

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" to include sales facilitated through a
5 marketplace; conforming a provision to changes made by
6 the act; amending s. 212.05, F.S.; conforming a
7 provision to changes made by the act; amending s.
8 212.054, F.S.; requiring marketplace providers and
9 persons located outside of this state to remit
10 discretionary sales surtax when delivering tangible
11 personal property to a county imposing a surtax;
12 amending s. 212.0596, F.S.; replacing provisions
13 relating to the taxation of mail order sales with
14 provisions relating to the taxation of remote sales;
15 defining the terms "remote sale" and "substantial
16 number of remote sales"; providing that every person
17 making a substantial number of remote sales is a
18 dealer for purposes of the sales and use tax;
19 authorizing the Department of Revenue to adopt rules
20 for collecting use taxes from unregistered persons;
21 requiring marketplace providers and persons located
22 outside of this state to remit discretionary sales
23 surtax when delivering tangible personal property to a
24 county imposing a surtax; creating s. 212.05965, F.S.;
25 defining terms; providing that certain marketplace

26 providers are dealers for purposes of the sales and
27 use tax; requiring marketplace providers to provide a
28 certain certification to their marketplace sellers;
29 specifying requirements for marketplace sellers;
30 requiring marketplace providers to allow the
31 department to examine and audit their books and
32 records; specifying the examination and audit
33 authority of the department; providing that a
34 marketplace seller, rather than a marketplace
35 provider, is liable for sales tax collection and
36 remittance under certain circumstances; authorizing
37 marketplace providers and marketplace sellers to enter
38 into agreements for the recovery of certain taxes,
39 interest, and penalties; providing construction and
40 applicability; amending s. 212.05965, F.S.; requiring
41 marketplace providers to collect and remit certain
42 additional fees at the time of sale; authorizing
43 marketplace providers and marketplace sellers to
44 contractually agree for marketplace sellers to collect
45 applicable taxes and fees; specifying requirements for
46 marketplace sellers who collect such taxes and fees;
47 providing applicability; providing for liability of
48 sellers who fail to collect or remit such taxes and
49 fees; amending s. 212.06, F.S.; revising the
50 definition of the term "dealer"; conforming provisions

51 to changes made by the act; amending s. 212.07, F.S.;

52 conforming a cross-reference; amending s. 212.11,

53 F.S.; requiring a marketplace provider or a person

54 required to report remote sales to file returns and

55 pay taxes electronically; amending s. 212.12, F.S.;

56 deleting the authority of the department's executive

57 director to negotiate a collection allowance with

58 certain dealers; conforming provisions to changes made

59 by the act; amending s. 212.18, F.S.; requiring a

60 marketplace provider or a person required to report

61 remote sales to file a registration application

62 electronically; conforming a provision to changes made

63 by the act; amending s. 213.27, F.S.; conforming

64 provisions to changes made by the act; reenacting s.

65 212.055(2)(c), (3)(c), (8)(c), and (9)(c), F.S.,

66 relating to discretionary sales surtaxes, to

67 incorporate the amendment made to s. 212.054, F.S., in

68 reference thereto; providing applicability; providing

69 relief to certain persons for liability for tax,

70 penalty, and interest due on certain remote sales and

71 owed on certain purchases that occurred before the

72 effective date of the act; providing applicability;

73 prohibiting the department from using data received

74 from marketplace providers or persons making and

75 facilitating remote sales for certain purposes;

76 providing applicability; providing construction;
77 amending s. 443.131, F.S.; providing alternative
78 method of calculation for reemployment contribution
79 amounts for certain employers in specified years;
80 amending s. 443.191, F.S.; providing for the deposit
81 of certain funds in the Unemployment Compensation
82 Trust Fund; amending s. 212.20, F.S.; providing
83 applicability of requirements for refund of taxes
84 adjudicated unconstitutionally collected to taxes
85 levied or collected pursuant to marketplace
86 provisions; providing for transfers to a specified
87 trust fund; authorizing the department to adopt
88 emergency rules; providing for expiration of that
89 authority; providing for severability; providing
90 effective dates.

91
92 Be It Enacted by the Legislature of the State of Florida:

93
94 Section 1. Paragraph (e) of subsection (14) of section
95 212.02, Florida Statutes, is amended, and paragraph (f) is added
96 to that subsection, to read:

97 212.02 Definitions.—The following terms and phrases when
98 used in this chapter have the meanings ascribed to them in this
99 section, except where the context clearly indicates a different
100 meaning:

101 (14)

102 (e) The term "retail sale" includes a remote ~~mail order~~
 103 sale, as defined in s. 212.0596(1).

104 (f) The term "retail sale" includes a sale facilitated
 105 through a marketplace as defined in s. 212.05965(1).

106 Section 2. Section 212.05, Florida Statutes, is amended to
 107 read:

108 212.05 Sales, storage, use tax.—It is hereby declared to
 109 be the legislative intent that every person is exercising a
 110 taxable privilege who engages in the business of selling
 111 tangible personal property at retail in this state, including
 112 the business of making or facilitating remote ~~mail order~~ sales;
 113 ~~or~~ who rents or furnishes any of the things or services taxable
 114 under this chapter;
 115 or who stores for use or consumption in
 116 this state any item or article of tangible personal property as
 117 defined herein and who leases or rents such property within the
 state.

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

121 (a)1.a. At the rate of 6 percent of the sales price of
 122 each item or article of tangible personal property when sold at
 123 retail in this state, computed on each taxable sale for the
 124 purpose of remitting the amount of tax due the state, and
 125 including each and every retail sale.

126 b. Each occasional or isolated sale of an aircraft, boat,
127 mobile home, or motor vehicle of a class or type which is
128 required to be registered, licensed, titled, or documented in
129 this state or by the United States Government shall be subject
130 to tax at the rate provided in this paragraph. The department
131 shall by rule adopt any nationally recognized publication for
132 valuation of used motor vehicles as the reference price list for
133 any used motor vehicle which is required to be licensed pursuant
134 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
135 party to an occasional or isolated sale of such a vehicle
136 reports to the tax collector a sales price which is less than 80
137 percent of the average loan price for the specified model and
138 year of such vehicle as listed in the most recent reference
139 price list, the tax levied under this paragraph shall be
140 computed by the department on such average loan price unless the
141 parties to the sale have provided to the tax collector an
142 affidavit signed by each party, or other substantial proof,
143 stating the actual sales price. Any party to such sale who
144 reports a sales price less than the actual sales price is guilty
145 of a misdemeanor of the first degree, punishable as provided in
146 s. 775.082 or s. 775.083. The department shall collect or
147 attempt to collect from such party any delinquent sales taxes.
148 In addition, such party shall pay any tax due and any penalty
149 and interest assessed plus a penalty equal to twice the amount
150 of the additional tax owed. Notwithstanding any other provision

151 of law, the Department of Revenue may waive or compromise any
152 penalty imposed pursuant to this subparagraph.

153 2. This paragraph does not apply to the sale of a boat or
154 aircraft by or through a registered dealer under this chapter to
155 a purchaser who, at the time of taking delivery, is a
156 nonresident of this state, does not make his or her permanent
157 place of abode in this state, and is not engaged in carrying on
158 in this state any employment, trade, business, or profession in
159 which the boat or aircraft will be used in this state, or is a
160 corporation none of the officers or directors of which is a
161 resident of, or makes his or her permanent place of abode in,
162 this state, or is a noncorporate entity that has no individual
163 vested with authority to participate in the management,
164 direction, or control of the entity's affairs who is a resident
165 of, or makes his or her permanent abode in, this state. For
166 purposes of this exemption, either a registered dealer acting on
167 his or her own behalf as seller, a registered dealer acting as
168 broker on behalf of a seller, or a registered dealer acting as
169 broker on behalf of the purchaser may be deemed to be the
170 selling dealer. This exemption shall not be allowed unless:

171 a. The purchaser removes a qualifying boat, as described
172 in sub-subparagraph f., from the state within 90 days after the
173 date of purchase or extension, or the purchaser removes a
174 nonqualifying boat or an aircraft from this state within 10 days
175 after the date of purchase or, when the boat or aircraft is

176 repaired or altered, within 20 days after completion of the
177 repairs or alterations; or if the aircraft will be registered in
178 a foreign jurisdiction and:

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

182 (II) The purchaser removes the aircraft from the state to
183 a foreign jurisdiction within 10 days after the date the
184 aircraft is registered by the applicable foreign airworthiness
185 authority; and

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

188
189 For purposes of this sub-subparagraph, the term "foreign
190 jurisdiction" means any jurisdiction outside of the United
191 States or any of its territories;

192 b. The purchaser, within 90 days from the date of
193 departure, provides the department with written proof that the
194 purchaser licensed, registered, titled, or documented the boat
195 or aircraft outside the state. If such written proof is
196 unavailable, within 90 days the purchaser shall provide proof
197 that the purchaser applied for such license, title,
198 registration, or documentation. The purchaser shall forward to
199 the department proof of title, license, registration, or
200 documentation upon receipt;

201 c. The purchaser, within 30 days after removing the boat
202 or aircraft from Florida, furnishes the department with proof of
203 removal in the form of receipts for fuel, dockage, slippage,
204 tie-down, or hangaring from outside of Florida. The information
205 so provided must clearly and specifically identify the boat or
206 aircraft;

207 d. The selling dealer, within 30 days after the date of
208 sale, provides to the department a copy of the sales invoice,
209 closing statement, bills of sale, and the original affidavit
210 signed by the purchaser attesting that he or she has read the
211 provisions of this section;

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

214 f. Unless the nonresident purchaser of a boat of 5 net
215 tons of admeasurement or larger intends to remove the boat from
216 this state within 10 days after the date of purchase or when the
217 boat is repaired or altered, within 20 days after completion of
218 the repairs or alterations, the nonresident purchaser applies to
219 the selling dealer for a decal which authorizes 90 days after
220 the date of purchase for removal of the boat. The nonresident
221 purchaser of a qualifying boat may apply to the selling dealer
222 within 60 days after the date of purchase for an extension decal
223 that authorizes the boat to remain in this state for an
224 additional 90 days, but not more than a total of 180 days,
225 before the nonresident purchaser is required to pay the tax

226 imposed by this chapter. The department is authorized to issue
227 decals in advance to dealers. The number of decals issued in
228 advance to a dealer shall be consistent with the volume of the
229 dealer's past sales of boats which qualify under this sub-
230 subparagraph. The selling dealer or his or her agent shall mark
231 and affix the decals to qualifying boats in the manner
232 prescribed by the department, before delivery of the boat.

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

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

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

241 (IV) The department is authorized to require dealers who
242 purchase decals to file reports with the department and may
243 prescribe all necessary records by rule. All such records are
244 subject to inspection by the department.

245 (V) Any dealer or his or her agent who issues a decal
246 falsely, fails to affix a decal, mismarks the expiration date of
247 a decal, or fails to properly account for decals will be
248 considered prima facie to have committed a fraudulent act to
249 evade the tax and will be liable for payment of the tax plus a
250 mandatory penalty of 200 percent of the tax, and shall be liable

251 for fine and punishment as provided by law for a conviction of a
252 misdemeanor of the first degree, as provided in s. 775.082 or s.
253 775.083.

254 (VI) Any nonresident purchaser of a boat who removes a
255 decal before permanently removing the boat from the state, or
256 defaces, changes, modifies, or alters a decal in a manner
257 affecting its expiration date before its expiration, or who
258 causes or allows the same to be done by another, will be
259 considered prima facie to have committed a fraudulent act to
260 evade the tax and will be liable for payment of the tax plus a
261 mandatory penalty of 200 percent of the tax, and shall be liable
262 for fine and punishment as provided by law for a conviction of a
263 misdemeanor of the first degree, as provided in s. 775.082 or s.
264 775.083.

265 (VII) The department is authorized to adopt rules
266 necessary to administer and enforce this subparagraph and to
267 publish the necessary forms and instructions.

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

271
272 If the purchaser fails to remove the qualifying boat from this
273 state within the maximum 180 days after purchase or a
274 nonqualifying boat or an aircraft from this state within 10 days
275 after purchase or, when the boat or aircraft is repaired or

276 altered, within 20 days after completion of such repairs or
277 alterations, or permits the boat or aircraft to return to this
278 state within 6 months from the date of departure, except as
279 provided in s. 212.08(7)(fff), or if the purchaser fails to
280 furnish the department with any of the documentation required by
281 this subparagraph within the prescribed time period, the
282 purchaser shall be liable for use tax on the cost price of the
283 boat or aircraft and, in addition thereto, payment of a penalty
284 to the Department of Revenue equal to the tax payable. This
285 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
286 The maximum 180-day period following the sale of a qualifying
287 boat tax-exempt to a nonresident may not be tolled for any
288 reason.

289 (b) At the rate of 6 percent of the cost price of each
290 item or article of tangible personal property when the same is
291 not sold but is used, consumed, distributed, or stored for use
292 or consumption in this state; however, for tangible property
293 originally purchased exempt from tax for use exclusively for
294 lease and which is converted to the owner's own use, tax may be
295 paid on the fair market value of the property at the time of
296 conversion. If the fair market value of the property cannot be
297 determined, use tax at the time of conversion shall be based on
298 the owner's acquisition cost. Under no circumstances may the
299 aggregate amount of sales tax from leasing the property and use
300 tax due at the time of conversion be less than the total sales

301 tax that would have been due on the original acquisition cost
302 paid by the owner.

303 (c) At the rate of 6 percent of the gross proceeds derived
304 from the lease or rental of tangible personal property, as
305 defined herein; however, the following special provisions apply
306 to the lease or rental of motor vehicles:

307 1. When a motor vehicle is leased or rented for a period
308 of less than 12 months:

309 a. If the motor vehicle is rented in Florida, the entire
310 amount of such rental is taxable, even if the vehicle is dropped
311 off in another state.

312 b. If the motor vehicle is rented in another state and
313 dropped off in Florida, the rental is exempt from Florida tax.

314 2. Except as provided in subparagraph 3., for the lease or
315 rental of a motor vehicle for a period of not less than 12
316 months, sales tax is due on the lease or rental payments if the
317 vehicle is registered in this state; provided, however, that no
318 tax shall be due if the taxpayer documents use of the motor
319 vehicle outside this state and tax is being paid on the lease or
320 rental payments in another state.

321 3. The tax imposed by this chapter does not apply to the
322 lease or rental of a commercial motor vehicle as defined in s.
323 316.003(13)(a) to one lessee or rentee for a period of not less
324 than 12 months when tax was paid on the purchase price of such
325 vehicle by the lessor. To the extent tax was paid with respect

326 to the purchase of such vehicle in another state, territory of
327 the United States, or the District of Columbia, the Florida tax
328 payable shall be reduced in accordance with the provisions of s.
329 212.06(7). This subparagraph shall only be available when the
330 lease or rental of such property is an established business or
331 part of an established business or the same is incidental or
332 germane to such business.

333 (d) At the rate of 6 percent of the lease or rental price
334 paid by a lessee or rentee, or contracted or agreed to be paid
335 by a lessee or rentee, to the owner of the tangible personal
336 property.

337 (e)1. At the rate of 6 percent on charges for:

338 a. Prepaid calling arrangements. The tax on charges for
339 prepaid calling arrangements shall be collected at the time of
340 sale and remitted by the selling dealer.

341 (I) "Prepaid calling arrangement" has the same meaning as
342 provided in s. 202.11.

343 (II) If the sale or recharge of the prepaid calling
344 arrangement does not take place at the dealer's place of
345 business, it shall be deemed to have taken place at the
346 customer's shipping address or, if no item is shipped, at the
347 customer's address or the location associated with the
348 customer's mobile telephone number.

349 (III) The sale or recharge of a prepaid calling
350 arrangement shall be treated as a sale of tangible personal

351 property for purposes of this chapter, regardless of whether a
352 tangible item evidencing such arrangement is furnished to the
353 purchaser, and such sale within this state subjects the selling
354 dealer to the jurisdiction of this state for purposes of this
355 subsection.

356 (IV) No additional tax under this chapter or chapter 202
357 is due or payable if a purchaser of a prepaid calling
358 arrangement who has paid tax under this chapter on the sale or
359 recharge of such arrangement applies one or more units of the
360 prepaid calling arrangement to obtain communications services as
361 described in s. 202.11(9)(b)3., other services that are not
362 communications services, or products.

363 b. The installation of telecommunication and telegraphic
364 equipment.

365 c. Electrical power or energy, except that the tax rate
366 for charges for electrical power or energy is 4.35 percent.
367 Charges for electrical power and energy do not include taxes
368 imposed under ss. 166.231 and 203.01(1)(a)3.

369 2. Section 212.17(3), regarding credit for tax paid on
370 charges subsequently found to be worthless, is equally
371 applicable to any tax paid under this section on charges for
372 prepaid calling arrangements, telecommunication or telegraph
373 services, or electric power subsequently found to be
374 uncollectible. As used in this paragraph, the term "charges"
375 does not include any excise or similar tax levied by the Federal

376 Government, a political subdivision of this state, or a
377 municipality upon the purchase, sale, or recharge of prepaid
378 calling arrangements or upon the purchase or sale of
379 telecommunication, television system program, or telegraph
380 service or electric power, which tax is collected by the seller
381 from the purchaser.

382 (f) At the rate of 6 percent on the sale, rental, use,
383 consumption, or storage for use in this state of machines and
384 equipment, and parts and accessories therefor, used in
385 manufacturing, processing, compounding, producing, mining, or
386 quarrying personal property for sale or to be used in furnishing
387 communications, transportation, or public utility services.

388 (g)1. At the rate of 6 percent on the retail price of
389 newspapers and magazines sold or used in Florida.

390 2. Notwithstanding other provisions of this chapter,
391 inserts of printed materials which are distributed with a
392 newspaper or magazine are a component part of the newspaper or
393 magazine, and neither the sale nor use of such inserts is
394 subject to tax when:

395 a. Printed by a newspaper or magazine publisher or
396 commercial printer and distributed as a component part of a
397 newspaper or magazine, which means that the items after being
398 printed are delivered directly to a newspaper or magazine
399 publisher by the printer for inclusion in editions of the
400 distributed newspaper or magazine;

401 b. Such publications are labeled as part of the designated
402 newspaper or magazine publication into which they are to be
403 inserted; and

404 c. The purchaser of the insert presents a resale
405 certificate to the vendor stating that the inserts are to be
406 distributed as a component part of a newspaper or magazine.

407 (h)1. A tax is imposed at the rate of 4 percent on the
408 charges for the use of coin-operated amusement machines. The tax
409 shall be calculated by dividing the gross receipts from such
410 charges for the applicable reporting period by a divisor,
411 determined as provided in this subparagraph, to compute gross
412 taxable sales, and then subtracting gross taxable sales from
413 gross receipts to arrive at the amount of tax due. For counties
414 that do not impose a discretionary sales surtax, the divisor is
415 equal to 1.04; for counties that impose a 0.5 percent
416 discretionary sales surtax, the divisor is equal to 1.045; for
417 counties that impose a 1 percent discretionary sales surtax, the
418 divisor is equal to 1.050; and for counties that impose a 2
419 percent sales surtax, the divisor is equal to 1.060. If a county
420 imposes a discretionary sales surtax that is not listed in this
421 subparagraph, the department shall make the applicable divisor
422 available in an electronic format or otherwise. Additional
423 divisors shall bear the same mathematical relationship to the
424 next higher and next lower divisors as the new surtax rate bears
425 to the next higher and next lower surtax rates for which

426 | divisors have been established. When a machine is activated by a
427 | slug, token, coupon, or any similar device which has been
428 | purchased, the tax is on the price paid by the user of the
429 | device for such device.

430 | 2. As used in this paragraph, the term "operator" means
431 | any person who possesses a coin-operated amusement machine for
432 | the purpose of generating sales through that machine and who is
433 | responsible for removing the receipts from the machine.

434 | a. If the owner of the machine is also the operator of it,
435 | he or she shall be liable for payment of the tax without any
436 | deduction for rent or a license fee paid to a location owner for
437 | the use of any real property on which the machine is located.

438 | b. If the owner or lessee of the machine is also its
439 | operator, he or she shall be liable for payment of the tax on
440 | the purchase or lease of the machine, as well as the tax on
441 | sales generated through the machine.

442 | c. If the proprietor of the business where the machine is
443 | located does not own the machine, he or she shall be deemed to
444 | be the lessee and operator of the machine and is responsible for
445 | the payment of the tax on sales, unless such responsibility is
446 | otherwise provided for in a written agreement between him or her
447 | and the machine owner.

448 | 3.a. An operator of a coin-operated amusement machine may
449 | not operate or cause to be operated in this state any such
450 | machine until the operator has registered with the department

451 and has conspicuously displayed an identifying certificate
452 issued by the department. The identifying certificate shall be
453 issued by the department upon application from the operator. The
454 identifying certificate shall include a unique number, and the
455 certificate shall be permanently marked with the operator's
456 name, the operator's sales tax number, and the maximum number of
457 machines to be operated under the certificate. An identifying
458 certificate shall not be transferred from one operator to
459 another. The identifying certificate must be conspicuously
460 displayed on the premises where the coin-operated amusement
461 machines are being operated.

462 b. The operator of the machine must obtain an identifying
463 certificate before the machine is first operated in the state
464 and by July 1 of each year thereafter. The annual fee for each
465 certificate shall be based on the number of machines identified
466 on the application times \$30 and is due and payable upon
467 application for the identifying device. The application shall
468 contain the operator's name, sales tax number, business address
469 where the machines are being operated, and the number of
470 machines in operation at that place of business by the operator.
471 No operator may operate more machines than are listed on the
472 certificate. A new certificate is required if more machines are
473 being operated at that location than are listed on the
474 certificate. The fee for the new certificate shall be based on
475 the number of additional machines identified on the application

476 form times \$30.

477 c. A penalty of \$250 per machine is imposed on the
478 operator for failing to properly obtain and display the required
479 identifying certificate. A penalty of \$250 is imposed on the
480 lessee of any machine placed in a place of business without a
481 proper current identifying certificate. Such penalties shall
482 apply in addition to all other applicable taxes, interest, and
483 penalties.

484 d. Operators of coin-operated amusement machines must
485 obtain a separate sales and use tax certificate of registration
486 for each county in which such machines are located. One sales
487 and use tax certificate of registration is sufficient for all of
488 the operator's machines within a single county.

489 4. The provisions of this paragraph do not apply to coin-
490 operated amusement machines owned and operated by churches or
491 synagogues.

492 5. In addition to any other penalties imposed by this
493 chapter, a person who knowingly and willfully violates any
494 provision of this paragraph commits a misdemeanor of the second
495 degree, punishable as provided in s. 775.082 or s. 775.083.

496 6. The department may adopt rules necessary to administer
497 the provisions of this paragraph.

498 (i)1. At the rate of 6 percent on charges for all:

499 a. Detective, burglar protection, and other protection
500 services (NAICS National Numbers 561611, 561612, 561613, and

501 561621). Fingerprint services required under s. 790.06 or s.
502 790.062 are not subject to the tax. Any law enforcement officer,
503 as defined in s. 943.10, who is performing approved duties as
504 determined by his or her local law enforcement agency in his or
505 her capacity as a law enforcement officer, and who is subject to
506 the direct and immediate command of his or her law enforcement
507 agency, and in the law enforcement officer's uniform as
508 authorized by his or her law enforcement agency, is performing
509 law enforcement and public safety services and is not performing
510 detective, burglar protection, or other protective services, if
511 the law enforcement officer is performing his or her approved
512 duties in a geographical area in which the law enforcement
513 officer has arrest jurisdiction. Such law enforcement and public
514 safety services are not subject to tax irrespective of whether
515 the duty is characterized as "extra duty," "off-duty," or
516 "secondary employment," and irrespective of whether the officer
517 is paid directly or through the officer's agency by an outside
518 source. The term "law enforcement officer" includes full-time or
519 part-time law enforcement officers, and any auxiliary law
520 enforcement officer, when such auxiliary law enforcement officer
521 is working under the direct supervision of a full-time or part-
522 time law enforcement officer.

523 b. Nonresidential cleaning, excluding cleaning of the
524 interiors of transportation equipment, and nonresidential
525 building pest control services (NAICS National Numbers 561710

526 and 561720).

527 2. As used in this paragraph, "NAICS" means those
528 classifications contained in the North American Industry
529 Classification System, as published in 2007 by the Office of
530 Management and Budget, Executive Office of the President.

531 3. Charges for detective, burglar protection, and other
532 protection security services performed in this state but used
533 outside this state are exempt from taxation. Charges for
534 detective, burglar protection, and other protection security
535 services performed outside this state and used in this state are
536 subject to tax.

537 4. If a transaction involves both the sale or use of a
538 service taxable under this paragraph and the sale or use of a
539 service or any other item not taxable under this chapter, the
540 consideration paid must be separately identified and stated with
541 respect to the taxable and exempt portions of the transaction or
542 the entire transaction shall be presumed taxable. The burden
543 shall be on the seller of the service or the purchaser of the
544 service, whichever applicable, to overcome this presumption by
545 providing documentary evidence as to which portion of the
546 transaction is exempt from tax. The department is authorized to
547 adjust the amount of consideration identified as the taxable and
548 exempt portions of the transaction; however, a determination
549 that the taxable and exempt portions are inaccurately stated and
550 that the adjustment is applicable must be supported by

551 substantial competent evidence.

552 5. Each seller of services subject to sales tax pursuant
553 to this paragraph shall maintain a monthly log showing each
554 transaction for which sales tax was not collected because the
555 services meet the requirements of subparagraph 3. for out-of-
556 state use. The log must identify the purchaser's name, location
557 and mailing address, and federal employer identification number,
558 if a business, or the social security number, if an individual,
559 the service sold, the price of the service, the date of sale,
560 the reason for the exemption, and the sales invoice number. The
561 monthly log shall be maintained pursuant to the same
562 requirements and subject to the same penalties imposed for the
563 keeping of similar records pursuant to this chapter.

564 (j)1. Notwithstanding any other provision of this chapter,
565 there is hereby levied a tax on the sale, use, consumption, or
566 storage for use in this state of any coin or currency, whether
567 in circulation or not, when such coin or currency:

568 a. Is not legal tender;

569 b. If legal tender, is sold, exchanged, or traded at a
570 rate in excess of its face value; or

571 c. Is sold, exchanged, or traded at a rate based on its
572 precious metal content.

573 2. Such tax shall be at a rate of 6 percent of the price
574 at which the coin or currency is sold, exchanged, or traded,
575 except that, with respect to a coin or currency which is legal

576 tender of the United States and which is sold, exchanged, or
577 traded, such tax shall not be levied.

578 3. There are exempt from this tax exchanges of coins or
579 currency which are in general circulation in, and legal tender
580 of, one nation for coins or currency which are in general
581 circulation in, and legal tender of, another nation when
582 exchanged solely for use as legal tender and at an exchange rate
583 based on the relative value of each as a medium of exchange.

584 4. With respect to any transaction that involves the sale
585 of coins or currency taxable under this paragraph in which the
586 taxable amount represented by the sale of such coins or currency
587 exceeds \$500, the entire amount represented by the sale of such
588 coins or currency is exempt from the tax imposed under this
589 paragraph. The dealer must maintain proper documentation, as
590 prescribed by rule of the department, to identify that portion
591 of a transaction which involves the sale of coins or currency
592 and is exempt under this subparagraph.

593 (k) At the rate of 6 percent of the sales price of each
594 gallon of diesel fuel not taxed under chapter 206 purchased for
595 use in a vessel, except dyed diesel fuel that is exempt pursuant
596 to s. 212.08(4)(a)4.

597 (l) Florists located in this state are liable for sales
598 tax on sales to retail customers regardless of where or by whom
599 the items sold are to be delivered. Florists located in this
600 state are not liable for sales tax on payments received from

601 other florists for items delivered to customers in this state.

602 (m) Operators of game concessions or other concessionaires
603 who customarily award tangible personal property as prizes may,
604 in lieu of paying tax on the cost price of such property, pay
605 tax on 25 percent of the gross receipts from such concession
606 activity.

607 (2) The tax shall be collected by the dealer, as defined
608 herein, and remitted by the dealer to the state at the time and
609 in the manner as hereinafter provided.

610 (3) The tax so levied is in addition to all other taxes,
611 whether levied in the form of excise, license, or privilege
612 taxes, and in addition to all other fees and taxes levied.

613 (4) The tax imposed pursuant to this chapter shall be due
614 and payable according to the brackets set forth in s. 212.12.

615 (5) Notwithstanding any other provision of this chapter,
616 the maximum amount of tax imposed under this chapter and
617 collected on each sale or use of a boat in this state may not
618 exceed \$18,000 and on each repair of a boat in this state may
619 not exceed \$60,000.

620 Section 3. Paragraph (c) of subsection (4) of section
621 212.054, Florida Statutes, is amended to read:

622 212.054 Discretionary sales surtax; limitations,
623 administration, and collection.—

624 (4)

625 (c)1. Any dealer located in a county that does not impose

626 a discretionary sales surtax, any marketplace provider located
627 outside of this state which makes or facilitates a substantial
628 number of remote sales, or any person located outside this state
629 who is required to report remote sales, ~~but~~ who collects the
630 surtax due to sales of tangible personal property or services
631 delivered to a county imposing a surtax ~~outside the county~~ shall
632 remit monthly the proceeds of the surtax to the department to be
633 deposited into an account in the Discretionary Sales Surtax
634 Clearing Trust Fund which is separate from the county surtax
635 collection accounts. The department shall distribute funds in
636 this account using a distribution factor determined for each
637 county that levies a surtax and multiplied by the amount of
638 funds in the account and available for distribution. The
639 distribution factor for each county equals the product of:

- 640 a. The county's latest official population determined
641 pursuant to s. 186.901;
- 642 b. The county's rate of surtax; and
- 643 c. The number of months the county has levied a surtax
644 during the most recent distribution period;

645

646 divided by the sum of all such products of the counties levying
647 the surtax during the most recent distribution period.

648 2. The department shall compute distribution factors for
649 eligible counties once each quarter and make appropriate
650 quarterly distributions.

651 3. A county that fails to timely provide the information
652 required by this section to the department authorizes the
653 department, by such action, to use the best information
654 available to it in distributing surtax revenues to the county.
655 If this information is unavailable to the department, the
656 department may partially or entirely disqualify the county from
657 receiving surtax revenues under this paragraph. A county that
658 fails to provide timely information waives its right to
659 challenge the department's determination of the county's share,
660 if any, of revenues provided under this paragraph.

661 Section 4. Section 212.0596, Florida Statutes, is amended
662 to read:

663 (Substantial rewording of section. See
664 s. 212.0596, F.S., for present text.)

665 212.0596 Taxation of remote sales.—

666 (1) As used in this chapter, the term:

667 (a) "Remote sale" means a retail sale of tangible personal
668 property ordered by mail, telephone, the Internet, or other
669 means of communication from a person who receives the order
670 outside of this state and transports the property or causes the
671 property to be transported from any jurisdiction, including this
672 state, to a location in this state. For purposes of this
673 paragraph, tangible personal property delivered to a location
674 within this state is presumed to be used, consumed, distributed,
675 or stored to be used or consumed in this state.

676 (b) "Substantial number of remote sales" means any number
677 of taxable remote sales in the previous calendar year in which
678 the sum of the sales prices, as defined in s. 212.02(16),
679 exceeded \$100,000.

680 (2) Every person making a substantial number of remote
681 sales is a dealer for purposes of this chapter.

682 (3) The department may establish by rule procedures for
683 collecting the use tax from unregistered persons who, but for
684 their remote purchases, would not be required to remit sales or
685 use tax directly to the department. The procedures may provide
686 for waiver of registration, provisions for irregular remittance
687 of tax, elimination of the collection allowance, and
688 nonapplication of local option surtaxes.

689 (4) A marketplace provider that makes or facilitates a
690 substantial number of remote sales or a person who is required
691 to report remote sales is required to collect surtax when the
692 taxable item of tangible personal property is delivered within a
693 county imposing a surtax as provided in s. 212.054(3)(a).

694 Section 5. Section 212.05965, Florida Statutes, is created
695 to read:

696 212.05965 Taxation of marketplace sales.-

697 (1) As used in this chapter, the term:

698 (a) "Marketplace" means any physical place or electronic
699 medium through which tangible personal property is offered for
700 sale.

701 (b) "Marketplace provider" means a person who facilitates
702 a retail sale by a marketplace seller by listing or advertising
703 for sale by the marketplace seller tangible personal property in
704 a marketplace and who directly, or indirectly through agreements
705 or arrangements with third parties, collects payment from the
706 customer and transmits all or part of the payment to the
707 marketplace seller, regardless of whether the marketplace
708 provider receives compensation or other consideration in
709 exchange for its services.

710 1. The term does not include a person who solely provides
711 travel agency services. As used in this subparagraph, the term
712 "travel agency services" means arranging, booking, or otherwise
713 facilitating for a commission, fee, or other consideration
714 vacation or travel packages, rental cars, or other travel
715 reservations; tickets for domestic or foreign travel by air,
716 rail, ship, bus, or other mode of transportation; or hotel or
717 other lodging accommodations.

718 2. The term does not include a person who is a delivery
719 network company unless the delivery network company is a
720 registered dealer for purposes of this chapter and the delivery
721 network company notifies all local merchants that sell through
722 the delivery network company's website or mobile application
723 that the delivery network company is subject to the requirements
724 of a marketplace provider under this section. As used in this
725 subparagraph, the term:

726 a. "Delivery network company" means a person who maintains
727 a website or mobile application used to facilitate delivery
728 services, the sale of local products, or both.

729 b. "Delivery network courier" means a person who provides
730 delivery services through a delivery network company website or
731 mobile application using a personal means of transportation,
732 such as a motor vehicle as defined in s. 320.01(1), a bicycle, a
733 scooter, or other similar mode of transportation; using public
734 transportation; or by walking.

735 c. "Delivery services" means the pickup and delivery by a
736 delivery network courier of one or more local products from a
737 local merchant to a customer, which may include the selection,
738 collection, and purchase of the local product in connection with
739 the delivery. The term does not include any delivery requiring
740 more than 75 miles of travel from the local merchant to the
741 customer.

742 d. "Local merchant" means a kitchen, a restaurant, or a
743 third-party merchant, including a grocery store, retail store,
744 convenience store, or business of another type, which is not
745 under common ownership or control of the delivery network
746 company.

747 e. "Local product" means any tangible personal property,
748 including food, but excluding freight, mail, or a package to
749 which postage has been affixed.

750 3. The term does not include a payment processor business

751 that is appointed to handle payment transactions from various
752 channels, such as charge cards, credit cards, or debit cards,
753 and whose sole activity with respect to marketplace sales is to
754 handle payment transactions between two parties.

755 (c) "Marketplace seller" means a person who has an
756 agreement with a marketplace provider and who makes retail sales
757 of tangible personal property through a marketplace owned,
758 operated, or controlled by the marketplace provider.

759 (2) A marketplace provider who has a physical presence in
760 this state or who makes or facilitates through a marketplace a
761 substantial number of remote sales as defined in s. 212.0596(1)
762 is a dealer for purposes of this chapter.

763 (3) A marketplace provider shall certify to its
764 marketplace sellers that it will collect and remit the tax
765 imposed under this chapter on taxable retail sales made through
766 the marketplace. Such certification may be included in the
767 agreement between the marketplace provider and the marketplace
768 seller.

769 (4) (a) A marketplace seller may not collect and remit the
770 tax under this chapter on a taxable retail sale when the sale is
771 made through the marketplace and the marketplace provider
772 certifies, as required under subsection (3), that it will
773 collect and remit such tax. A marketplace seller shall exclude
774 such sales made through the marketplace from the marketplace
775 seller's tax return under s. 212.11.

776 (b)1. A marketplace seller who has a physical presence in
777 this state shall register and shall collect and remit the tax
778 imposed under this chapter on all taxable retail sales made
779 outside of the marketplace.

780 2. A marketplace seller making a substantial number of
781 remote sales as defined in s. 212.0596(1) shall register and
782 shall collect and remit the tax imposed under this chapter on
783 all taxable retail sales made outside of the marketplace. For
784 the purposes of determining whether a marketplace seller made a
785 substantial number of remote sales, the marketplace seller shall
786 consider only those sales made outside of a marketplace.

787 (5) (a) A marketplace provider shall allow the department
788 to examine and audit its books and records pursuant to s.
789 212.13. For retail sales facilitated through a marketplace, the
790 department may not examine or audit the books and records of
791 marketplace sellers, nor may the department assess marketplace
792 sellers except to the extent that the marketplace provider seeks
793 relief under paragraph (b). The department may examine, audit,
794 and assess a marketplace seller for retail sales made outside of
795 a marketplace under paragraph (4) (b). This paragraph does not
796 provide relief to a marketplace seller who was under audit; had
797 been issued a bill, notice, or demand for payment; or was under
798 an administrative or judicial proceeding before July 1, 2021.

799 (b) The marketplace provider is relieved of liability for
800 the tax on the retail sale and the marketplace seller or

801 customer is liable for the tax imposed under this chapter if the
802 marketplace provider demonstrates to the department's
803 satisfaction that the marketplace provider made a reasonable
804 effort to obtain accurate information related to the retail
805 sales facilitated through the marketplace from the marketplace
806 seller, but that the failure to collect and remit the correct
807 amount of tax imposed under this chapter was due to the
808 provision of incorrect or incomplete information to the
809 marketplace provider by the marketplace seller. This paragraph
810 does not apply to a retail sale for which the marketplace
811 provider is the seller if the marketplace provider and the
812 marketplace seller are related parties or if transactions
813 between a marketplace seller and marketplace buyer are not
814 conducted at arm's length.

815 (6) For purposes of registration pursuant to s. 212.18, a
816 marketplace is deemed a separate place of business.

817 (7) A marketplace provider and a marketplace seller may
818 agree by contract or otherwise that if a marketplace provider
819 pays the tax imposed under this chapter on a retail sale
820 facilitated through a marketplace for a marketplace seller as a
821 result of an audit or otherwise, the marketplace provider has
822 the right to recover such tax and any associated interest and
823 penalties from the marketplace seller.

824 (8) This section may not be construed to authorize the
825 state to collect sales tax from both the marketplace provider

826 and the marketplace seller on the same retail sale.

827 (9) Chapter 213 applies to the administration of this
828 section to the extent that chapter does not conflict with this
829 section.

830 Section 6. Effective April 1, 2022, subsections (10) and
831 (11) are added to section 212.05965, Florida Statutes, as
832 created by this act, to read:

833 212.05965 Taxation of marketplace sales.—

834 (10) Notwithstanding any other law, a marketplace provider
835 is also responsible for collecting and remitting any prepaid
836 wireless E911 fee under s. 365.172, waste tire fee under s.
837 403.718, and lead-acid battery fee under s. 403.7185 at the time
838 of sale for taxable retail sales made through its marketplace.

839 (11) The marketplace provider and the marketplace seller
840 may contractually agree to have the marketplace seller collect
841 and remit all applicable taxes and fees if the marketplace
842 seller:

843 (a) Has annual gross sales in the United States of more
844 than \$1 billion, including the gross sales of any related
845 entities, and in the case of franchised entities, including the
846 combined sales of all franchisees of a single franchisor;

847 (b) Provides evidence to the marketplace provider that it
848 is registered under s. 212.18; and

849 (c) Notifies the department in a manner prescribed by the
850 department that the marketplace seller will collect and remit

851 all applicable taxes and fees on its sales through the
852 marketplace and is liable for failure to collect or remit
853 applicable taxes and fees on its sales.

854 Section 7. Paragraph (c) of subsection (2) and paragraph
855 (a) of subsection (5) of section 212.06, Florida Statutes, are
856 amended to read:

857 212.06 Sales, storage, use tax; collectible from dealers;
858 "dealer" defined; dealers to collect from purchasers;
859 legislative intent as to scope of tax.—

860 (2)

861 (c) The term "dealer" is further defined to mean every
862 person, as used in this chapter, who sells at retail or who
863 offers for sale at retail, or who has in his or her possession
864 for sale at retail; or for use, consumption, or distribution; or
865 for storage to be used or consumed in this state, tangible
866 personal property as defined herein, including a retailer who
867 transacts a substantial number of remote sales or a person who
868 is a marketplace provider making or facilitating a substantial
869 number of remote sales ~~mail order sale.~~

870 (5)(a)1. Except as provided in subparagraph 2., it is not
871 the intention of this chapter to levy a tax upon tangible
872 personal property imported, produced, or manufactured in this
873 state for export, provided that tangible personal property may
874 not be considered as being imported, produced, or manufactured
875 for export unless the importer, producer, or manufacturer

876 | delivers the same to a licensed exporter for exporting or to a
877 | common carrier for shipment outside the state or mails the same
878 | by United States mail to a destination outside the state; or, in
879 | the case of aircraft being exported under their own power to a
880 | destination outside the continental limits of the United States,
881 | by submission to the department of a duly signed and validated
882 | United States customs declaration, showing the departure of the
883 | aircraft from the continental United States; and further with
884 | respect to aircraft, the canceled United States registry of said
885 | aircraft; or in the case of parts and equipment installed on
886 | aircraft of foreign registry, by submission to the department of
887 | documentation, the extent of which shall be provided by rule,
888 | showing the departure of the aircraft from the continental
889 | United States; nor is it the intention of this chapter to levy a
890 | tax on any sale which the state is prohibited from taxing under
891 | the Constitution or laws of the United States. Every retail sale
892 | made to a person physically present at the time of sale shall be
893 | presumed to have been delivered in this state.

894 | 2.a. Notwithstanding subparagraph 1., a tax is levied on
895 | each sale of tangible personal property to be transported to a
896 | cooperating state as defined in sub-subparagraph c., at the rate
897 | specified in sub-subparagraph d. However, a Florida dealer will
898 | be relieved from the requirements of collecting taxes pursuant
899 | to this subparagraph if the Florida dealer obtains from the
900 | purchaser an affidavit setting forth the purchaser's name,

901 address, state taxpayer identification number, and a statement
902 that the purchaser is aware of his or her state's use tax laws,
903 is a registered dealer in Florida or another state, or is
904 purchasing the tangible personal property for resale or is
905 otherwise not required to pay the tax on the transaction. The
906 department may, by rule, provide a form to be used for the
907 purposes set forth herein.

908 b. For purposes of this subparagraph, "a cooperating
909 state" is one determined by the executive director of the
910 department to cooperate satisfactorily with this state in
911 collecting taxes on remote ~~mail-order~~ sales. No state shall be
912 so determined unless it meets all the following minimum
913 requirements:

914 (I) It levies and collects taxes on remote ~~mail-order~~
915 sales of property transported from that state to persons in this
916 state, as described in s. 212.0596, upon request of the
917 department.

918 (II) The tax so collected shall be at the rate specified
919 in s. 212.05, not including any local option or tourist or
920 convention development taxes collected pursuant to s. 125.0104
921 or this chapter.

922 (III) Such state agrees to remit to the department all
923 taxes so collected no later than 30 days from the last day of
924 the calendar quarter following their collection.

925 (IV) Such state authorizes the department to audit dealers

926 within its jurisdiction who make remote ~~mail-order~~ sales that
927 are the subject of s. 212.0596, or makes arrangements deemed
928 adequate by the department for auditing them with its own
929 personnel.

930 (V) Such state agrees to provide to the department records
931 obtained by it from retailers or dealers in such state showing
932 delivery of tangible personal property into this state upon
933 which no sales or use tax has been paid in a manner similar to
934 that provided in sub-subparagraph g.

935 c. For purposes of this subparagraph, "sales of tangible
936 personal property to be transported to a cooperating state"
937 means remote ~~mail-order~~ sales to a person who is in the
938 cooperating state at the time the order is executed, from a
939 dealer who receives that order in this state.

940 d. The tax levied by sub-subparagraph a. shall be at the
941 rate at which such a sale would have been taxed pursuant to the
942 cooperating state's tax laws if consummated in the cooperating
943 state by a dealer and a purchaser, both of whom were physically
944 present in that state at the time of the sale.

945 e. The tax levied by sub-subparagraph a., when collected,
946 shall be held in the State Treasury in trust for the benefit of
947 the cooperating state and shall be paid to it at a time agreed
948 upon between the department, acting for this state, and the
949 cooperating state or the department or agency designated by it
950 to act for it; however, such payment shall in no event be made

951 later than 30 days from the last day of the calendar quarter
 952 after the tax was collected. Funds held in trust for the benefit
 953 of a cooperating state shall not be subject to the service
 954 charges imposed by s. 215.20.

955 f. The department is authorized to perform such acts and
 956 to provide such cooperation to a cooperating state with
 957 reference to the tax levied by sub-subparagraph a. as is
 958 required of the cooperating state by sub-subparagraph b.

959 g. In furtherance of this act, dealers selling tangible
 960 personal property for delivery in another state shall make
 961 available to the department, upon request of the department,
 962 records of all tangible personal property so sold. Such records
 963 shall include a description of the property, the name and
 964 address of the purchaser, the name and address of the person to
 965 whom the property was sent, the purchase price of the property,
 966 information regarding whether sales tax was paid in this state
 967 on the purchase price, and such other information as the
 968 department may by rule prescribe.

969 Section 8. Paragraph (b) of subsection (1) of section
 970 212.07, Florida Statutes, is amended to read:

971 212.07 Sales, storage, use tax; tax added to purchase
 972 price; dealer not to absorb; liability of purchasers who cannot
 973 prove payment of the tax; penalties; general exemptions.—

974 (1)

975 (b) A resale must be in strict compliance with s. 212.18

976 and the rules and regulations adopted thereunder. A dealer who
977 makes a sale for resale that is not in strict compliance with s.
978 212.18 and the rules and regulations adopted thereunder is
979 liable for and must pay the tax. A dealer who makes a sale for
980 resale shall document the exempt nature of the transaction, as
981 established by rules adopted by the department, by retaining a
982 copy of the purchaser's resale certificate. In lieu of
983 maintaining a copy of the certificate, a dealer may document,
984 before the time of sale, an authorization number provided
985 telephonically or electronically by the department, or by such
986 other means established by rule of the department. The dealer
987 may rely on a resale certificate issued pursuant to s.
988 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
989 the purchaser, without seeking annual verification of the resale
990 certificate if the dealer makes recurring sales to a purchaser
991 in the normal course of business on a continual basis. For
992 purposes of this paragraph, "recurring sales to a purchaser in
993 the normal course of business" refers to a sale in which the
994 dealer extends credit to the purchaser and records the debt as
995 an account receivable, or in which the dealer sells to a
996 purchaser who has an established cash or C.O.D. account, similar
997 to an open credit account. For purposes of this paragraph,
998 purchases are made from a selling dealer on a continual basis if
999 the selling dealer makes, in the normal course of business,
1000 sales to the purchaser at least once in every 12-month period. A

1001 dealer may, through the informal protest provided for in s.
 1002 213.21 and the rules of the department, provide the department
 1003 with evidence of the exempt status of a sale. Consumer
 1004 certificates of exemption executed by those exempt entities that
 1005 were registered with the department at the time of sale, resale
 1006 certificates provided by purchasers who were active dealers at
 1007 the time of sale, and verification by the department of a
 1008 purchaser's active dealer status at the time of sale in lieu of
 1009 a resale certificate shall be accepted by the department when
 1010 submitted during the protest period, but may not be accepted in
 1011 any proceeding under chapter 120 or any circuit court action
 1012 instituted under chapter 72.

1013 Section 9. Paragraph (f) is added to subsection (4) of
 1014 section 212.11, Florida Statutes, to read:

1015 212.11 Tax returns and regulations.—

1016 (4)

1017 (f) A marketplace provider that makes or facilitates a
 1018 substantial number of remote sales or a person who is required
 1019 to report remote sales shall file returns and pay taxes by
 1020 electronic means under s. 213.755.

1021 Section 10. Paragraph (a) of subsection (1) and paragraph
 1022 (a) of subsection (5) of section 212.12, Florida Statutes, are
 1023 amended to read:

1024 212.12 Dealer's credit for collecting tax; penalties for
 1025 noncompliance; powers of Department of Revenue in dealing with

1026 delinquents; brackets applicable to taxable transactions;
 1027 records required.—

1028 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose
 1029 of compensating persons granting licenses for and the lessors of
 1030 real and personal property taxed hereunder, for the purpose of
 1031 compensating dealers in tangible personal property, for the
 1032 purpose of compensating dealers providing communication services
 1033 and taxable services, for the purpose of compensating owners of
 1034 places where admissions are collected, and for the purpose of
 1035 compensating remitters of any taxes or fees reported on the same
 1036 documents utilized for the sales and use tax, as compensation
 1037 for the keeping of prescribed records, filing timely tax
 1038 returns, and the proper accounting and remitting of taxes by
 1039 them, such seller, person, lessor, dealer, owner, and remitter
 1040 ~~(except dealers who make mail order sales)~~ who files the return
 1041 required pursuant to s. 212.11 only by electronic means and who
 1042 pays the amount due on such return only by electronic means
 1043 shall be allowed 2.5 percent of the amount of the tax due,
 1044 accounted for, and remitted to the department in the form of a
 1045 deduction. However, if the amount of the tax due and remitted to
 1046 the department by electronic means for the reporting period
 1047 exceeds \$1,200, an allowance is not allowed for all amounts in
 1048 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
 1049 the term "electronic means" has the same meaning as provided in
 1050 s. 213.755(2)(c).

1051 ~~2. The executive director of the department is authorized~~
1052 ~~to negotiate a collection allowance, pursuant to rules~~
1053 ~~promulgated by the department, with a dealer who makes mail~~
1054 ~~order sales. The rules of the department shall provide~~
1055 ~~guidelines for establishing the collection allowance based upon~~
1056 ~~the dealer's estimated costs of collecting the tax, the volume~~
1057 ~~and value of the dealer's mail order sales to purchasers in this~~
1058 ~~state, and the administrative and legal costs and likelihood of~~
1059 ~~achieving collection of the tax absent the cooperation of the~~
1060 ~~dealer. However, in no event shall the collection allowance~~
1061 ~~negotiated by the executive director exceed 10 percent of the~~
1062 ~~tax remitted for a reporting period.~~

1063 (5) (a) The department is authorized to audit or inspect
1064 the records and accounts of dealers defined herein, including
1065 audits or inspections of dealers who make remote ~~mail order~~
1066 ~~sales to the extent permitted by another state, and to correct~~
1067 ~~by credit any overpayment of tax, and, in the event of a~~
1068 ~~deficiency, an assessment shall be made and collected. No~~
1069 ~~administrative finding of fact is necessary prior to the~~
1070 ~~assessment of any tax deficiency.~~

1071 Section 11. Paragraphs (c) through (f) of subsection (3)
1072 of section 212.18, Florida Statutes, are redesignated as
1073 paragraphs (d) through (g), respectively, present paragraph (f)
1074 of that subsection is amended, and a new paragraph (c) is added
1075 to that subsection, to read:

1076 212.18 Administration of law; registration of dealers;
1077 rules.—

1078 (3)

1079 (c) A marketplace provider that makes or facilitates a
1080 substantial number of remote sales or a person who is required
1081 to report remote sales must file with the department an
1082 application for a certificate of registration electronically.

1083 (g)~~(f)~~ As used in this paragraph, the term "exhibitor"
1084 means a person who enters into an agreement authorizing the
1085 display of tangible personal property or services at a
1086 convention or a trade show. The following provisions apply to
1087 the registration of exhibitors as dealers under this chapter:

1088 1. An exhibitor whose agreement prohibits the sale of
1089 tangible personal property or services subject to the tax
1090 imposed in this chapter is not required to register as a dealer.

1091 2. An exhibitor whose agreement provides for the sale at
1092 wholesale only of tangible personal property or services subject
1093 to the tax imposed by this chapter must obtain a resale
1094 certificate from the purchasing dealer but is not required to
1095 register as a dealer.

1096 3. An exhibitor whose agreement authorizes the retail sale
1097 of tangible personal property or services subject to the tax
1098 imposed by this chapter must register as a dealer and collect
1099 the tax on such sales.

1100 4. An exhibitor who makes a remote ~~mail-order~~ sale

1101 pursuant to s. 212.0596 must register as a dealer.

1102

1103 A person who conducts a convention or a trade show must make his
 1104 or her exhibitor's agreements available to the department for
 1105 inspection and copying.

1106 Section 12. Subsection (5) of section 213.27, Florida
 1107 Statutes, is amended to read:

1108 213.27 Contracts with debt collection agencies and certain
 1109 vendors.—

1110 (5) The department may, for the purpose of ascertaining
 1111 the amount of or collecting any taxes due from a person making
 1112 or facilitating remote sales under s. 212.0596 or s. 212.05965
 1113 ~~doing mail order business~~ in this state, contract with any
 1114 auditing agency doing business within or without this state for
 1115 the purpose of conducting an audit of such person ~~mail order~~
 1116 ~~business~~; however, such audit agency may not conduct an audit on
 1117 behalf of the department of any person domiciled in this state,
 1118 person registered for sales and use tax purposes in this state,
 1119 or corporation filing a Florida corporate tax return, if any
 1120 such person or corporation objects to such audit in writing to
 1121 the department and the auditing agency. The department shall
 1122 notify the taxpayer by mail at least 30 days before the
 1123 department assigns the collection of such taxes.

1124 Section 13. For the purpose of incorporating the amendment
 1125 made by this act to section 212.054, Florida Statutes, in

1126 references thereto, paragraph (c) of subsection (2), paragraph
 1127 (c) of subsection (3), paragraph (c) of subsection (8), and
 1128 paragraph (c) of subsection (9) of section 212.055, Florida
 1129 Statutes, are reenacted to read:

1130 212.055 Discretionary sales surtaxes; legislative intent;
 1131 authorization and use of proceeds.—It is the legislative intent
 1132 that any authorization for imposition of a discretionary sales
 1133 surtax shall be published in the Florida Statutes as a
 1134 subsection of this section, irrespective of the duration of the
 1135 levy. Each enactment shall specify the types of counties
 1136 authorized to levy; the rate or rates which may be imposed; the
 1137 maximum length of time the surtax may be imposed, if any; the
 1138 procedure which must be followed to secure voter approval, if
 1139 required; the purpose for which the proceeds may be expended;
 1140 and such other requirements as the Legislature may provide.
 1141 Taxable transactions and administrative procedures shall be as
 1142 provided in s. 212.054.

1143 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

1144 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
 1145 levied under this subsection shall be distributed to the county
 1146 and the municipalities within such county in which the surtax
 1147 was collected, according to:

1148 1. An interlocal agreement between the county governing
 1149 authority and the governing bodies of the municipalities
 1150 representing a majority of the county's municipal population,

1151 | which agreement may include a school district with the consent
 1152 | of the county governing authority and the governing bodies of
 1153 | the municipalities representing a majority of the county's
 1154 | municipal population; or

1155 | 2. If there is no interlocal agreement, according to the
 1156 | formula provided in s. 218.62.

1157 |
 1158 | Any change in the distribution formula must take effect on the
 1159 | first day of any month that begins at least 60 days after
 1160 | written notification of that change has been made to the
 1161 | department.

1162 | (3) SMALL COUNTY SURTAX.—

1163 | (c) Pursuant to s. 212.054(4), the proceeds of the surtax
 1164 | levied under this subsection shall be distributed to the county
 1165 | and the municipalities within the county in which the surtax was
 1166 | collected, according to:

1167 | 1. An interlocal agreement between the county governing
 1168 | authority and the governing bodies of the municipalities
 1169 | representing a majority of the county's municipal population,
 1170 | which agreement may include a school district with the consent
 1171 | of the county governing authority and the governing bodies of
 1172 | the municipalities representing a majority of the county's
 1173 | municipal population; or

1174 | 2. If there is no interlocal agreement, according to the
 1175 | formula provided in s. 218.62.

1176
1177 Any change in the distribution formula shall take effect on the
1178 first day of any month that begins at least 60 days after
1179 written notification of that change has been made to the
1180 department.

1181 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

1182 (c) Pursuant to s. 212.054(4), the proceeds of the
1183 discretionary sales surtax collected under this subsection, less
1184 an administrative fee that may be retained by the Department of
1185 Revenue, shall be distributed by the department to the county.
1186 The county shall distribute the proceeds it receives from the
1187 department to each local government entity providing emergency
1188 fire rescue services in the county. The surtax proceeds, less an
1189 administrative fee not to exceed 2 percent of the surtax
1190 collected, shall be distributed by the county based on each
1191 entity's average annual expenditures for fire control and
1192 emergency fire rescue services in the 5 fiscal years preceding
1193 the fiscal year in which the surtax takes effect in proportion
1194 to the average annual total of the expenditures for such
1195 entities in the 5 fiscal years preceding the fiscal year in
1196 which the surtax takes effect. The county shall revise the
1197 distribution proportions to reflect a change in the service area
1198 of an entity receiving a distribution of the surtax proceeds. If
1199 an entity declines its share of surtax revenue, such revenue
1200 shall be redistributed proportionally to the entities that are

1201 participating in the sharing of such revenue based on each
1202 participating entity's average annual expenditures for fire
1203 control and emergency fire rescue services in the preceding 5
1204 fiscal years in proportion to the average annual total of the
1205 expenditures for the participating entities in the preceding 5
1206 fiscal years.

1207 (9) PENSION LIABILITY SURTAX.—

1208 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1209 collected under this subsection, less an administrative fee that
1210 may be retained by the department, shall be distributed by the
1211 department to the local government.

1212 Section 14. This act first applies to remote sales made or
1213 facilitated on or after July 1, 2021, by a person who made or
1214 facilitated a substantial number of remote sales in calendar
1215 year 2020. A marketplace seller shall consider only those sales
1216 made outside of a marketplace to determine whether it made a
1217 substantial number of remote sales in calendar year 2020.

1218 Section 15. (1) A person subject to the requirements of
1219 this act to collect and remit the tax under chapter 212, Florida
1220 Statutes, on remote sales is relieved of liability for tax,
1221 penalty, and interest due on remote sales that occurred before
1222 the effective date of this act, provided that the person
1223 registers with the department before October 1, 2021. This
1224 subsection is also intended to provide relief to a marketplace
1225 seller for remote sales made before the effective date of this

1226 act which were facilitated by a marketplace provider. For a
1227 marketplace provider with a physical presence in this state,
1228 this subsection is intended to provide relief only for sales
1229 facilitated by the marketplace provider on behalf of a
1230 marketplace seller. This subsection does not apply to a person
1231 who was under audit; had been issued a bill, notice, or demand
1232 for payment; or was under an administrative or judicial
1233 proceeding before July 1, 2021.

1234 (2) The department may not use data received from
1235 registered marketplace providers or persons making or
1236 facilitating remote sales for the purposes of identifying use
1237 tax liabilities occurring before July 1, 2021, from unregistered
1238 persons who, but for their purchases from the registered
1239 taxpayer, would not be required to remit sales or use tax
1240 directly to the department. This subsection does not apply to a
1241 person who was under audit; had been issued a bill, notice, or
1242 demand for payment; or was under an administrative or judicial
1243 proceeding before July 1, 2021.

1244 (3) This section does not establish a right to a refund of
1245 taxes previously paid.

1246 Section 16. Effective upon this act becoming a law, and
1247 retroactive to June 29, 2020, paragraph (1) is added to
1248 subsection (3) of section 443.131, Florida Statutes, to read:

1249 443.131 Contributions.—

1250 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT

1251 EXPERIENCE.—

1252 (1) Assignment of variations from the standard rate for
1253 calendar years 2021 through 2030.—

1254 1. The tax collection service provider shall assign a
1255 variation from the standard rate of contributions for each
1256 calendar year 2021 through 2030 to each eligible employer in
1257 accordance with this paragraph.

1258 2. For each employer whose employment record does not
1259 qualify the employer for a variation from the standard rate
1260 pursuant to paragraph (d), the tax collection service provider
1261 shall assign the initial rate under paragraph (2)(a) until the
1262 employer is eligible for a variation pursuant to paragraph (d).

1263 3. For each employer who is eligible for a variation from
1264 the standard rate pursuant to paragraph (d), for any one or more
1265 of calendar years 2021 through 2030, the tax collection service
1266 provider shall calculate and assign the rate that would apply
1267 under paragraph (e) without the application of the adjustment
1268 factor for noncharge benefits in sub-sub-subparagraph
1269 (e)2.a.(I), and without the application of the positive
1270 adjustment factor in sub-sub-subparagraph (e)2.a.(III).

1271 4. For payments made in calendar year 2021 only, and
1272 notwithstanding s. 443.141(6), if any employer remits to the tax
1273 collection service provider an amount in excess of the amount
1274 that would be due as calculated pursuant to this paragraph, the
1275 tax collection service provider shall refund the excess amount

1276 from the fund.

1277 5. Notwithstanding this paragraph, if the balance of the
 1278 Unemployment Compensation Trust Fund on July 31 of any year
 1279 subject to adjustments under this paragraph exceeds
 1280 \$4,071,519,600, this paragraph is repealed effective September 1
 1281 of that year. If this paragraph is still in effect on July 31,
 1282 2030, then this paragraph is repealed September 1, 2030,
 1283 regardless of the balance of the fund.

1284 Section 17. Paragraphs (f) and (g) of subsection (1) of
 1285 section 443.191, Florida Statutes, are amended and paragraph (h)
 1286 is added to that subsection, to read:

1287 443.191 Unemployment Compensation Trust Fund;
 1288 establishment and control.—

1289 (1) There is established, as a separate trust fund apart
 1290 from all other public funds of this state, an Unemployment
 1291 Compensation Trust Fund, which shall be administered by the
 1292 Department of Economic Opportunity exclusively for the purposes
 1293 of this chapter. The fund must consist of:

1294 (f) All money collected for penalties imposed pursuant to
 1295 s. 443.151(6) (a); ~~and~~

1296 (g) Advances on the amount in the federal Unemployment
 1297 Compensation Trust Fund credited to the state under 42 U.S.C. s.
 1298 1321, as requested by the Governor or the Governor's designee;
 1299 and—

1300 (h) All money deposited in this account as a distribution

1301 pursuant to s. 212.20(6)(d)6.h.

1302

1303 Except as otherwise provided in s. 443.1313(4), all moneys in
1304 the fund must be mingled and undivided.

1305 Section 18. Subsection (4) and paragraph (d) of subsection
1306 (6) of section 212.20, Florida Statutes, are amended to read:

1307 212.20 Funds collected, disposition; additional powers of
1308 department; operational expense; refund of taxes adjudicated
1309 unconstitutionally collected.—

1310 (4) When there has been a final adjudication that any tax
1311 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
1312 or both, contrary to the Constitution of the United States or
1313 the State Constitution, the department shall, in accordance with
1314 rules, determine, based upon claims for refund and other
1315 evidence and information, who paid such tax or taxes, and refund
1316 to each such person the amount of tax paid. For purposes of this
1317 subsection, a "final adjudication" is a decision of a court of
1318 competent jurisdiction from which no appeal can be taken or from
1319 which the official or officials of this state with authority to
1320 make such decisions has or have decided not to appeal.

1321 (6) Distribution of all proceeds under this chapter and
1322 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

1323 (d) The proceeds of all other taxes and fees imposed
1324 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
1325 and (2)(b) shall be distributed as follows:

1326 1. In any fiscal year, the greater of \$500 million, minus
 1327 an amount equal to 4.6 percent of the proceeds of the taxes
 1328 collected pursuant to chapter 201, or 5.2 percent of all other
 1329 taxes and fees imposed pursuant to this chapter or remitted
 1330 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 1331 monthly installments into the General Revenue Fund.

1332 2. After the distribution under subparagraph 1., 8.9744
 1333 percent of the amount remitted by a sales tax dealer located
 1334 within a participating county pursuant to s. 218.61 shall be
 1335 transferred into the Local Government Half-cent Sales Tax
 1336 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 1337 transferred shall be reduced by 0.1 percent, and the department
 1338 shall distribute this amount to the Public Employees Relations
 1339 Commission Trust Fund less \$5,000 each month, which shall be
 1340 added to the amount calculated in subparagraph 3. and
 1341 distributed accordingly.

1342 3. After the distribution under subparagraphs 1. and 2.,
 1343 0.0966 percent shall be transferred to the Local Government
 1344 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
 1345 to s. 218.65.

1346 4. After the distributions under subparagraphs 1., 2., and
 1347 3., 2.0810 percent of the available proceeds shall be
 1348 transferred monthly to the Revenue Sharing Trust Fund for
 1349 Counties pursuant to s. 218.215.

1350 5. After the distributions under subparagraphs 1., 2., and

1351 3., 1.3653 percent of the available proceeds shall be
 1352 transferred monthly to the Revenue Sharing Trust Fund for
 1353 Municipalities pursuant to s. 218.215. If the total revenue to
 1354 be distributed pursuant to this subparagraph is at least as
 1355 great as the amount due from the Revenue Sharing Trust Fund for
 1356 Municipalities and the former Municipal Financial Assistance
 1357 Trust Fund in state fiscal year 1999-2000, no municipality shall
 1358 receive less than the amount due from the Revenue Sharing Trust
 1359 Fund for Municipalities and the former Municipal Financial
 1360 Assistance Trust Fund in state fiscal year 1999-2000. If the
 1361 total proceeds to be distributed are less than the amount
 1362 received in combination from the Revenue Sharing Trust Fund for
 1363 Municipalities and the former Municipal Financial Assistance
 1364 Trust Fund in state fiscal year 1999-2000, each municipality
 1365 shall receive an amount proportionate to the amount it was due
 1366 in state fiscal year 1999-2000.

1367 6. Of the remaining proceeds:

1368 a. In each fiscal year, the sum of \$29,915,500 shall be
 1369 divided into as many equal parts as there are counties in the
 1370 state, and one part shall be distributed to each county. The
 1371 distribution among the several counties must begin each fiscal
 1372 year on or before January 5th and continue monthly for a total
 1373 of 4 months. If a local or special law required that any moneys
 1374 accruing to a county in fiscal year 1999-2000 under the then-
 1375 existing provisions of s. 550.135 be paid directly to the

1376 district school board, special district, or a municipal
1377 government, such payment must continue until the local or
1378 special law is amended or repealed. The state covenants with
1379 holders of bonds or other instruments of indebtedness issued by
1380 local governments, special districts, or district school boards
1381 before July 1, 2000, that it is not the intent of this
1382 subparagraph to adversely affect the rights of those holders or
1383 relieve local governments, special districts, or district school
1384 boards of the duty to meet their obligations as a result of
1385 previous pledges or assignments or trusts entered into which
1386 obligated funds received from the distribution to county
1387 governments under then-existing s. 550.135. This distribution
1388 specifically is in lieu of funds distributed under s. 550.135
1389 before July 1, 2000.

1390 b. The department shall distribute \$166,667 monthly to
1391 each applicant certified as a facility for a new or retained
1392 professional sports franchise pursuant to s. 288.1162. Up to
1393 \$41,667 shall be distributed monthly by the department to each
1394 certified applicant as defined in s. 288.11621 for a facility
1395 for a spring training franchise. However, not more than \$416,670
1396 may be distributed monthly in the aggregate to all certified
1397 applicants for facilities for spring training franchises.
1398 Distributions begin 60 days after such certification and
1399 continue for not more than 30 years, except as otherwise
1400 provided in s. 288.11621. A certified applicant identified in

1401 this sub-subparagraph may not receive more in distributions than
1402 expended by the applicant for the public purposes provided in s.
1403 288.1162(5) or s. 288.11621(3).

1404 c. Beginning 30 days after notice by the Department of
1405 Economic Opportunity to the Department of Revenue that an
1406 applicant has been certified as the professional golf hall of
1407 fame pursuant to s. 288.1168 and is open to the public, \$166,667
1408 shall be distributed monthly, for up to 300 months, to the
1409 applicant.

1410 d. Beginning 30 days after notice by the Department of
1411 Economic Opportunity to the Department of Revenue that the
1412 applicant has been certified as the International Game Fish
1413 Association World Center facility pursuant to s. 288.1169, and
1414 the facility is open to the public, \$83,333 shall be distributed
1415 monthly, for up to 168 months, to the applicant. This
1416 distribution is subject to reduction pursuant to s. 288.1169.

1417 e. The department shall distribute up to \$83,333 monthly
1418 to each certified applicant as defined in s. 288.11631 for a
1419 facility used by a single spring training franchise, or up to
1420 \$166,667 monthly to each certified applicant as defined in s.
1421 288.11631 for a facility used by more than one spring training
1422 franchise. Monthly distributions begin 60 days after such
1423 certification or July 1, 2016, whichever is later, and continue
1424 for not more than 20 years to each certified applicant as
1425 defined in s. 288.11631 for a facility used by a single spring

1426 training franchise or not more than 25 years to each certified
1427 applicant as defined in s. 288.11631 for a facility used by more
1428 than one spring training franchise. A certified applicant
1429 identified in this sub-subparagraph may not receive more in
1430 distributions than expended by the applicant for the public
1431 purposes provided in s. 288.11631(3).

1432 f. Beginning 45 days after notice by the Department of
1433 Economic Opportunity to the Department of Revenue that an
1434 applicant has been approved by the Legislature and certified by
1435 the Department of Economic Opportunity under s. 288.11625 or
1436 upon a date specified by the Department of Economic Opportunity
1437 as provided under s. 288.11625(6)(d), the department shall
1438 distribute each month an amount equal to one-twelfth of the
1439 annual distribution amount certified by the Department of
1440 Economic Opportunity for the applicant. The department may not
1441 distribute more than \$13 million annually under this sub-
1442 subparagraph.

1443 g. The department shall distribute \$15,333 monthly to the
1444 State Transportation Trust Fund.

1445 h.(I) On July 25, August 25, and September 25, 2021, the
1446 department shall transfer \$360,000,000 to the Unemployment
1447 Compensation Trust Fund.

1448 (II) Beginning July 2022, the department shall transfer
1449 \$90,000,000 on the twenty-fifth day of each month to the
1450 Unemployment Compensation Trust Fund.

1451 (III) This sub-subparagraph is repealed on the last day of
 1452 any month in which the ending balance of the Unemployment
 1453 Compensation Trust Fund exceeds \$4,071,519,600.

1454 7. All other proceeds must remain in the General Revenue
 1455 Fund.

1456 Section 19. (1) The Department of Revenue is authorized,
 1457 and all conditions are deemed met, to adopt emergency rules
 1458 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 1459 administering this act.

1460 (2) Notwithstanding any other law, emergency rules adopted
 1461 pursuant to subsection (1) are effective for 6 months after
 1462 adoption and may be renewed during the pendency of procedures to
 1463 adopt permanent rules addressing the subject of the emergency
 1464 rules.

1465 (3) This section shall take effect upon this act becoming
 1466 a law and expires July 1, 2022.

1467 Section 20. If any provision of this act or its
 1468 application to any person or circumstance is held invalid, the
 1469 invalidity does not affect other provisions or applications of
 1470 the act which can be given effect without the invalid provision
 1471 or application, and to this end the provisions of this act are
 1472 severable.

1473 Section 21. Except as otherwise expressly provided in this
 1474 act and except for this section, which shall take effect upon
 1475 this act becoming a law, this act shall take effect July 1,

CS/HB 15

2021

1476 | 2021.