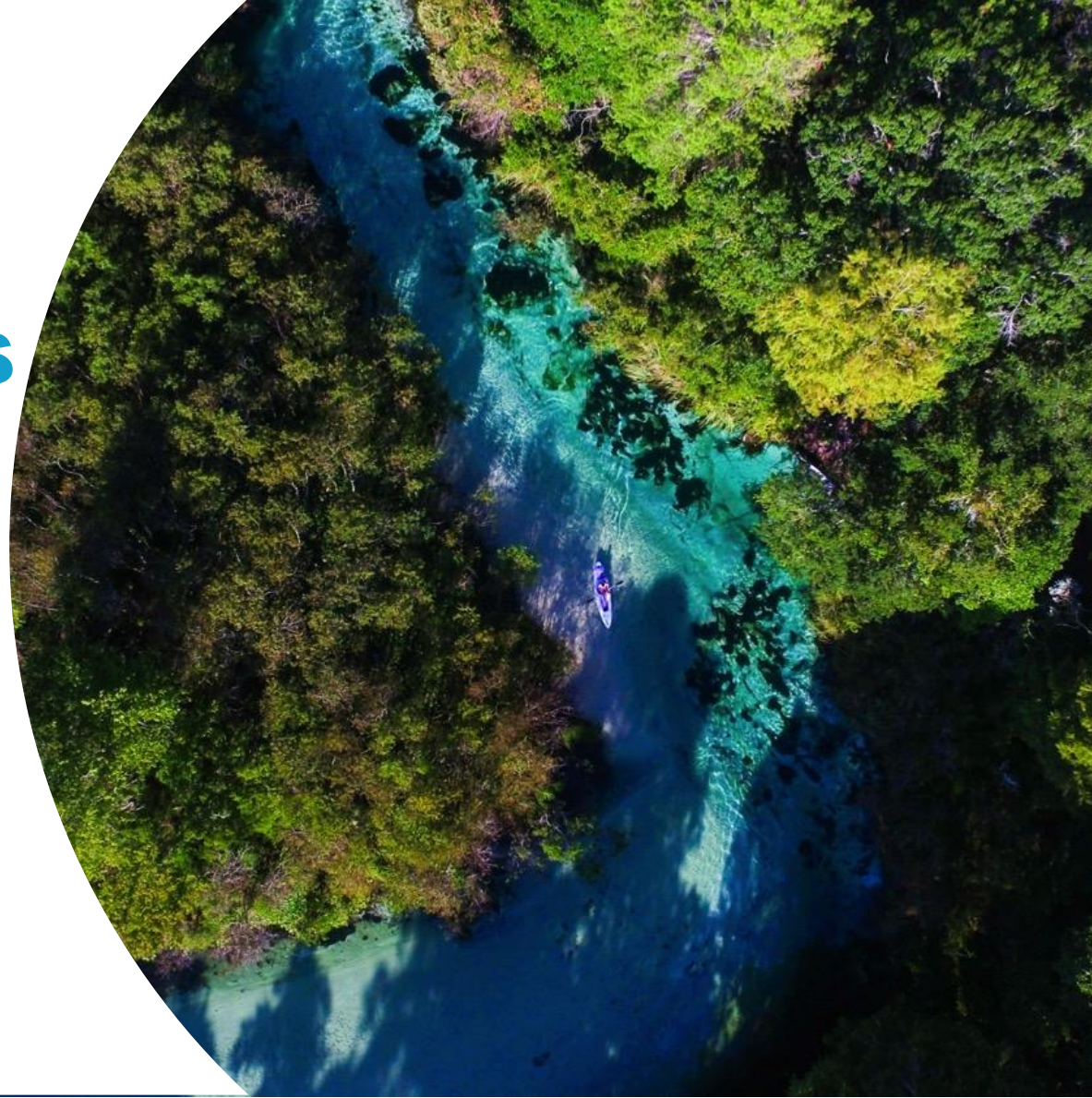
THIS IS EVERYTHING.

FOLLOW YOUR SUNSHINE

VISIT FLORIDA

Recent Accomplishments

VISITFLORIDA[®]



Recent Accomplishments

2018 Adventure Seekers Campaign

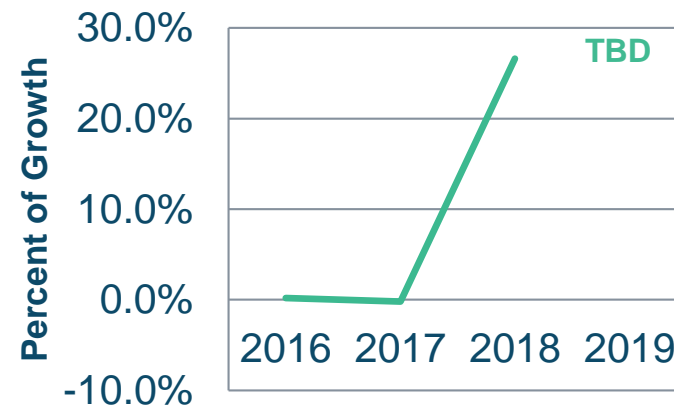
- > 204 million national impressions
- > Consumers who saw digital ads were more than **2x as likely** to later come to Florida
- > Consumers who visited the adventure website were more than **4x times as likely** to later visit Florida



26.6%

Percent of growth in adventure trips to Florida in 2018

Adventure Trips to Florida



Recent Accomplishments



2018 Family Memory Makers Campaign

- > **1.1 billion** national impressions
- > Consumers who saw digital marketing were **2x as likely** to later come to Florida
- > Consumers who visited the families website were **3x as likely** to later visit Florida
- > **95:1 return** on ad spend



24.4%

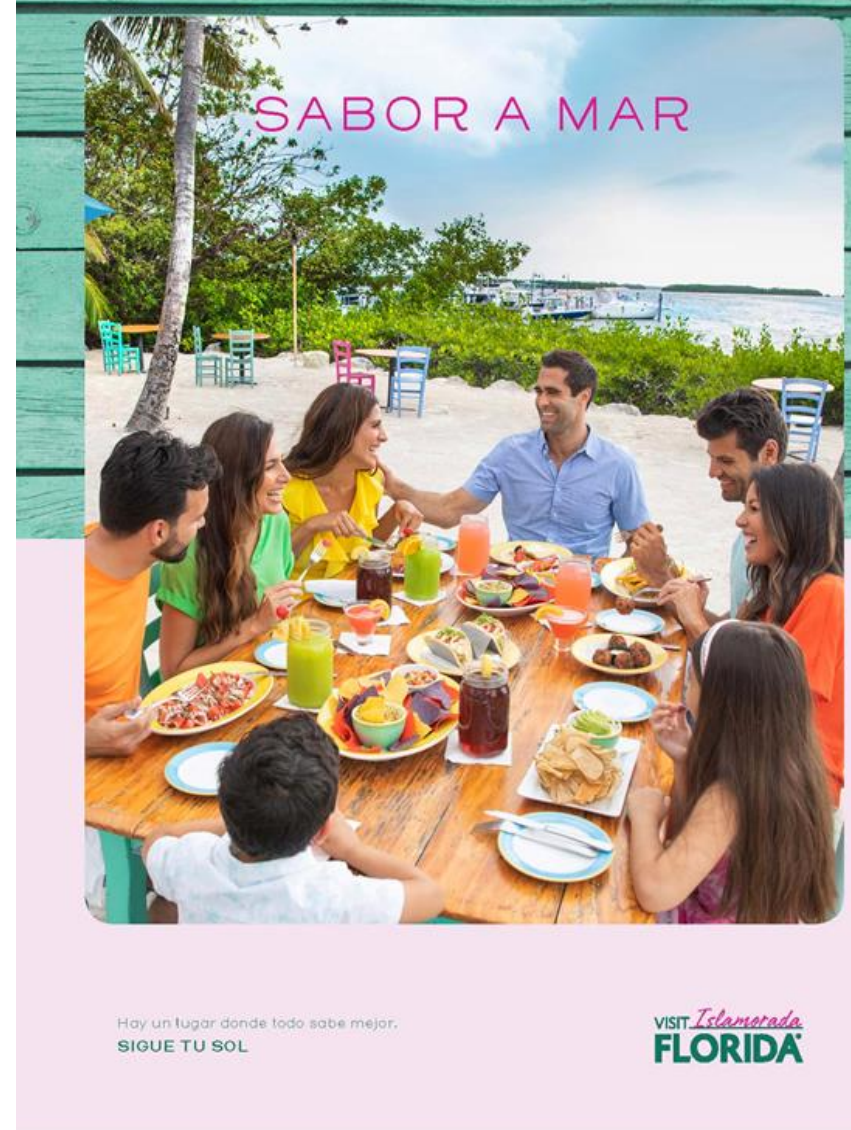
Percent of growth in family trips to Florida in 2018 compared to previous year

Recent Accomplishments



International and Domestic Visitors

- Since 2012, Florida's international market share has increased from 22.1 to 24.4 percent
 - Other states, such as New York, Nevada and Hawaii, have seen their international market shares decrease
- Domestically, Florida is the top vacation destination for U.S. visitors, families, beach travelers, Baby Boomers, Gen Xers, Millennials and African Americans





VISIT FLORIDA Helps the State Recover from Crisis

VISITFLORIDA[®]



Following Times of Crisis



VISIT FLORIDA plays a vital role in response and recovery

- > VISIT FLORIDA is the only organization solely committed to safeguarding Florida's brand perception

VISITFLORIDA[®]



VISIT FLORIDA is Vital

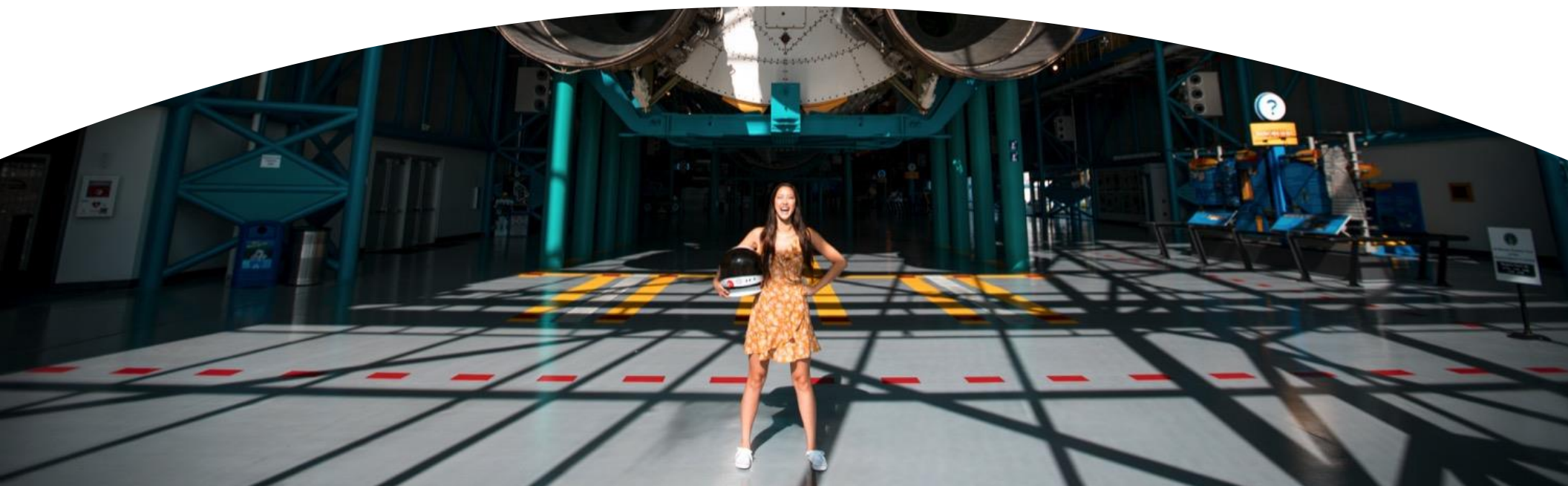
- **SB 362** from Senator Ed Hooper & **HB 213** from Representative Mel Ponder reauthorize VISIT FLORIDA for eight years

VISITFLORIDA[®]



Thank you!

VISITFLORIDA®



The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 130

INTRODUCER: Senator Hutson

SUBJECT: Florida Job Growth Grant Fund

DATE: October 14, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Favorable
2.			ED	
3.			AP	

I. Summary:

SB 130 authorizes the Governor to approve workforce training grants from the Florida Job Growth Grant Fund to certain charter schools.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Job Growth Grant Fund

The Florida Job Growth Grant Fund (fund) was created in 2017 to promote economic opportunity by improving public infrastructure and enhancing workforce training. The fund is housed within the Department of Economic Opportunity (department) and may not be used for the exclusive benefit of any single company, corporation, or business entity.¹

Section 288.101, F.S., provides that the department and Enterprise Florida, Inc., a nonprofit corporation acting as the state's economic development organization, may identify projects, solicit proposals, and make funding recommendations to the Governor. The Governor is authorized to approve:

- State or local public infrastructure projects² to promote economic recovery in specific regions of the state, economic diversification, or economic enhancement in a targeted industry;³

¹ Ch. 2017-233, s. 15, Laws of Fla.

² Section 288.101(3)(b), F.S., defines public infrastructure as infrastructure that is owned by the public, and is for public use or predominately benefits the public.

³ Section 288.101(3)(c), F.S., defines targeted industry as any industry identified in the most recent list provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives in accordance with s. 288.106(2)(q), F.S.

- Infrastructure funding to accelerate the rehabilitation of the Herbert Hoover Dike;⁴ and
- Workforce training grants to support programs at state colleges and state technical centers that provide participants with transferable, sustainable workforce skills applicable to more than a single employer, and for equipment with these programs. The department must work with CareerSource Florida to ensure programs are offered to the public based on criteria established by the state college or technical center and do not exclude applicants who are unemployed or underemployed.

Eligible entities must submit an application that provides a description of how a proposed project will promote economic opportunity and a breakdown of its estimated costs,⁵ though the application process is not provided for in statute. There are currently no statutory limits on the amount of funds that can be requested per project, the number of projects that may be approved, the number of approved projects that must promote public infrastructure versus workforce training, or the time period for which an approved project may receive funds.⁶

During the 2018-2019 fiscal year the fund was appropriated \$85 million,⁷ and 15 infrastructure projects and eight workforce training projects were approved.⁸

The fund was appropriated \$40 million for Fiscal Year 2019-2020.⁹

Career and Technical Education

The Career and Technical Education (CTE) graduation pathway was established in the 2019 Regular Session as an alternative pathway to earning a standard high school diploma. A student completing the CTE pathway option must meet specified grade point average requirements; fulfill the requirements of the statewide, standardized assessment requirements to receive a standard high school diploma; and complete certain credits in career and technical education and work-based learning programs.¹⁰ The CTE Programs section of the Department of Education is responsible for developing and maintaining programs that prepare students for occupations in 17 career clusters important to Florida's economic development, such as agriculture, food, and natural resources; engineering and technology education; and transportation, distribution, and logistics.¹¹

⁴ Section 288.101(3)(a), F.S., defines infrastructure as any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of facilities that have a left expectancy of five or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

⁵ Applications for infrastructure and workforce training projects can be found at <https://www.enterpriseflorida.com/florida-job-growth-grant-fund/>.

⁶ Florida Department of Economic Opportunity, *Florida Job Growth Grant Fund Frequently Asked Questions*, <http://floridajobs.org/docs/default-source/communicationsfiles/florida-job-growth-grant-fund-faq--08092019.pdf?sfvrsn=8> (last visited Oct. 14, 2019).

⁷ Ch. 2018-9, s. 6, Laws of Fla.

⁸ Florida Department of Economic Opportunity, *Florida Job Growth Grant Fund Awarded Proposals 2018-2019*, <http://www.floridajobs.org/jobgrowth/2018-19-awarded-proposals> (last visited Oct. 14, 2019).

⁹ Ch. 2019-115, s. 6, Laws of Fla.

¹⁰ Section 1003.4282(11), F.S.

¹¹ Florida Department of Education, *Career and Technical Education*, <http://cdn.fldoe.org/academics/career-adult-edu/career-tech-edu/> (last visited Oct. 14, 2019).

III. Effect of Proposed Changes:

The bill amends ss. 288.101 and 1002.33, F.S., authorizing the Governor to approve workforce training grants to support programs at charter schools that exclusively offer the Career and Technical Education graduation pathway pursuant to s. 1003.4282(11). Charter schools that exclusively offer the CTE pathway would be eligible to apply for grant funds available through the Florida Job Growth Grant Fund. Because application requirements for the fund are not provided for in statute, the submission requirements may be subject to change with the implementation of the bill.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 288.101 and 1002.33.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Hutson

7-00138-20

2020130__

1 A bill to be entitled
 2 An act relating to the Florida Job Growth Grant Fund;
 3 amending s. 288.101, F.S.; authorizing the Governor to
 4 approve workforce training grants to certain charter
 5 schools under the Florida Job Growth Grant Fund;
 6 amending s. 1002.33, F.S.; authorizing certain charter
 7 schools to apply for specified grant funds; providing
 8 an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (d) is added to subsection (2) of
 13 section 288.101, Florida Statutes, to read:

14 288.101 Florida Job Growth Grant Fund.—

15 (2) The department and Enterprise Florida, Inc., may
 16 identify projects, solicit proposals, and make funding
 17 recommendations to the Governor, who is authorized to approve:

18 (d) Workforce training grants to support programs at
 19 charter schools that exclusively offer the Career and Technical
 20 Education graduation pathway option pursuant to s.
 21 1003.4282(11).

22 Section 2. Paragraph (i) is added to subsection (17) of
 23 section 1002.33, Florida Statutes, to read:

24 1002.33 Charter schools.—

25 (17) FUNDING.—Students enrolled in a charter school,
 26 regardless of the sponsorship, shall be funded as if they are in
 27 a basic program or a special program, the same as students
 28 enrolled in other public schools in the school district. Funding
 29 for a charter lab school shall be as provided in s. 1002.32.

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00138-20

2020130__

30 (i) A charter school that exclusively offers the Career and
 31 Technical Education graduation pathway option pursuant to s.
 32 1003.4282(11) is eligible to apply for a workforce training
 33 grant under s. 288.101.

34 Section 3. This act shall take effect July 1, 2020.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Joseph Gruters, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: September 17, 2019

I respectfully request that **Senate Bill #130**, relating to Florida Job Growth Grant Fund, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, appearing to read "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

OCT 15, 2019

Meeting Date

SB130

Bill Number (if applicable)

Topic FL JOB GROWTH GRANT FUND

Amendment Barcode (if applicable)

Name DANE BENNETT

Job Title DIRECTOR OF GOV. AFFAIRS

Address 2600 CENTENNIAL PLACE

Phone 941-468-8479

Street

TALLAHASSEE

FL

32308

Email DBENNETT@FHBA.COM

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

WAVE

Representing FL HOME BUILDERS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 126

INTRODUCER: Senator Gruters

SUBJECT: Sales and Use Tax

DATE: October 14, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 126 requires retailers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the retailer makes a substantial number of sales into Florida, and provides for the taxation of sales facilitated through a marketplace provider.

Except as otherwise provided, the bill takes effect July 1, 2020.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax (sales tax) on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and is collected from the purchaser at the time of sale.⁴ Sales tax receipts are estimated to account for 77 percent of the state's General Revenue Fund in Fiscal Year 2018-2019.⁵

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ Florida Dept. of Revenue, *Florida Sales and Use Tax*, available at http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited Oct. 14, 2019).

⁵ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, Sources of General Revenue, (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Oct. 14, 2019).

In addition to the sales tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.⁷

Remote Sales and Tax Collection

As discussed above, sales tax is added to the price of taxable goods and the selling dealer is required to collect the tax from the purchaser at the time of sale.⁸ A dealer then remits the collected taxes to the Department of Revenue (department).⁹

Florida imposes a use tax on items sold by an out-of-state dealer and delivered to the in-state purchaser via mail.¹⁰ However, use tax compliance is notoriously low.

States would prefer to have the out-of-state dealer collect the state’s sales tax at the time of sale and remit those taxes to the state. Recently, the U.S. Supreme Court interpreted the Commerce Clause of the U.S. Constitution to require that a dealer have a “substantial nexus” with the taxing state before the taxing state may require the dealer to collect its sales taxes.¹¹ For decades, the U.S. Supreme Court has interpreted the substantial nexus requirement to require that the dealer have a physical presence (people or property) within the taxing state.¹² The Court reasoned that to allow a taxing state to require a dealer located outside the taxing state to collect tax on behalf of the taxing state was an undue burden on interstate commerce.¹³

To accommodate the “physical presence” standard, Florida, in 1987, adopted its “mail order sales statute,” which defines a mail order sale to be the sale of tangible personal property, ordered from a dealer who receives the order in another state and then causes the property to be transported to a person in this state.¹⁴ Although the statute describes dealers who “receive [orders] in another state,” application of the statute was still limited by the U.S. Supreme Court’s physical presence standard. In fact, much of the statute is written in terms of being physically present within Florida.¹⁵

⁶ Section 212.054, F.S.

⁷ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida’s Counties, 224-225 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Oct. 14, 2019).

⁸ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited October 14, 2019).

⁹ Section 212.15, F.S.

¹⁰ See s. 212.06, F.S.

¹¹ See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).

¹² *National Bellas Hess, Inc., v. Illinois*, 386 U.S. 753 (1967); *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).

¹³ *Quill Corporation v. North Dakota*, at 314-315.

¹⁴ See s. 212.0596(1), F.S.

¹⁵ See s. 212.0596(2)(j), F.S. (requiring dealers to collect tax on mail order sales if the dealer owns real property or tangible personal property that is physically in this state...).

The Wayfair Decision

On June 21, 2018, the U.S. Supreme Court decided *South Dakota v. Wayfair*.¹⁶ *Wayfair* involved a new South Dakota sales tax collection statute and Wayfair, Inc., a large online retailer that sells and ships tangible personal property to customers all over the United States. At the time of the decision, Wayfair, Inc., had no physical presence in South Dakota.

The *Wayfair* decision overturned the “physical presence test.” The removal of the physical presence test will expand states’ ability to collect sales taxes; however, the foundational constitutional requirement (substantial nexus) remains in place, and thus, the extent of states’ authority is largely unknown at this time.

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states’ sales and use tax.

For example:

- The South Dakota law only requires remote sellers with \$100,000 of sales or 200 individual transactions into South Dakota to collect tax. The law effectively has a “small seller exception” allowing small retailers—theoretically the ones most burdened by remote sales tax collection—to avoid collection responsibilities.
- The South Dakota law does not apply retroactively.
- South Dakota is a member of the Streamlined Sales and Use Tax Agreement.

Taxation of Mail Order Sales

Section 212.0596, F.S., establishes when a dealer¹⁷ who makes a mail-order sale is subject to Florida’s sales tax. A “mail-order sale” is sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported to a person in Florida.

Every dealer as defined in s. 212.06(2)(c), F.S., who makes a mail-order sale is subject to the power of Florida to levy and collect the tax imposed by this ch. 212, F.S., when:

- The dealer is a corporation doing business under the laws of this state or is a person domiciled in, a resident of, or a citizen of, this state.
- The dealer maintains retail establishments or offices in Florida.
- The dealer has agents in Florida who solicit business or transact business on behalf of the dealer.
- The property was delivered in Florida in fulfillment of a sales contract that was entered into in Florida when a person in Florida accepted an offer by ordering the property.
- The dealer, by purposefully or systematically exploiting the market provided by Florida by any media-assisted, media-facilitated, or media-solicited means, creates nexus with Florida.

¹⁶ *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

¹⁷ Section 212.06(2)(a), F.S., defines “dealer” as every person, who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in Florida.

- Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of Florida's taxing power.
- The dealer consents, expressly or by implication, to the imposition of the tax imposed by ch. 212, F.S.
- The dealer is subject to service of process under s. 48.181, F.S.
- The dealer's remote sales are subject to the power of Florida to tax sales or to require the dealer to collect use taxes under a statute or statutes of the United States.
- The dealer owns real property or tangible personal property that is physically in Florida.
- The dealer is a corporation that is a member of an affiliated group of corporations and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with Florida.
- The dealer or the dealer's activities, other than those described above, result in making a substantial number of remote sales under s. 212.0596(3), F.S.

Section 212.0596, F.S., also imposes a duty on dealers to cooperate in the collection of taxes, requires the department to enforce these provisions in other jurisdictions when the other jurisdiction consents, and specifies that sales tax required under this section to be collected and any amount unreturned to a purchaser that is not tax but was collected from the purchaser under the representation that it was tax constitute funds of the State of Florida from the moment of collection.

The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their remote purchases would not be required to remit sales or use tax directly to the department.¹⁸

Currently, a purchaser who remits use tax on an item imported into Florida for use or consumption is not required to include in the remittance any local discretionary sales surtax.¹⁹

III. Effect of Proposed Changes:

Taxation of Remote Sales and Marketplace Sales

The bill requires retailers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if they make a substantial number of sales into Florida. Additionally, the bill provides for the taxation of sales facilitated through a marketplace provider, and requires a marketplace provider to collect and remit sales tax on taxable sales made by marketplace sellers.

Section 5 creates s. 212.05965, F.S., which provides for the taxation of sales facilitated through a marketplace provider.²⁰ Marketplace providers with a physical presence in Florida, or those making a substantial number of remote sales into Florida must collect and remit sales tax.

¹⁸ Section 212.0596(7), F.S.

¹⁹ *Id.*

²⁰ Examples of "marketplace providers" include Amazon and eBay

Furthermore, a marketplace seller may not collect and remit sales tax when the marketplace provider certifies that it will collect and remit the tax. However, a marketplace seller that makes a substantial number of remote sales must register, collect, and remit sales tax on taxable sales made outside of the marketplace.

A marketplace provider must allow the department to examine and audit its books and records. If the department audits a marketplace provider, the department may not propose a tax assessment on the marketplace seller for the same retail sales unless the marketplace seller provides incorrect or incomplete information to the marketplace provider.

With certain exceptions, the marketplace provider is relieved of liability for the tax, and the marketplace seller or customer is liable for the tax imposed under this chapter if:

- The marketplace provider demonstrates that it made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but the failure to collect and pay the correct amount of tax imposed under this chapter was due to incorrect or incomplete information provided by the marketplace seller to the marketplace provider; or
- The marketplace seller or the customer has already remitted the tax.

Consistent with s. 213.21, F.S., the department may compromise any tax, interest, or penalty assessed on retail sales conducted through a marketplace.

- A “marketplace” is any physical place or electronic medium through which tangible personal property is offered for sale.
- A “marketplace provider” is any person who:
 - Facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace; and
 - Directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.
- A “marketplace seller” is a person who has an agreement with a marketplace provider and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by a marketplace provider.

However, a marketplace provider does not include any person who solely provides travel agency services, or a delivery network company unless the delivery network company is a registered dealer that notifies all local merchants that sell through the delivery company’s website or mobile application that the delivery network company must remit taxes in the same way as a marketplace provider.

- A “delivery network company” is a person who maintains a website or mobile application used to facilitate delivery services, the sale of local products, or both. A delivery network company’s delivery must be within 75 miles of the local merchant.
- A “delivery network courier” is an individual who provides delivery services through a delivery network company website or mobile application using a person means of

transportation, such as a motor vehicle as defined in s. 320.01(1), F.S., bicycle, scooter, or other similar means of transportation; using public transportation; or by walking.

- A “delivery services” is the pickup and delivery by a delivery network courier of one or more local products from a local merchant to a customer, which may include, the selection, collection, and purchase of the local product in connection with the delivery.
- A “local merchant” is a kitchen, restaurant, or a third-party merchant, including a grocery store, retail store, convenience store, or business of another type, which is not under common ownership or control of the delivery network company.
- A “local product” is any tangible personal property, including food, but excluding freight, mail, or a package to which postage has been affixed.

Section 4 amends s. 212.0596, F.S., to change the term “mail order sale” to “remote sale” and to provide that a person who makes a substantial number of remote sales is a dealer for purposes of ch. 212, F.S.

A dealer makes a “substantial number of remote sales” if it:

- Conducts 200 or more retail sales of tangible personal property to be delivered to a location within Florida; or
- Conducts any number of retail sales of tangible personal property to be delivered to a location within Florida, in an amount exceeding \$100,000, in the previous calendar year.

The bill also deletes a provision that exempts an out-of-state dealer who makes retail sales into this state from collecting and remitting any local option surtax.

Section 6 amends s. 212.06, F.S., to specify that the term “dealer” includes a retailer who transacts a remote sale and a marketplace provider who facilitates a retail sale through a marketplace.

Section 1 amends the definition of “retail sale” in s. 212.02, F.S., to include a remote sale.

Section 2 amends the definition of “retail sale” in s. 212.02, F.S., to include a sale facilitated through a marketplace.

Section 3 amends s. 212.05, F.S., to apply the sales and use tax to remote sales.

Sections 7 and 8 make conforming changes to ss. 212.12 and 212.18 F.S., respectively, to change the term “mail order sale” to “remote sale.”

The bill amends s. 212.12 to remove “dealers who make mail order sales” from those who qualify for a credit by filing their tax returns pursuant to s. 212.11.

The bill also deletes a provision that gives the department authority to negotiate a collection allowance with a dealer who makes mail order sales.

Section 9 reenacts s. 212.20(4), F.S., in order to incorporate the amendment made by this bill to s. 212.0596, F.S.

Section 10 authorizes the department to adopt emergency rules to implement the bill. The rulemaking grant is authorized upon the act becoming law, and expires July 1, 2021.

Section 11 provides that if any provision of the bill is found to be invalid, that invalidity does not affect the ability of the other provisions of the bill to go into effect. If that provision is severed, the other provisions of the bill can be given effect.

Section 12 provides that this section takes effect upon becoming law, and except as otherwise provided, the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties and municipalities to spend funds or limit their ability to raise revenue or reduce the percentage of a state tax shared with them. Therefore, the mandates provision does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states' sales and use tax. The court did not decide the constitutionality of marketplace providers to collect and remit a states' sales and use tax on behalf of retailers who sell on the marketplace.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet estimated the fiscal impact of the bill.

B. Private Sector Impact:

More remote sellers will have to collect and remit Florida's sales tax pursuant to the provisions relating to remote sales and marketplace sales.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 6 of the bill amends s. 212.06, F.S., and takes effect July 1, 2020, but contains a cross reference to s. 212.05965, F.S., created by section 5 of the bill, which is effective October 1, 2020.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.02, 212.05, 212.0596, 212.06, 212.12, 212.18, and 212.20.

This bill creates section 212.05965 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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:

51
 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.

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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

1034 Section 9. For the purpose of incorporating the amendment
 1035 made by this act to section 212.0596, Florida Statutes, in a
 1036 reference thereto, subsection (4) of section 212.20, Florida
 1037 Statutes, is reenacted to read:

1038 212.20 Funds collected, disposition; additional powers of
 1039 department; operational expense; refund of taxes adjudicated
 1040 unconstitutionally collected.-

1041 (4) When there has been a final adjudication that any tax
 1042 pursuant to s. 212.0596 was levied, collected, or both, contrary
 1043 to the Constitution of the United States or the State
 1044

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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.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

October 15, 2019

Meeting Date

SB 126

Bill Number (if applicable)

Topic Sales and Use Tax 2020

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director of Advocacy

Address 200 West College Avenue, Suite 304A

Phone 850 228-6387

Street

Tallahassee

Florida

32312

Email dobarker@aarp.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/15/19

Meeting Date

124

Bill Number (if applicable)

Topic Sales & Use Tax

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Borough St

Phone 521-1200

Fallahassee FL 32301

Email johnson@flchamber.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-15

Meeting Date

126

Bill Number (if applicable)

Topic SALES TAX

Amendment Barcode (if applicable)

Name TRACEY HESTER

Job Title _____

Address 1000 NICOLLETT MALL
Street

Phone 651 373 1924

MINNEAPOLIS MN
City State Zip

Email TRACEY.HESTER@Target.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing TARGET CORP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/15/2019

Meeting Date

126

Bill Number (if applicable)

✓ Topic Sales & Use Tax

Amendment Barcode (if applicable)

✓ Name Matthew Blair

Job Title Partner, Corcoran Partners

Address 112 East Jefferson Street

Phone 813-527-0172

Street

Tallahassee

FL

32399

Email matt@corcoranpartners.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Walmart

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Oct 15th 2019
Meeting Date

126
Bill Number (if applicable)

Topic Sales + Use Tax

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Lobbyist

Address 205 S. Adams St.
Street

Phone 931-265-8999

Tallahassee FL
City State Zip

Email lauren@ericksconsultants.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/15/19

Meeting Date

SB0126

Bill Number (if applicable)

Topic Sales + Use Tax

Amendment Barcode (if applicable)

Name Lindsay Cross

Job Title Government Relations Director

Address 117 S Gadsden Street

Phone 727-642-1563

Tallahassee FL 32301

Email lindsay@fvoters.org

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Florida conservation voters

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/15/19

Meeting Date

126

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 2247173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Commerce and Tourism Committee

Judge:

Started: 10/15/2019 9:01:14 AM

Ends: 10/15/2019 9:40:10 AM

Length: 00:38:57

9:01:13 AM Meeting called to order by Chair Gruters
9:01:17 AM Roll call by Administrative Assistant Brittany Argote
9:01:21 AM Quorum present
9:01:26 AM Comments from Chair Gruters
9:01:37 AM Introduction of Tab 1 by Chair Gruters
9:01:48 AM Presentation by Ms. Dana Young, President and CEO of Visit Florida
9:17:00 AM Question from Senator Stewart
9:17:09 AM Response from Ms. Young
9:17:26 AM Follow-up question from Senator Stewart
9:17:34 AM Response from Ms. Young
9:17:41 AM Question from Senator Hutson
9:17:47 AM Response from Ms. Young
9:18:52 AM Question from Chair Gruters
9:18:58 AM Response from Ms. Young
9:22:34 AM Comment from Senator Wright
9:23:07 AM Comment from Senator Torres
9:23:32 AM Comment from Mr. Young
9:23:39 AM Comment from Chair Gruters
9:23:46 AM Introduction of Tab 2, SB 130 by Chair Gruters
9:23:52 AM Explanation of SB 130, Florida Job Growth Grant Fund by Senator Hutson
9:25:10 AM Question from Senator Torres
9:25:15 AM Response from Senator Hutson
9:26:02 AM Follow-up question from Senator Torres
9:26:10 AM Response from Senator Hutson
9:26:31 AM Additional question from Senator Torres
9:26:37 AM Response from Senator Hutson
9:27:05 AM Dane Bennett, Director of Government Affairs, Florida Home Builders Association waives in support
9:27:21 AM Comments from Chair Gruters
9:27:26 AM Senator Torres in debate
9:28:09 AM Senator Hutson in closure
9:28:37 AM Roll call by Administrative Assistant Brittany Argote
9:28:44 AM SB 130 reported favorably
9:28:54 AM Chair turned over to Vice Chair Torres
9:29:07 AM Introduction of SB 126 by Chair Torres
9:29:13 AM Explanation of SB 126, Sales and Use Tax by Senator Gruters
9:31:32 AM Comments from Chair Torres
9:31:36 AM Question from Senator Stewart
9:31:43 AM Response from Senator Gruters
9:32:47 AM Question from Chair Torres
9:32:56 AM Response from Senator Gruters
9:34:21 AM Dorene Barker, Associate State Director of Advocacy, AARP waives in support
9:34:29 AM Greg Black, Government Relations Consultant, International Council of Shopping Centers waives in support
9:34:35 AM Speaker Grace Lovett, Vice President, Florida Retail Federation
9:35:04 AM Speaker Kyle Baltuch, Economist, Florida Taxwatch
9:36:50 AM Amber Hughes, Senior Legislative Advocate, Florida League of Cities waives in support
9:36:57 AM Carol Bracy, Consultant, Amazon waives in support
9:37:04 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce waives in support
9:37:15 AM Tracey Hester, Target Corp. waives in support
9:37:20 AM Matthew Blair, Corcoran Partners, Walmart waives in support
9:37:27 AM Lauren Jackson, Florida Association of Counties waives in support
9:37:35 AM Speaker Lindsay Cross, Florida Conservation Voters in support

9:38:24 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida waives in support
9:38:37 AM Comments from Chair Torres
9:38:44 AM Senator Gruters in closure
9:38:52 AM Roll call by Administrative Assistant Brittany Argote
9:39:27 AM SB 126 reported favorably
9:39:37 AM Chair returned to Chair Gruters
9:39:46 AM Comments from Chair Gruters
9:39:52 AM Senator Wright moves to adjourn, meeting adjourned