

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; providing a short title; amending s. 212.05,
 4 F.S.; limiting the amount of tax collected on individual
 5 sales of aircraft or boats; providing an effective date.

6
 7 WHEREAS, Florida's maritime and boating industry, including
 8 the sale and servicing of large boats, has historically been a
 9 significant component of Florida's economy, with over 220,000
 10 people employed in this and related industries, and

11 WHEREAS, Florida has become increasingly important in the
 12 field of aircraft manufacturing, sales, maintenance, repair, and
 13 overhaul, with approximately 80,000 people employed in the
 14 aviation and aerospace industries at an average annual wage of
 15 over \$50,000, and

16 WHEREAS, the aviation and boating industries not only
 17 create significant numbers of jobs in Florida, but also attract
 18 large amounts of capital , cause significant tax revenue to be
 19 collected and create extensive indirect jobs and other benefits,
 20 and

21 WHEREAS, the voters in Florida made clear in the most
 22 recent election that, by amending Florida's constitution, they
 23 value highly Florida's working waterfronts, and want to see
 24 those waterfronts taking advantage of Florida's natural
 25 amenities and adding further to employment and capital
 26 investment in Florida, and

27 WHEREAS, current tax policy discourages the purchase, use,
 28 and maintenance of boats and aircraft in Florida, and actually

29 requires certain purchasers to leave the state to avoid
 30 unnecessary taxation, with a resulting loss of jobs, capital
 31 investment and sales and use tax revenue, and

32 WHEREAS, current law and policy results in little or no
 33 sales tax revenue collection on the purchase and sale of large
 34 boats and aircraft because of far more advantageous law and
 35 policy in other jurisdictions, including offshore, and

36 WHEREAS, changing tax policy to encourage the sale, use,
 37 maintenance, repair, and overhaul of boats and aircraft in
 38 Florida would energize its economy, create jobs, attract
 39 capital, and generate additional sales and use tax revenue, and,
 40 indirectly, assist law enforcement and the Department of
 41 Homeland Security by decreasing the number of offshore
 42 registered boats in Florida's and America's waters, NOW,
 43 THEREFORE,

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. This act may be cited as the "Aviation and
 48 Maritime Full Employment Act."

49 Section 2. Paragraph (a) of subsection (1) of section
 50 212.05, Florida Statutes, is amended to read:

51 212.05 Sales, storage, use tax.--It is hereby declared to
 52 be the legislative intent that every person is exercising a
 53 taxable privilege who engages in the business of selling
 54 tangible personal property at retail in this state, including
 55 the business of making mail order sales, or who rents or
 56 furnishes any of the things or services taxable under this

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57 | chapter, or who stores for use or consumption in this state any
58 | item or article of tangible personal property as defined herein
59 | and who leases or rents such property within the state.

60 | (1) For the exercise of such privilege, a tax is levied on
61 | each taxable transaction or incident, which tax is due and
62 | payable as follows:

63 | (a)1.a. At the rate of 6 percent of the sales price of
64 | each item or article of tangible personal property when sold at
65 | retail in this state, computed on each taxable sale for the
66 | purpose of remitting the amount of tax due the state, and
67 | including each and every retail sale.

68 | b. Each occasional or isolated sale of an aircraft, boat,
69 | mobile home, or motor vehicle of a class or type which is
70 | required to be registered, licensed, titled, or documented in
71 | this state or by the United States Government shall be subject
72 | to tax at the rate provided in this paragraph, provided the
73 | maximum amount of tax collected under this subparagraph on each
74 | individual sale of an aircraft or boat may not exceed \$25,000.

75 | The department shall by rule adopt any nationally recognized
76 | publication for valuation of used motor vehicles as the
77 | reference price list for any used motor vehicle which is
78 | required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
79 | (b), (c), or (e), or (9). If any party to an occasional or
80 | isolated sale of such a vehicle reports to the tax collector a
81 | sales price which is less than 80 percent of the average loan
82 | price for the specified model and year of such vehicle as listed
83 | in the most recent reference price list, the tax levied under
84 | this paragraph shall be computed by the department on such

85 average loan price unless the parties to the sale have provided
86 to the tax collector an affidavit signed by each party, or other
87 substantial proof, stating the actual sales price. Any party to
88 such sale who reports a sales price less than the actual sales
89 price is guilty of a misdemeanor of the first degree, punishable
90 as provided in s. 775.082 or s. 775.083. The department shall
91 collect or attempt to collect from such party any delinquent
92 sales taxes. In addition, such party shall pay any tax due and
93 any penalty and interest assessed plus a penalty equal to twice
94 the amount of the additional tax owed. Notwithstanding any other
95 provision of law, the Department of Revenue may waive or
96 compromise any penalty imposed pursuant to this subparagraph.

97 2. This paragraph does not apply to the sale of a boat or
98 aircraft by or through a registered dealer under this chapter to
99 a purchaser who, at the time of taking delivery, is a
100 nonresident of this state, does not make his or her permanent
101 place of abode in this state, and is not engaged in carrying on
102 in this state any employment, trade, business, or profession in
103 which the boat or aircraft will be used in this state, or is a
104 corporation none of the officers or directors of which is a
105 resident of, or makes his or her permanent place of abode in,
106 this state, or is a noncorporate entity that has no individual
107 vested with authority to participate in the management,
108 direction, or control of the entity's affairs who is a resident
109 of, or makes his or her permanent abode in, this state. For
110 purposes of this exemption, either a registered dealer acting on
111 his or her own behalf as seller, a registered dealer acting as
112 broker on behalf of a seller, or a registered dealer acting as

113 broker on behalf of the purchaser may be deemed to be the
114 selling dealer. This exemption shall not be allowed unless:

115 a. The purchaser removes a qualifying boat, as described
116 in sub-subparagraph f., from the state within 90 days after the
117 date of purchase or the purchaser removes a nonqualifying boat
118 or an aircraft from this state within 10 days after the date of
119 purchase or, when the boat or aircraft is repaired or altered,
120 within 20 days after completion of the repairs or alterations;

121 b. The purchaser, within 30 days from the date of
122 departure, shall provide the department with written proof that
123 the purchaser licensed, registered, titled, or documented the
124 boat or aircraft outside the state. If such written proof is
125 unavailable, within 30 days the purchaser shall provide proof
126 that the purchaser applied for such license, title,
127 registration, or documentation. The purchaser shall forward to
128 the department proof of title, license, registration, or
129 documentation upon receipt.

130 c. The purchaser, within 10 days of removing the boat or
131 aircraft from Florida, shall furnish the department with proof
132 of removal in the form of receipts for fuel, dockage, slippage,
133 tie-down, or hangaring from outside of Florida. The information
134 so provided must clearly and specifically identify the boat or
135 aircraft;

136 d. The selling dealer, within 5 days of the date of sale,
137 shall provide to the department a copy of the sales invoice,
138 closing statement, bills of sale, and the original affidavit
139 signed by the purchaser attesting that he or she has read the
140 provisions of this section;

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

143 f. Unless the nonresident purchaser of a boat of 5 net
144 tons of admeasurement or larger intends to remove the boat from
145 this state within 10 days after the date of purchase or when the
146 boat is repaired or altered, within 20 days after completion of
147 the repairs or alterations, the nonresident purchaser shall
148 apply to the selling dealer for a decal which authorizes 90 days
149 after the date of purchase for removal of the boat. The
150 department is authorized to issue decals in advance to dealers.
151 The number of decals issued in advance to a dealer shall be
152 consistent with the volume of the dealer's past sales of boats
153 which qualify under this sub-subparagraph. The selling dealer or
154 his or her agent shall mark and affix the decals to qualifying
155 boats in the manner prescribed by the department, prior to
156 delivery of the boat.

157 (I) The department is hereby authorized to charge dealers
158 a fee sufficient to recover the costs of decals issued.

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

161 (III) Decals shall display information to identify the
162 boat as a qualifying boat under this sub-subparagraph,
163 including, but not limited to, the decal's date of expiration.

164 (IV) The department is authorized to require dealers who
165 purchase decals to file reports with the department and may
166 prescribe all necessary records by rule. All such records are
167 subject to inspection by the department.

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168 (V) Any dealer or his or her agent who issues a decal
169 falsely, fails to affix a decal, mismarks the expiration date of
170 a decal, or fails to properly account for decals will be
171 considered prima facie to have committed a fraudulent act to
172 evade the tax and will be liable for payment of the tax plus a
173 mandatory penalty of 200 percent of the tax, and shall be liable
174 for fine and punishment as provided by law for a conviction of a
175 misdemeanor of the first degree, as provided in s. 775.082 or s.
176 775.083.

177 (VI) Any nonresident purchaser of a boat who removes a
178 decal prior to permanently removing the boat from the state, or
179 defaces, changes, modifies, or alters a decal in a manner
180 affecting its expiration date prior to its expiration, or who
181 causes or allows the same to be done by another, will be
182 considered prima facie to have committed a fraudulent act to
183 evade the tax and will be liable for payment of the tax plus a
184 mandatory penalty of 200 percent of the tax, and shall be liable
185 for fine and punishment as provided by law for a conviction of a
186 misdemeanor of the first degree, as provided in s. 775.082 or s.
187 775.083.

188 (VII) The department is authorized to adopt rules
189 necessary to administer and enforce this subparagraph and to
190 publish the necessary forms and instructions.

191 (VIII) The department is hereby authorized to adopt
192 emergency rules pursuant to s. 120.54(4) to administer and
193 enforce the provisions of this subparagraph.

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195 If the purchaser fails to remove the qualifying boat from this
196 state within 90 days after purchase or a nonqualifying boat or
197 an aircraft from this state within 10 days after purchase or,
198 when the boat or aircraft is repaired or altered, within 20 days
199 after completion of such repairs or alterations, or permits the
200 boat or aircraft to return to this state within 6 months from
201 the date of departure, or if the purchaser fails to furnish the
202 department with any of the documentation required by this
203 subparagraph within the prescribed time period, the purchaser
204 shall be liable for use tax on the cost price of the boat or
205 aircraft and, in addition thereto, payment of a penalty to the
206 Department of Revenue equal to the tax payable. This penalty
207 shall be in lieu of the penalty imposed by s. 212.12(2) and is
208 mandatory and shall not be waived by the department. The 90-day
209 period following the sale of a qualifying boat tax-exempt to a
210 nonresident may not be tolled for any reason. Notwithstanding
211 other provisions of this paragraph to the contrary, an aircraft
212 purchased in this state under the provisions of this paragraph
213 may be returned to this state for repairs within 6 months after
214 the date of its departure without being in violation of the law
215 and without incurring liability for the payment of tax or
216 penalty on the purchase price of the aircraft if the aircraft is
217 removed from this state within 20 days after the completion of
218 the repairs and if such removal can be demonstrated by invoices
219 for fuel, tie-down, hangar charges issued by out-of-state
220 vendors or suppliers, or similar documentation.

221 Section 3. This act shall take effect July 1, 2009.