

By Senator Bean

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1 A bill to be entitled

2 An act relating to the taxation of aircraft sales and  
3 leases; amending s. 212.05, F.S.; decreasing the sales  
4 tax rate on aircraft sales and leases; amending s.  
5 212.08, F.S.; decreasing the maximum applicable sales  
6 tax rate under the flyable aircraft partial sales tax  
7 exemption; providing an effective date.  
8

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

11 Section 1. Paragraph (a) of subsection (1) of section  
12 212.05, Florida Statutes, is amended to read:

13 212.05 Sales, storage, use tax.—It is hereby declared to be  
14 the legislative intent that every person is exercising a taxable  
15 privilege who engages in the business of selling tangible  
16 personal property at retail in this state, including the  
17 business of making mail order sales, or who rents or furnishes  
18 any of the things or services taxable under this chapter, or who  
19 stores for use or consumption in this state any item or article  
20 of tangible personal property as defined herein and who leases  
21 or rents such property within the state.

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

25 (a)1.a. At the rate of 6 percent of the sales price of each  
26 item or article of tangible personal property when sold at  
27 retail in this state, computed on each taxable sale for the  
28 purpose of remitting the amount of tax due the state, and  
29 including each and every retail sale; except that a sale or

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30 lease of an aircraft is subject to tax at the rate of 4 percent.

31       b. Each occasional or isolated sale of an aircraft, boat,  
32 mobile home, or motor vehicle of a class or type which is  
33 required to be registered, licensed, titled, or documented in  
34 this state or by the United States Government shall be subject  
35 to tax at the rate provided in this paragraph. The department  
36 shall by rule adopt any nationally recognized publication for  
37 valuation of used motor vehicles as the reference price list for  
38 any used motor vehicle which is required to be licensed pursuant  
39 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
40 party to an occasional or isolated sale of such a vehicle  
41 reports to the tax collector a sales price which is less than 80  
42 percent of the average loan price for the specified model and  
43 year of such vehicle as listed in the most recent reference  
44 price list, the tax levied under this paragraph shall be  
45 computed by the department on such average loan price unless the  
46 parties to the sale have provided to the tax collector an  
47 affidavit signed by each party, or other substantial proof,  
48 stating the actual sales price. Any party to such sale who  
49 reports a sales price less than the actual sales price is guilty  
50 of a misdemeanor of the first degree, punishable as provided in  
51 s. 775.082 or s. 775.083. The department shall collect or  
52 attempt to collect from such party any delinquent sales taxes.  
53 In addition, such party shall pay any tax due and any penalty  
54 and interest assessed plus a penalty equal to twice the amount  
55 of the additional tax owed. Notwithstanding any other provision  
56 of law, the Department of Revenue may waive or compromise any  
57 penalty imposed pursuant to this subparagraph.

58       2. This paragraph does not apply to the sale of a boat or

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59 aircraft by or through a registered dealer under this chapter to  
60 a purchaser who, at the time of taking delivery, is a  
61 nonresident of this state, does not make his or her permanent  
62 place of abode in this state, and is not engaged in carrying on  
63 in this state any employment, trade, business, or profession in  
64 which the boat or aircraft will be used in this state, or is a  
65 corporation none of the officers or directors of which is a  
66 resident of, or makes his or her permanent place of abode in,  
67 this state, or is a noncorporate entity that has no individual  
68 vested with authority to participate in the management,  
69 direction, or control of the entity's affairs who is a resident  
70 of, or makes his or her permanent abode in, this state. For  
71 purposes of this exemption, either a registered dealer acting on  
72 his or her own behalf as seller, a registered dealer acting as  
73 broker on behalf of a seller, or a registered dealer acting as  
74 broker on behalf of the purchaser may be deemed to be the  
75 selling dealer. This exemption shall not be allowed unless:

76 a. The purchaser removes a qualifying boat, as described in  
77 sub-subparagraph f., from the state within 90 days after the  
78 date of purchase or extension, or the purchaser removes a  
79 nonqualifying boat or an aircraft from this state within 10 days  
80 after the date of purchase or, when the boat or aircraft is  
81 repaired or altered, within 20 days after completion of the  
82 repairs or alterations; or if the aircraft will be registered in  
83 a foreign jurisdiction and:

84 (I) Application for the aircraft's registration is properly  
85 filed with a civil airworthiness authority of a foreign  
86 jurisdiction within 10 days after the date of purchase;

87 (II) The purchaser removes the aircraft from the state to a

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88 foreign jurisdiction within 10 days after the date the aircraft  
89 is registered by the applicable foreign airworthiness authority;  
90 and

91 (III) The aircraft is operated in the state solely to  
92 remove it from the state to a foreign jurisdiction.

93  
94 For purposes of this sub-subparagraph, the term "foreign  
95 jurisdiction" means any jurisdiction outside of the United  
96 States or any of its territories;

97 b. The purchaser, within 30 days from the date of  
98 departure, provides the department with written proof that the  
99 purchaser licensed, registered, titled, or documented the boat  
100 or aircraft outside the state. If such written proof is  
101 unavailable, within 30 days the purchaser shall provide proof  
102 that the purchaser applied for such license, title,  
103 registration, or documentation. The purchaser shall forward to  
104 the department proof of title, license, registration, or  
105 documentation upon receipt;

106 c. The purchaser, within 10 days of removing the boat or  
107 aircraft from Florida, furnishes the department with proof of  
108 removal in the form of receipts for fuel, dockage, slippage,  
109 tie-down, or hangaring from outside of Florida. The information  
110 so provided must clearly and specifically identify the boat or  
111 aircraft;

112 d. The selling dealer, within 5 days of the date of sale,  
113 provides to the department a copy of the sales invoice, closing  
114 statement, bills of sale, and the original affidavit signed by  
115 the purchaser attesting that he or she has read the provisions  
116 of this section;

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

119 f. Unless the nonresident purchaser of a boat of 5 net tons  
120 of admeasurement or larger intends to remove the boat from this  
121 state within 10 days after the date of purchase or when the boat  
122 is repaired or altered, within 20 days after completion of the  
123 repairs or alterations, the nonresident purchaser applies to the  
124 selling dealer for a decal which authorizes 90 days after the  
125 date of purchase for removal of the boat. The nonresident  
126 purchaser of a qualifying boat may apply to the selling dealer  
127 within 60 days after the date of purchase for an extension decal  
128 that authorizes the boat to remain in this state for an  
129 additional 90 days, but not more than a total of 180 days,  
130 before the nonresident purchaser is required to pay the tax  
131 imposed by this chapter. The department is authorized to issue  
132 decals in advance to dealers. The number of decals issued in  
133 advance to a dealer shall be consistent with the volume of the  
134 dealer's past sales of boats which qualify under this sub-  
135 subparagraph. The selling dealer or his or her agent shall mark  
136 and affix the decals to qualifying boats in the manner  
137 prescribed by the department, before delivery of the boat.

138 (I) The department is hereby authorized to charge dealers a  
139 fee sufficient to recover the costs of decals issued, except the  
140 extension decal shall cost \$425.

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

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

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146 (IV) The department is authorized to require dealers who  
147 purchase decals to file reports with the department and may  
148 prescribe all necessary records by rule. All such records are  
149 subject to inspection by the department.

150 (V) Any dealer or his or her agent who issues a decal  
151 falsely, fails to affix a decal, mismarks the expiration date of  
152 a decal, or fails to properly account for decals will be  
153 considered prima facie to have committed a fraudulent act to  
154 evade the tax and will be liable for payment of the tax plus a  
155 mandatory penalty of 200 percent of the tax, and shall be liable  
156 for fine and punishment as provided by law for a conviction of a  
157 misdemeanor of the first degree, as provided in s. 775.082 or s.  
158 775.083.

159 (VI) Any nonresident purchaser of a boat who removes a  
160 decal before permanently removing the boat from the state, or  
161 defaces, changes, modifies, or alters a decal in a manner  
162 affecting its expiration date before its expiration, or who  
163 causes or allows the same to be done by another, will be  
164 considered prima facie to have committed a fraudulent act to  
165 evade the tax and will be liable for payment of the tax plus a  
166 mandatory penalty of 200 percent of the tax, and shall be liable  
167 for fine and punishment as provided by law for a conviction of a  
168 misdemeanor of the first degree, as provided in s. 775.082 or s.  
169 775.083.

170 (VII) The department is authorized to adopt rules necessary  
171 to administer and enforce this subparagraph and to publish the  
172 necessary forms and instructions.

173 (VIII) The department is hereby authorized to adopt  
174 emergency rules pursuant to s. 120.54(4) to administer and

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175 enforce the provisions of this subparagraph.

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177 If the purchaser fails to remove the qualifying boat from this  
178 state within the maximum 180 days after purchase or a  
179 nonqualifying boat or an aircraft from this state within 10 days  
180 after purchase or, when the boat or aircraft is repaired or  
181 altered, within 20 days after completion of such repairs or  
182 alterations, or permits the boat or aircraft to return to this  
183 state within 6 months from the date of departure, except as  
184 provided in s. 212.08(7) (fff), or if the purchaser fails to  
185 furnish the department with any of the documentation required by  
186 this subparagraph within the prescribed time period, the  
187 purchaser shall be liable for use tax on the cost price of the  
188 boat or aircraft and, in addition thereto, payment of a penalty  
189 to the Department of Revenue equal to the tax payable. This  
190 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
191 The maximum 180-day period following the sale of a qualifying  
192 boat tax-exempt to a nonresident may not be tolled for any  
193 reason.

194 Section 2. Subsection (11) of section 212.08, Florida  
195 Statutes, is amended to read:

196 212.08 Sales, rental, use, consumption, distribution, and  
197 storage tax; specified exemptions.—The sale at retail, the  
198 rental, the use, the consumption, the distribution, and the  
199 storage to be used or consumed in this state of the following  
200 are hereby specifically exempt from the tax imposed by this  
201 chapter.

202 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

203 (a) The tax imposed on the sale by a manufacturer of

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204 flyable aircraft, who designs such aircraft, which sale may  
205 include necessary equipment and modifications placed on such  
206 flyable aircraft prior to delivery by the manufacturer, shall be  
207 an amount equal to the sales tax which would be imposed on such  
208 sale under the laws of the state in which the aircraft will be  
209 domiciled.

210 (b) This partial exemption applies only if the purchaser is  
211 a resident of another state who will not use the aircraft in  
212 this state, or if the purchaser is a resident of another state  
213 and uses the aircraft in interstate or foreign commerce, or if  
214 the purchaser is a resident of a foreign country.

215 (c) The maximum tax collectible under this subsection may  
216 not exceed 4 ~~6~~ percent of the sales price of such aircraft. No  
217 Florida tax may be imposed on the sale of such aircraft if the  
218 state in which the aircraft will be domiciled does not allow  
219 Florida sales or use tax to be credited against its sales or use  
220 tax. Furthermore, no tax may be imposed on the sale of such  
221 aircraft if the state in which the aircraft will be domiciled  
222 has enacted a sales and use tax exemption for flyable aircraft  
223 or if the aircraft will be domiciled outside the United States.

224 (d) The purchaser shall execute a sworn affidavit attesting  
225 that he or she is not a resident of this state and stating where  
226 the aircraft will be domiciled. If the aircraft is subsequently  
227 used in this state within 6 months of the time of purchase, in  
228 violation of the intent of this subsection, the purchaser shall  
229 be liable for payment of the full use tax imposed by this  
230 chapter and shall be subject to the penalty imposed by s.  
231 212.12(2), which penalty shall be mandatory. Notwithstanding the  
232 provisions of this paragraph, the owner of an aircraft purchased

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233 pursuant to this subsection may permit the aircraft to be  
234 returned to this state for repairs within 6 months after the  
235 date of sale without the aircraft being in violation of the law  
236 and without incurring liability for payment of tax or penalty on  
237 the purchase price of the aircraft, so long as the aircraft is  
238 removed from this state within 20 days after the completion of  
239 the repairs and such removal can be proven by invoices for fuel,  
240 tie-down, or hangar charges issued by out-of-state vendors or  
241 suppliers or similar documentation.

242 Section 3. This act shall take effect July 1, 2019.