



389486

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: NC/2R

.

03/12/2020 07:01 PM

.

.

Senator Mayfield moved the following:

1 **Senate Amendment to Amendment (882296) (with title**
2 **amendment)**

3
4 Between lines 1708 and 1709
5 insert:

6 Section 31. Subsections (4) and (8) of section 212.07,
7 Florida Statutes, are amended, and subsection (2) of that
8 section is republished, to read:

9 212.07 Sales, storage, use tax; tax added to purchase
10 price; ~~dealer not to absorb~~; liability of purchasers who cannot
11 prove payment of the tax; penalties; general exemptions.-



389486

12 (2) A dealer shall, as far as practicable, add the amount
13 of the tax imposed under this chapter to the sale price, and the
14 amount of the tax shall be separately stated as Florida tax on
15 any charge ticket, sales slip, invoice, or other tangible
16 evidence of sale. Such tax shall constitute a part of such
17 price, charge, or proof of sale which shall be a debt from the
18 purchaser or consumer to the dealer, until paid, and shall be
19 recoverable at law in the same manner as other debts. Where it
20 is impracticable, due to the nature of the business practices
21 within an industry, to separately state Florida tax on any
22 charge ticket, sales slip, invoice, or other tangible evidence
23 of sale, the department may establish an effective tax rate for
24 such industry. The department may also amend this effective tax
25 rate as the industry's pricing or practices change. Except as
26 otherwise specifically provided, any dealer who neglects, fails,
27 or refuses to collect the tax herein provided upon any, every,
28 and all retail sales made by the dealer or the dealer's agents
29 or employees of tangible personal property or services which are
30 subject to the tax imposed by this chapter shall be liable for
31 and pay the tax himself or herself.

32 (4) (a) Except as provided in paragraph (b), a dealer
33 engaged in any business taxable under this chapter may not
34 advertise or hold out to the public, in any manner, directly or
35 indirectly, that he or she will pay ~~absorb~~ all or any part of
36 the tax, or that he or she will relieve the purchaser of the
37 payment of all or any part of the tax, or that the tax will not
38 be added to the selling price of the property or services sold
39 or released or, when added, that it or any part thereof will be
40 refunded either directly or indirectly by any method whatsoever.



389486

41 (b) Notwithstanding any provision of this chapter to the
42 contrary, a dealer may advertise or hold out to the public that
43 he or she will pay all or any part of the tax on behalf of the
44 purchaser, subject to both of the following conditions:

45 1. The dealer must expressly state on any charge ticket,
46 sales slip, invoice, or other tangible evidence of sale given to
47 the purchaser that the dealer will pay to the state the tax
48 imposed by this chapter. The dealer may not indicate or imply
49 that the transaction is exempt or excluded from the tax imposed
50 by this chapter.

51 2. A charge ticket, sales slip, invoice, or other tangible
52 evidence of the sale given to the purchaser must separately
53 state the sale price and the amount of the tax in accordance
54 with subsection (2).

55 (c) A person who violates this subsection commits ~~provision~~
56 ~~with respect to advertising or refund is guilty of a misdemeanor~~
57 of the second degree, punishable as provided in s. 775.082 or s.
58 775.083. A second or subsequent offense constitutes a
59 misdemeanor of the first degree, punishable as provided in s.
60 775.082 or s. 775.083.

61 (8) Any person who has purchased at retail, used, consumed,
62 distributed, or stored for use or consumption in this state
63 tangible personal property, admissions, communication or other
64 services taxable under this chapter, or leased tangible personal
65 property, or who has leased, occupied, or used or was entitled
66 to use any real property, space or spaces in parking lots or
67 garages for motor vehicles, docking or storage space or spaces
68 for boats in boat docks or marinas, and cannot prove that the
69 tax levied by this chapter has been paid to his or her vendor,



389486

70 lessor, or other person or was paid on behalf of the purchaser
71 by a dealer under subsection (4) is directly liable to the state
72 for any tax, interest, or penalty due on any such taxable
73 transactions.

74 Section 32. Subsection (2) of section 212.15, Florida
75 Statutes, is amended to read:

76 212.15 Taxes declared state funds; penalties for failure to
77 remit taxes; due and delinquent dates; judicial review.—

78 (2) Any person who, with intent to unlawfully deprive or
79 defraud the state of its moneys or the use or benefit thereof,
80 fails to remit taxes collected or paid on behalf of a purchaser
81 under this chapter commits theft of state funds, punishable as
82 follows:

83 (a) If the total amount of stolen revenue is less than
84 \$1,000, the offense is a misdemeanor of the second degree,
85 punishable as provided in s. 775.082 or s. 775.083. Upon a
86 second conviction, the offender commits a misdemeanor of the
87 first degree, punishable as provided in s. 775.082 or s.
88 775.083. Upon a third or subsequent conviction, the offender
89 commits a felony of the third degree, punishable as provided in
90 s. 775.082, s. 775.083, or s. 775.084.

91 (b) If the total amount of stolen revenue is \$1,000 or
92 more, but less than \$20,000, the offense is a felony of the
93 third degree, punishable as provided in s. 775.082, s. 775.083,
94 or s. 775.084.

95 (c) If the total amount of stolen revenue is \$20,000 or
96 more, but less than \$100,000, the offense is a felony of the
97 second degree, punishable as provided in s. 775.082, s. 775.083,
98 or s. 775.084.



389486

99 (d) If the total amount of stolen revenue is \$100,000 or
100 more, the offense is a felony of the first degree, punishable as
101 provided in s. 775.082, s. 775.083, or s. 775.084.

102

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

104 And the title is amended as follows:

105 Delete line 3532

106 and insert:

107 circumstances; providing applicability; amending s.
108 212.07, F.S.; authorizing dealers, subject to certain
109 conditions, to advertise or hold out to the public
110 that they will pay sales tax on behalf of the
111 purchaser; conforming a provision to changes made by
112 the act; amending s. 212.15, F.S.; conforming a
113 provision to changes made by the act; amending s.